OFFICIAL PROCEEDINGS

OF THE

CONSTITUTIONAL CONVENTION

OF THE

STATE OF ALABAMA

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

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Volume III

WETUMPKA PRINTING CO.
Printers and Publishers
Wetumpka, Ala.
1940

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FIFTY-THIRD DAY

MONTGOMERY, ALA.,
Wednesday, June 24, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by Rev. Dr. A. L. Andrews, as follows:

O Lord, our Heavenly Father, we thank Thee for Thy kind and watchful care over us during another night. It has ever characterized Thy dealings with us. We thank Thee that in health and strength we stand upon the threshold of a new day, face to face with its responsibilities, duties and cares. We know not what this day is to bring forth, but we do know that if our lives are consecrated to Thee, and if we look unto Thee for guidance and for help, we may make the most of the day's duties. Therefore, our Father, we realize how little we can do in our own strength, and we look unto Thee, beseeching Thee for Thy presence, praying Thee to come and take possession of our lives and hearts. Enthrone Thyself, O Lord, supreme in our lives, and give us wisdom and strength for the duties that lie out before us. Grant our gracious Lord that we may be unwilling to enter upon this day's duties, save as we are led and guided by the Holy Spirit, and grant as we live today, we may live to do faithfully the work that is committed into our hands, and that we may live to glorify the Lord Almighty. We pray Thee, our gracious Father, that Thou wilt help us to know that we can live but one day at a time, and may we live this day worthily, and live just as if it were our last, and may we be satisfied with this day's work when we stand before the judgment bar of God. We pray Thy special presence upon this Convention, upon its presiding officer, upon each of the offi-

cers, and may each delegate representing the people receive today the blessings of the Holy Spirit, that he may be qualified for the responsible duties that devolve upon him, and grant, O Lord, that each one may faithfully perform his part today, and that God may guide them all in their works, so that the result of today's labors may be eminently satisfactory to the people, and helpful to our commonwealth. We pray Thee, again, to bless us. Lord bless our land and country; bless Thy cause and kingdom, and may the triumph of the cause of the Son of God grow more and more complete until all the kingdoms of this world shall become the kingdoms of our Lord, and His knowledge, and love, and glory, shall cover the world as the waters cover the deep. Now, Lord, hear us, and bless us, and enable us to faithfully discharge life's duties, and grant that as we meet with these responsibilities and cares we may look upon Thee for guidance. Thus may we live and act among our fellow men, as long as it is Thy will that we should live, and when we have served Thee, O Lord, as long as it is Thy will, below, may we so have lived that we shall receive an entrance into the everlasting home and kingdom of our Lord and Father; we pray through the riches of grace, in Christ, our Lord. Amen.

Upon the call of the roll 107 delegates responded to their names.

Leave of absence was granted to Mr. Macdonald of Montgomery for today.

The report of the Committee on the Journal for the fifty-second day read as follows:

The Committee on the Journal beg leave to report that they have examined the Journal for the fifty-second day of the Convention and find the same as correct.

The report was adopted.

MR. SANFORD (Montgomery)—I wish to rise to a point of personal privilege.

I note in The Advertiser this morning the following sentence, which is totally incorrect: "General Sanford of Montgomery spoke against the amendment. He was a friend to foreigners, he declared, but there was no reason why the privilege of the franchise should be extended to the foreigner. It was in justice to every citizen."

I said I was opposed to foreigners who had simply declared their intention to become citizens, and who were not citizens of the United States exercising the privilege of suffrage, but when they were qualified by being naturalized, I had no objection to their voting. I hope that The Advertiser will make that correction. Another thing, in the sixth column of the third page of the pro-

ceedings, I am made to say these words: "He must be proven to be a man of good moral character, and attached to Republican institutions." That is right, but it says if that is the experience of the statute of naturalization, and it should have said the requirement of the Statute of Naturalization. That is merely a verbal change.

MR. CHAPMAN—I make a motion to reconsider the vote of yesterday by which the amendment to Section 1 was adopted. I refer to the amendment offered by the delegate from Jefferson, Mr. Beddow, and that carries with it, of course, the amendment as offered by the gentleman from Mobile, Mr. Smith. I desire both of those votes—desire to move for the reconsideration of both of those votes, but do not desire to press it at the present time. It is suggested and perhaps it is better to move for a reconsideration of the vote by which the section as amended was adopted. I am not familiar enough with the rules of the Convention to say whether or not it is to be taken up now, or has to be postponed.

THE PRESIDENT—This will be the proper time for the consideration of the motion. The Chair understands the gentleman moves the reconsideration of the action of this Convention whereby Section 1 was adopted as amended, and the gentleman will ask to reconsider the vote whereby the Convention engrafted upon this section certain amendments.

MR. CHAPMAN—Mr. President, that is the purpose of the motion. It seems to me that the Convention acted a little hastily yesterday in engrafting these amendments particularly the amendment offered by the gentleman from Jefferson. If that is to be adopted I, of course, favor the amendment offered by the gentleman from Mobile, because I do not believe that the amendment offered by the gentleman from Jefferson should be adopted at all, unless it is amended as provided in the amendment offered by the gentleman from Mobile, but Mr. President, it seems to me that we acted rather hastily in admitting, we may say, foreigners to vote in our elections. It is true under the old Constitution, we have been doing that to some extent, but I see no reason why we should make this exception for the very few who are here now, and who have taken steps to become naturalized. I do not know how many there are in the State. I presume not very many, but even if there were a goodly number, I see no reason why they should be allowed to vote now unless it be under the reason given by the gentleman from Jefferson that they have taken steps to become naturalized and have qualified themselves under the present Constitution to vote and in pursuance of the party pledge the right is claimed. Certainly there can be no other reason in my mind for granting them the privilege of suffrage.

MR. SANFORD—They can complete their naturalization then, can't they?

MR. BEDDOW—That question was fully discussed on yesterday and I do not care to take up the time of the Convention to further discuss it. Therefore, I move that the motion of the gentleman be laid upon the table.

MR. COLEMAN—Withdraw that for a moment.

MR. BEDDOW—I will.

MR. WADDELL—I rise to a point of order. The motion to reconsider is not debatable.

THE PRESIDENT—The gentleman's point of order is not well taken. This is the time that the rules prescribe for the consideration of the motion to reconsider. It shall be made at any time during the morning session, but the time that is usually devoted to reconsideration is immediately after the approval of the journal, and a motion to reconsider is debatable. The gentleman's point of order is overruled.

MR. COLEMAN—Mr. President, according to the rules this is the proper time when the consideration of the question involved in the motion by the delegate from Sumter should be discussed. There is no reason, however, why the Convention may not suspend the rule if it sees proper and postpone the consideration to some future time. Now, it is impossible for delegates, I care not how learned they are, how bright they are, to comprehend the legal meaning and effect of the proposition which involves so much as the amendment which has been adopted, simply at a glance or hearing them read. If it be true that the section without amendment disfranchises any person who should not be disfranchised under the pledge of the Democratic party I for one, do not want it reconsidered. What I desire is that the delegates of this Convention may have time to reflect and investigate if they see proper, and if after consideration and investigation they should come to the conclusion that it would not be a violation of the pledge of the Democratic party, it may be, and I may say that I am assured there will be many who will favor the section, as reported by the Committee on Suffrage. My purpose is simply to have the discussion of this question postponed, so that we may all those of the Committee who have investigated for themselves and delegates of the Convention who had not had time to investigate it—may satisfy themselves upon this question, and I assure you for one, that if it be true that any man will be disfranchised, contrary to the promise and pledge of the Democratic party, I will not support the reconsideration, but if it be true that the section does not disfranchise any, but that these parties exercising the right that they have, and that every citizen of Alabama has, who may disfranchise himself if he sees proper, because Mr. President, any voter may disfranchise himself if he declines to register or claim his privilege and these parties may disfranchise them-

selves if they decline to prosecute their right to naturalization, that is simply the question to be considered I move therefore, the suspension of the rules that this question be postponed, to be taken up, at the will of the Convention during the further consideration of the article now before us.

THE PRESIDENT—It seems to the Chair that it would be in the power of the Convention to postpone the further consideration of this motion, or to set it for any day when the Convention would desire to further consider it, without a suspension of the rules.

MR. COLEMAN—That would be my motion then.

Then I move, Mr. President, that we take it up for consideration as soon as we have disposed of the qualifications of voters.

THE PRESIDENT—That is covered by Section 4?

MR. COLEMAN—Four I believe, perhaps 5.

MR. SAMFORD (Pike)—After Section 6.

MR. COLEMAN—After Section 6.

THE PRESIDENT — The gentleman from Greene moves that the further consideration of the motion to reconsider the vote whereby Sections 1 and 2—was not this amendment put upon Section 2.

MR. COLEMAN — If Section 1 is reconsidered the other amendments follow as a matter of course.

MR. BEDDOW—One and four.

MR. COLEMAN—One and four and five.

THE PRESIDENT—The Chair recollects it was found necessary to make this same amendment to another section.

MR. COLEMAN—Section 4, and it would be necessary also in Section 5, but if it is reconsidered, those questions can be easily disposed of.

THE PRESIDENT—Does the gentleman from Sumter make his motion apply also to Sections 1 and 4?

MR. CHAPMAN—To all the sections that have been amended in this way.

THE PRESIDENT — The votes whereby the amendments were adopted?

MR. CARMICHAEL (Colbert)—Section 4 was not amended pending to Section 4, but it was not amended, and therefore, it

would not be necessary to move a reconsideration as to that section. The amendment was not adopted.

THE PRESIDENT — This amendment was only added to one section.

MR. CARMICHAEL (Colbert)—Only to one section.

MR. CHAPMAN—Mr. President, I will include in my motion to reconsider as has been suggested to me, the word "person" in the first line of the second section was inserted in lieu of the word "citizen" to conform to the amendment which had been adopted.

THE PRESIDENT—That is the recollection of the Chair. It was inserted in Section 2.

MR. CHAPMAN—Yes sir, and will include in my motion to reconsider Section 2, so as to embrace exactly the same question.

THE PRESIDENT—The motion is that the further consideration of the motion to reconsider shall be postponed until the Convention shall dispose of the sections of the article, up to and including Section 6.

A vote being taken, the motion was carried.

THE PRESIDENT—The Secretary will call the roll of delegates for the introduction of ordinances, resolutions, etc.

Mr. Burnett took the chair.

Mr. Davis (Etowah) introduced the following resolution:

Resolution No. 268, by Mr. Davis of Etowah:

Resolved, That 1,000 copies of the speech made on yesterday by the chairman of the Committee on Suffrage and Elections (Judge Coleman) introductory to the consideration of the ordinance reported by said committee, be printed for distribution among the members of the Convention.

MR. DAVIS (Etowah)—I move the suspension of the rules that the resolution be placed upon its passage.

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

A vote being taken, the resolution was declared adopted.

MR. PETTUS—The question was on the suspension of the rules and not on the adoption of the resolution. I have an amendment which I desire to offer.

THE PRESIDENT PRO TEM.—The Chair was in error. The rules are suspended and the amendment of the gentleman is in order.

The amendment of Mr. Pettus was to make it 2,000 copies.

THE PRESIDENT PRO TEM. — The question is on the amendment offered by the gentleman from Limestone.

Upon a vote being taken there were 35 ayes and 35 noes.

THE PRESIDENT PRO TEM.—The Chair will vote no, and the amendment is lost.

Mr. Knox took the chair.

THE PRESIDENT—The question will recur upon the resolution of Mr. Davis, the gentleman from Etowah, is the Convention ready for the question?

A vote being taken, the resolution was adopted.

MR. O'NEIL (Jefferson)—I have a resolution I desire to offer.

The Secretary read the resolution as follows:

Resolution No. 269, by Mr. O'Neil of Jefferson:

Be it resolved 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 United States Senator from this State, the electors may by ballot express their preference for some one person for the office of United States Senator. The votes cast for such candidates shall be canvassed and returned in the same manner as for State officers.

MR. O'NEIL (Jefferson)—I rise to a point of information. The same ordinance was presented by me some time ago, and referred to the Committee on Legislative Department. They returned it and said it did not come in under the head of that Department. I have noticed in several Constitutions where this law is in force that it is under the head of "separate propositions" and in order to test the sentiment of this Convention in regard to allowing the people to express their choice for United States Senator, I move that we suspend the rules and vote on it as a separate proposition.

THE PRESIDENT—The gentleman from Jefferson moves to suspend the rules in order that this resolution may be placed upon its passage.

A vote being taken the motion to suspend the rules was lost, the vote being 28 ayes and 46 noes, on a division.

MR. O'NEIL—I request that the resolution be referred to the Committee on Miscellaneous Provisions.

THE PRESIDENT—It appears to the Chair that the resolution ought to be referred to the Committee on Legislative Department, it seems to the Chair that is the proper committee.

MR. O'NEIL (Jefferson)—Inasmuch as the Committee on Legislative Department have reported and have stated that this matter should come up under a different article, and I find in one Constitution it is brought in as "propositions separately submitted," I think it should be referred to the Committee on Miscellaneous Provisions.

MR. OATES—I would say that the delegate from Jefferson is slightly mistaken in one thing, the Committee on Legislative Department did not reject the proposition; it was only talked about, and if it should go to that Committee again—there are some other ordinances referred to that Committee—I shall take pleasure in calling a meeting of that committee and leaving the resolution before them.

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

MR. WILLIAMS (Marengo)—I have a petition, and will ask that the caption be read, and that the petition be referred to the proper committee.

Petition No. 270, by Mr. Williams of Marengo:

To the Hons. C. H. Miller, Gesner Williams and J. J. King, members of the Constitutional Convention from Marengo county—

We the undersigned citizens of Marengo county, feeling and believing that the best interests of the shippers and receivers of freight, and all matters connected with railroads in the State of Alabama, will be best subserved by the election of a Railroad Commission by the people of the State at large, instead of the method now in vogue of appointing them, respectfully petition you to work for and support an ordinance and have it incorporated in the organic laws of the State, requiring the commission to be elective instead of appointive, and giving the commission so elected plenary powers.

Hilton McKee, Minge Wikins, W. E. Long, J. C. Beason, W. J. Jackson, G. W. Richern, J. L. Aldridge, B. M. Allen, R. E. Chamberlain, J. H. Minge, Bailey Bros., J. H. Minge, Jr., J. B. Bennet, Jr., I. P. Pruitt, Evans Rogers, Hugh Hopper, J. R. Rogers, Sam S. Cowen, J. R. Johnson, J. F. Westbrook, A. J. Dowling, J. I. Johnson, W. E. Dollins, A. E. Dollins, T. B. Gaines, T. B. Jackson, D. Swain, E. E. Rogers, M. A. Terrell, J. C. Brown, Jr., J. P. Travis, R. M. Douglas, George Brown, J. B. Power, M. M. Bell, D. A. Powers, C. L. Pence, R. Covington, W. F. Adams, Haywood

Fitts, R. A. Williams, L. M. Gower, Thomas S. Mylton, G. M. Spinks.

THE PRESIDENT — The petition will be referred to the Committee on Corporations.

The Convention here took up the special order, being the consideration of the report of the Committee on Suffrage.

MR. SAMFORD (Pike)—Are amendments in order to Section 4?

THE PRESIDENT—The Chair is informed that there are two amendments already pending.

MR. SAMFORD (Pike)—I rise to a point of information.

THE PRESIDENT—The gentleman will state his point.

MR. SAMFORD (Pike)—It is this, under the rules that we have been following, whenever two amendments have been offered to a section, that cuts off other amendments. Now here we have a section with several sub-divisions—the captions of the section and several subdivisions. Will the two amendments to the whole section cut off any amendment to any other portion to the section that are not affected by those amendments at all, and if that be so, we are liable to lose the right to amend portions of the section which probably ought to be amended by a motion to put the previous question upon the section and amendment, and in that way it occurs to me that some amendments which it might be well to have made would be lost.

MR. HARRISON — Mr. President, I rise to a point of information——

THE PRESIDENT—The Chair will say in reply to the suggestion of the gentleman from Pike. Under the rule we are considering this Article section by section. As the section now under consideration involves the whole plan of suffrage, or practically the whole plan it might too much restrict the scope of the debate to take it up paragraph by paragraph, but it might be taken up after the debate is concluded, paragraph by paragraph, to enable members to offer amendments to be considered without debate. Delegates might indicate what amendments they thought desirable, during such debate as may be allowed upon the section.

THE PRESIDENT—I recognize the gentleman from Lee.

MR. HARRISON—I rose a moment ago to propose that we consider the section paragraph by paragraph, but the suggestion of the Chair after I rose obviates the difficulty. It occurs to me that at some stage it should be considered paragraph by paragraph. There is no objection, however to the suggestion of the Chair, and it may perhaps be better.

MR. OATES—I understand it. I have no disposition to obstruct or delay the debate which will occur on the second paragraph. I have an amendment, however, which I wish to offer to the first paragraph if that will be in order after the measure is disposed of, I will not offer it now, but hold it, and now withdraw the amendment I offered on yesterday evening. In respect to that amendment, it was offered simply to make the meaning of that part of Section 4 more definite, but I have conferred with other members who think it sufficiently definite and I propose to withdraw that amendment.

THE PRESIDENT—The gentleman from Montgomery asks unanimous consent to withdraw the amendment offered by him on yesterday. Is there objection? The Chair hears none.

MR. OATES—Then I suppose I will have to write my amendment in the paragraph after the section has been considered?

THE PRESIDENT—It seems to the Chair we are considering the whole section, and the debate would be addressed to the whole section, for the purpose of amendment it will be taken up for consideration, paragraph by paragraph when the time comes.

MR. OATES — I will not be precluded from offering an amendment to paragraph 1 after that?

THE PRESIDENT— The Chair thinks you would not be. The whole section is now open for amendment.

MR. SANFORD (Montgomery)—I wish to offer an amendment to the first subdivision to Section 4.

THE PRESIDENT—The Chair will call the attention of the gentleman from Greene to the fact that he has an amendment pending to this section bearing upon the same subject which he moved to have postponed this morning. Does he desire that this amendment be also postponed for consideration?

MR. COLEMAN—Just as well be, because it will all be referred to, Mr. President.

THE PRESIDENT—If a motion to reconsider should prevail, and the original amendment defeated, there would be no necessity for this amendment?

MR. COLEMAN—Not at all.

THE PRESIDENT—The gentleman from Greene moves that the further consideration of this amendment—you might withdraw it?

MR. CARMICHAEL (Colbert)—I move that it be laid upon the table and be taken up with the others.

THE PRESIDENT—The question will be upon the motion to lay the amendment upon the table.

MR. COLEMAN — The Chairman has no preference at all with regard to this question. If it is put upon the table, it can be called up at the pleasure of the Convention, and that will satisfy the Chairman. The idea I had in view was to move on consistently, and amend the sections as we reached them, in accordance with Section 1 as amended, knowing full well it would be an easy matter if Section 1 was reconsidered to strike out the amendment of the other. It would not require any discussion at all to make them consistent.

THE PRESIDENT—It could not be stricken out after being incorporated in the section without a motion to reconsider the vote whereby it was incorporated and if the time for reconsideration should expire, it might complicate matters.

MR. COLEMAN—I will withdraw it from before the Convention.

THE PRESIDENT—The gentleman may withdraw it, or it may be adopted, and reconsidered, any time during the morning session tomorrow.

MR. SAMFORD (Pike)—If you will pardon the suggestion, it appears to me if the amendment is tabled, it may be taken up at any time.

THE PRESIDENT—If in the meantime the section is adopted, it could not be incorporated in it, if the time for consideration has expired. The Chair would suggest that the gentleman enter a motion to reconsider it and it may be set for the same time as the other.

MR. COLEMAN—That is my idea—to sweep consistently all the way through.

MR. CARMICHAEL (Colbert)—I withdraw my motion to table.

THE PRESIDENT—The gentleman from Colbert asks unanimous consent to withdraw his motion to lay upon the table. Is there objection.

There being no objection the motion to table was withdrawn.

THE PRESIDENT—The question will be on the amendment of the gentleman from Greene.

MR. COLEMAN—That amendment simply makes Section 4 harmonize with Section 1, as already adopted. I move the adoption of the amendment.

Upon a vote being taken the amendment was adopted.

MR. COLEMAN—If proper now, I will move to reconsider, and that reconsideration be postponed until after Section 6 is disposed of.

THE PRESIDENT—The gentleman from Greene moves to reconsider the action whereby the Convention adopted the amendment as proposed, and that further consideration of the motion to reconsider be postponed, until after Section 6 is disposed of.

A vote being taken, the motion to reconsider and postponing consideration was adopted.

MR. SANFORD (Montgomery)—I have an amendment to offer to the first subdivision of Section 4.

The Clerk read the amendment as follows: "Amend by striking out the word 'civil' before the words 'war between the States' in the ninth line of said subdivision; also to strike out the word 'civil' before the words 'war between the States' whenever it occurs in each subsequent section or subdivision of said report.

MR. COLEMAN—I accept that amendment on behalf of the Committee. I am authorized to do that.

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Montgomery. The Chairman of the Committee on Suffrage and Elections indicates that the Committee has no objection to the amendment.

MR. HARRISON—I desire to have it read.

MR. COLEMAN—It is to strike out the word "civil" so as to read "war between the State," it makes no difference in the world, and my purpose is to get along with business.

MR. SAMFORD (Pike)—I have an amendment I wish to offer. The Clerk read the amendment as follows: "Amend Section 4 by striking all out after the word "electors" in the fifth line.

MR. SAMFORD—I do not desire to discuss that matter, I simply desire to say for the delegates it makes the registration plan permanent instead of temporary, with regard to the voters provided for in this section. That is all I desire to say. The amendment makes the registration plan under this section permanent instead of ending with January 1st, 1903, that is all the change.

THE PRESIDENT—The question is on the amendment offered by the gentleman from Pike.

MR. SOLLIE—I have an amendment which I offer as a substitute for his amendment.

THE PRESIDENT—The Chair has recognized the gentleman from Barbour.

MR. DENT—I do not propose to take up a great deal of the time of the Convention. I do not think I have any record for long speeches and if the delegates will pay attention to the few words I have to say, I can say them in less time than that which the Convention has allowed to the discussion of this question to every member. Under ordinary conditions, Mr. President and gentleman of the Convention, I should hesitate very much to set up my judgment against the judgment of the large number of gentlemen on this floor who differ with me on this proposition, but representing, as I believe, the sentiments and wishes of my own people, and representing as I know I am my own judgment and my own conscience, I feel that it is my duty to put myself on record as being opposed to that section of the majority report which the minority report proposes to strike from that report. As I said, this is my judgment, and my conviction, of what I ought to do, and I do this with the greater confidence because I have found in my intercourse and association, with the delegates of this Convention that they are men who, as a rule, vote according to their own judgment and according to their own convictions, without regard to the judgment, opinion, or conviction of any one else. I am glad to say that this Convention has set up no fetish which they blindly follow, that every man votes for himself and according to his own judgment, and that is what I propose to do upon this occasion. Now, I shall very briefly discuss my views in reference to the unconstitutionality of this provision as compared with the provisions of the Constitution of the United States. I do so as I say with hesitation but I do so because it is my own conviction that it is in conflict with the Constitution of the United States. Now, Mr. President and gentlemen, what are the provisions of the Constitution of the United States—

MR. COLEMAN (Greene)—Just one question—

THE PRESIDENT — Will the gentleman from Barbour yield?

MR. DENT—Certainly.

MR. COLEMAN—You are addressing your remarks as I understand, now to the second subdivision?

MR. DENT—Yes, sir, the descendant clause. I thought everybody understood that.

THE PRESIDENT—The Chair will state to the Convention that there is pending an amendment on the part of the minority of the Committee to strike out this subdivision to the section, and an amendment to the amendment offered by the gentleman from Pike to strike out certain parts of the section, the effect of which would be to make the temporary plan permanent, as I understand.

MR. OATES—The minority report and the motion has not been read and laid before the house formally. It is the customary rule before discussion.

THE PRESIDENT—It has not been the custom when the article is taken up for consideration to read the report of the Committee, it was read in full before the Convention when it was filed, but the Secretary did read the motion which the minority made at the conclusion of the report.

MR. OATES—I suppose it makes no difference.

MR. DENT—In order that I may be fully understood, I will read the clause which the minority report proposed to be stricken out.

THE PRESIDENT—The Secretary will read the section.

MR. CHAPMAN—I rise to a parliamentary inquiry. Has the first clause of this Section been passed upon at all—the first subdivision?

THE PRESIDENT—No sir.

MR. CHAPMAN—Is that to be passed over until after the second is acted upon?

THE PRESIDENT—The Chair stated for the information of delegates that for the purposes of general debate upon this Section, the whole Section would be considered as before the Convention, and the different amendments, and when debate is concluded the Convention takes up this Section to be voted upon, it will be considered paragraph by paragraph, when amendments may be offered, to be voted upon, without debate, and that delegates who desire to offer amendments may refer to their amendments while they are discussing the general question.

MR. DENT—As I was proceeding to say, I propose briefly to give the reasons why I believed this clause is in contravention of the Constitution of the United States. We have certain rules that have been laid down for the construction of matters of legislation, laid down by the Supreme Court of the United States, and one of them is a rule with which everybody is familiar that every man intends the natural and reasonable consequences of his own acts. Now take that clause under consideration and let us see how that rule applied to it would affect it. That rule I will read briefly in a case reported in 113 U. S. Reports, page 759. That rule is laid down by, I suppose, as distinguished Judge as ever occupied the Supreme Bench, Mr. Justice Field of California. I will read it: "The rule is general with reference to the enactment of all legislative bodies, that courts cannot inquire into the motives of the legislators in passing them, except as they may be disclosed on the face of the acts, or inferrable from their operation,

considered with reference to the condition of the country and existing legislation. The motives of the legislators considered as to the purposes they had in view, will always be presumed to accomplish that which follows as the natural and reasonable effects of their enactments."

Now, Mr. President, you take the clause under consideration, "The lawful descendants of persons who have 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 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."

Now, I ask what is the natural and reasonable effect that will follow that provision if adopted? By way of illustration, to make my meaning clear, say that we had a clause in this provision which said that the descendants of the settlers of this country, of all the immigrants who came to this country from European countries, that the descendants of all these people should be voters in the State of Alabama. I ask any candid gentleman on this floor if the effect of that would not be practically to limit suffrage to white people in the State of Alabama. Now, if there was no provision in the Constitution of the United States, that forbade us making such a rule, it could be done, but I say, it seems to me that the natural and reasonable effect of such a provision as that would be to make white voters and white voters alone in the State of Alabama. Now this provision may narrow that rule to some extent, but I ask you, as reasonable men, does it not have the same tendency, natural and reasonable affect that all who apply for registration under this provision will be white people. Now, for these reasons, I shall briefly pass on—those are the reasons that influence me, I cannot see how we can get around it. I do not see how it can be made plain not to be in conflict with the Constitution of the United States. They lay down three rules. They say that you must not discriminate against a negro on account of his race, second, on account of his color, and third, on account of his previous condition of servitude. Now you take the practical application of this. What chance could the negro have to come in under this article when he was in a condition of servitude and could not become a soldier in the wars to which reference is made here. You are reasonable men, you are thinking men. I throw out these suggestions and pass on, because, as I said, I do not propose a long speech. But there are other objections to this amendment. For myself, I believe that it violates one of the great fundamental doctrines of Republican Government, I believe that it is in contravention to the spirit that has animated the people of this country from the Declaration of Independence down to this time, and in support of that, I ask the indulgence of the Convention for a few

moments, while I refer to the report of the Committee on Preamble and Declaration of Rights. If you have that before you, I would be very glad if you would turn to a Section of that report and read it in connection with the report of the Committee on Suffrage. We have just adopted this Section: "Section 30. That no title of nobility or hereditary distinction, privileges 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." There was no dissent in the adoption of that Section in this Convention. That is as much as I want to read, because that is all that has any application. Now I ask the gentlemen of this Convention, does not this section under consideration grant an heredity right or privilege to the sons of those who were soldiers in the wars referred to. If that is not its meaning, I must confess that I do not understand the force and effect of the English language. Isn't it hereditary distinction to say that because a man was a soldier, his son shall be entitled to register and vote without any regard to his qualifications whatever. I know it can be said that while we lay down these general rules that a particular exception in the Constitution would be invalid. I ask the grave and intelligent gentlemen who compose this Convention if it would be a creditable thing to do, to make a broad statement of a general proposition, and then turn right around and violate it in spirit, in principle and in letter. If you are going to adopt this clause of the report on suffrage, it seems to me that you should go back and reconsider and change Article XXX of the Bill of Rights. And further, if you will turn to the old Constitution, to the last clause of the Bill of Rights, that reads as follows: "That these enumerations of certain rights shall never impair or deny others retained by the people."

That was the clause in the Bill of Rights, the last clause as contained in the Constitution of 1875. The committee to whom that part of the Constitution was referred not only reported that clause as placed in the Constitution of 1875, but they have added another in order to make the great declaration which is contained in this Preamble and Bill of Rights more emphatic. I beg your attention while I read it. "That this enumeration of certain rights shall not impair or deny others retained by the people," that was the way it was in the old Constitution. Now observe what has been added: "And to guard against any encroachment on the rights herein retained, we declare that everything in this Declaration of Rights is expected out of the general powers of government and shall forever remain inviolate."

I ask any gentleman if there is harmony between those sections of the Bill of Rights which I have read and the report of the Committee on Suffrage which is under discussion. If you adopt this clause, it does seem to me that in justice to this Convention,

in justice to its attainments and knowledge, that we ought not to send out to the people of the State of Alabama such antagonistic provisions in the same Constitution. For these reasons, Mr. Chairman, I advocate the striking out of that clause of the report of the Committee on Suffrage, and that is all I wish to say now. I desire, Mr. Chairman, to reserve whatever time I may not have consumed, if I can do so within the rules.

THE PRESIDENT—The Chair would be very glad to place time to the credit of the gentleman, but he will have to place it to the credit of the people.

MR. DENT—Well, I just wanted to know if that could be done.

MR. O'NEAL (Lauderdale) — Mr. President, the problem which the Fourteenth and Fifteenth amendments to the Federal Constitution forced on the States of the South was the most momentous ever submitted to a free people. In the language of one of her greatest sons, "it is a problem in solving which the South must stand alone, in dealing with which she must come closer than ambition or despair have driven her, and on the outcome of which her very existence depends. This problem is to carry within her body politic two separate and distinct races, and nearly equal in number. She must carry these races in peace, for discord means ruin. She must carry them separately, for assimilation means debastment. She must carry them in equal justice, for to do this she is pledged in honor and gratitude. She must carry them to the end, for in all human probability she will never be quit of either."

To solve this problem, to remedy the existing evils of on unrestricted and debauched suffrage, and to secure for ourselves and posterity the benefits of enlightened government and of pure and lasting freedom, was the paramount object of this Convention. That was the chief inducement by which the people's consent to our being here was obtained, and that was the charge and duty with which we were invested and which we would be recreant to our solemn trust did we not perform faithfully and efficiently. Mr. President, realizing these facts, and recognizing their weight, the Committee on Suffrage approached its task of ballot reform, with all its immense and grave responsibilities, with its certain consequences for good or ill plainly before them, knowing that the very life of the State depended on the wise and permanent solution of this problem. Mr. President we cannot afford to fail; we must accomplish the redemption of our elections from the incompetency of the electors; from fraud in their management, and make permanent and secure honest and efficient government in Alabama.

No committee ever labored more earnestly, more faithfully, with a more profound sense of the gravity and importance of its work, and we lay before you our completed task, which carries out every pledge, which violates no provision of the Federal Constitution, and the adoption of which we sincerely believe will purify our electorate, will remove forever the necessity of methods which can no longer meet our approval, and will mark the commencement of an era of better government, or more lasting peace and prosperity in Alabama.

Mr. President, the movement for a Constitutional Convention in this State was but the protest of the people of Alabama against a condition of affairs that had grown intolerable. The right of a sovereign State to regulate and control the suffrage of its citizens was older than the Constitution. Even in colonial times the right to vote had been regulated by the several assemblies and not by Parliament, and was not surrendered when the Federal Union was formed. When, after the close of the civil war, the victorious North flushed by its triumph, animated by hate and passion and to humiliate and degrade the South, attempted to strike down this paramount and sovereign right of the States, it undertook to reverse the practice of the country since the foundation of the Federal Government, and even a more remote past. Fortunately, the radical majority that dominated Congress were confronted by a small but able body, of lovers of Constitutional government, who resisted, step by step, the efforts of the majority to pass an amendment which would place the control of all elections completely under the control of Congress and prevent the States from ever exercising any voice in the qualifications of its voters. Had the amendment finally passed as amended in the Senate the States would have been powerless to regulate or control the suffrage, and Congress alone would have dominated all elections and the qualifications of voters.

The first step in this discussion will be to ascertain from the debates in Congress, and the history of the Fifteenth amendment its purposes and object.

The first resolution, afterwards known as the Fifteenth Amendment, was the Boutwell resolution. It was first discussed in the House of Representatives in Congress on the 25th day of January, 1869. Its language was as follows:

"Section 1. The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of race, color or previous condition of slavery of any citizen or class of citizens of the United States.

"Sec. 2. That Congress shall have the power to enforce by proper legislation the provisions of this Article."

In the debate on this resolution, it was claimed it did not go far enough, and it was asked whether it would prevent any State from requiring property or educational qualification of its voters, and to remedy this defect, several amendment were proposed, their common purpose being to prevent the exclusion of any male citizen 21 years of age or over from the right to vote, for any cause except crime. One of the principal substitutes was offered by Shellabarger as follows: "No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of 21 years or over, and who is of sound mind, an equal vote at the election in the States in which he shall have such actual residence as shall be prescribed by law, except to such as have engaged or may engage hereafter in insurrection or rebellion against the United States, and to such as shall be duly convicted of treason, felony or other infamous crime."

In urging his substitute for the Boutwell amendment, Shellabarger of Ohio warned his fellow members against any act which might legalize the disfranchisement of the vast body of negroes in the South. He said the Boutwell amendment would enable the rebel and master race at the South to disfranchise most of the colored people by excluding a man from the ballot who could not read: "For centuries," he said, "the colored race had been shut out of the light and because for centuries they had been stolen property, they were poor; therefore an educational or property qualification would practically disfranchise them." But this, he said, was not the only defect in the amendment proposed by Boutwell. It added to the mischief it sought to remedy, for by prohibiting a State from exercising the power of disfranchisement only on account of race, color or previous condition of slavery, it plainly led to the inference that the State was authorized to disfranchise upon any other grounds than those three, and upon the well known and universally recognized principle of law, expressio unius, exclusio alterius. Congress would then make the Constitution worse and hand the power of disfranchisement over to the States. In Thorps' Constitutional History, it was said the debate had developed two facts, a general agreement that it was desirable to submit a suffrage amendment and a great difference of opinion as to its provisions. The Southern and border States generally opposed the idea of permanent disfranchisement of those who had participated in rebellion. If the amendment substantially secured the principle that the State did not absolutely control the question of suffrage, and further, that by the fundamental law the right could not be denied the negro, it was enough. To load down the amendment with details would insure its rejection. Massachusetts at the time required an educational and Rhode Island a property qualification of the voters. If the amendment forbade a State imposing such qualifications it might confidently be expected that both these New England States would refuse to ratify. The people of New

York recently by a large vote of over thirty thousand had refused to abolish discriminating property qualification for negro voters. The House therefore passed the Boutwell resolution by a vote of one hundred and fifty to forty-two.

The Senate took up the House resolution on the third of February, 1869. Acting under the instruction of the Judiciary Committee, Senator Stewart moved to amend the resolution by striking out the whole of the first section and substituting the provision that the right of citizens of the United States to vote and hold office shall not be denied or abridged by the United States, or any State on account of race, color or previous condition of servitude.

Howard of Michigan, who was the author of the 14th Amendment, thought the language too vague and would have it express plainly that citizens of the United States of African descent should have the same right to vote and hold office as other citizens. Senator Morton, says Thorp in his constitutional history of the United States, voiced the fears of many of his party when he said that the Stewart amendment could be practically disobeyed without establishing either a property qualification or an educational test. Like the makers of the Constitution he was averse to putting the word color into it or any reference to slavery. In abolishing the institution it had been necessary to be explicit and the word slavery could not be avoided in the 13th Amendment. He asked, "Might not a State debar the negro from voting under the claim that he was deficient in natural intelligence, or incapable of improvement, or incompetent to take part in the administration of government. The whole provision of the proposed amendment might thus be overruled. For these reasons he urged some affirmative definition of suffrage somewhat as Howard of Michigan had suggested. Senator Williams of Oregon urged that it was better to assert the power of Congress to regulate the right to vote and thus keep the whole matter within the control of the national government.

The debates in Congress, however, show that the difficulties in the way of the amendment whether expressed in the language of the House resolution or Senate committee were serious and of long standing. It was urged that it was radical departure from the theories and practice of the government since its foundation, that save in for a brief period in Tennessee and a longer time in North Carolina the negro even when free had never been a voter in a single Southern State and that he had been excluded from the franchise in all the Northern States except four, that Connecticut had by her Constitution excluded him from voting and holding office, that Northern States like Michigan and New York had only recently voted on the question of negro suffrage and had refused

to grant the negro the right of suffrage, that the great States north of the Ohio which had for years been unfriendly to the free negro, some of them even prohibiting their residence in their states, would not bury their hostility and admit him to suffrage. It was further urged in the debate that the proposition of Senator Williams would practically change the basis of suffrage and would take from the States who had heretofore exercised it, the control of suffrage and place it completely under the control of Congress, that the country was not prepared to sanction so radical a departure from the practice of the government or to transfer to Congress the control of suffrage. The entire Democratic party resisted so radical a departure and change and a majority of the Republican leaders were forced to agree to the views of the Democratic minority. In this work on constitutional history Thorp says.

"The Fortieth Congress has been blamed by those who call themselves Nationalists, because it neglected to perfect the work of reconstruction and putting the regulation of the elective franchise and of the right to hold office wholly under the control of the national government. He says the Fortieth Congress contained an unusual number of men possessing wide political knowledge and experience in public affairs; it was not under the control of the radicals, though these were present in respectable numbers and frequently gave utterance to their political faith with such eloquence and power that their extreme views have become a great tradition in our history. The controlling minds of that Congress well knew the difficulty and dangers of attempting so radical a change in our political institutions as to give the national government the power to control the elective franchise and the right to hold office."

"The long established doctrine of residuary State sovereignty checked every effort of the Republicans to effect the innovation. For nearly a hundred years that doctrine had gathered strength and at last had permeated every State Constitution, and every election law in the country. It was too firmly embedded in the political mind and in the political traditions of the people to be obliterated by so sudden a procedure as an act of Congress in the form of a joint resolution which to become a part of the Constitution must be ratified by three-fourths of the States. The Civil War, though profoundly affecting the thought of the country had not prepared the public mind to accept so radical an innovation. The policy of the opposition was therefore clear, it could not defeat a suffrage amendment in some form but it might largely determine the form. Fully conscious of the practical value of the doctrine of residuary sovereignty in the States, it could compel the Republicans to so word their amendment as to recognize that

sovereignty and thus practically continue to the States the right to regulate the elective franchise."

The history of this amendment shows that five substitutes for the Stewart resolution were offered and defeated. Finally Wilson of Massachusetts offered as a substitute that no discrimination should be made in any State among the citizens of the United States in the exercise of the elective franchise or in the exercise of the right to hold office in any State on account of race, color, nativity, property, education or religious creed, which substitute was opposed by Sherman of Ohio, Conkling of New York, but by a small majority the Senate agreed to the Wilson amendment. When the resolution was sent back to the House a committee of conference was appointed, and the committee was unable to agree and it seemed as if the 15th Amendment was loomed to defeat. It is useless to consider the history of the debate further. The amendment was finally passed in its present form, but only after repeated efforts had been made to so amend it as to make every citizen of a State 21 years old or upwards a voter, not to be disfranchised except for crime.

A review of these debates disclose the fact that there is a very general popular misconception of the purposes and effects of the two amendments to the Constitution. Hence when the Committee on Suffrage was organized the first step taken was to appoint a special committee to ascertain and report what powers the State of Alabama had under the Fourteenth and Fifteenth amendments to regulate and control its suffrage. Although among the members of the Committee were some of the most distinguished lawyers in the State, each member of the Committee realizing the responsibility and gravity of the task to which we had been assigned, examined for himself the law and decisions on the subject. A careful examination of the decisions of the Supreme Court establish beyond controversy the following propositions:

First—The right of suffrage was not necessarily one of the privileges and immunities of citizenship before the adoption of the Fourteenth Amendment.

Second—That amendments does not add to these privileges and immunities but simply furnishes an additional guarantee for such as the citizen already had.

Third—That at the time of the adoption of that amendment suffrage was not coextensive with the citizenship of the State, nor was it at the time of the adoption of the Constitution, and that neither the Constitution nor the Fourteenth Amendment made all citizens voters.

Fourth—The inhibition in the Fourteenth Amendment that no State shall deprive any person within its jurisdiction of the equal

protection of the laws was designed to prevent any person or class of persons from being singled out as a special subject for discriminating and hostile legislation.

Fifth—The Fifteenth Amendment to the Constitution does not confer the right of suffrage, the right to vote in the States comes from the States, and has not been granted by the United States. The Fifteenth Amendment simply invests citizens of the United States with the right of exemption from discrimination in the exercise of the elective franchise on account of their race, color or previous condition of servitude and empowers Congress to enforce that right by appropriate legislation.

Sixth—The main purpose of the Fourteenth Amendment as has often been declared, was to establish the citizenship of free negroes, which had been denied in the Dred Scott case and to make all blacks born or naturalized in the United States citizens of the United States.

Seventh—Any action of a State not directed by way of discrimination against the negroes as a class or on account of their race does not come within the Fourteenth Amendment.

Eighth—The Constitution in its present form so far as civil and political rights are concerned, forbids discrimination by the general government or the States against any citizen because of his race.

MR. PRESIDENT—This review of the debates in Congress, and the construction by the highest courts in the land of the objects, purposes and effects of the two amendments to the Constitution show beyond controversy that they do not oppose, as many seem to believe, an insuperable barrier to the disfranchisement of the negro. That there were many supporters of the Fifteenth Amendment, when it was being framed, who desired to so amend it as to place wholly under the control of the Federal Government all future elections in the States, and to make it impossible for any State to regulate its suffrage, we concede, but the history of that amendment also shows as we have seen that many of the States of the North whose Senators and Representatives participated in the preparation of that amendment to the Constitution, contained considerable bodies of negroes little better fitted for the duties of electors than the lately manumitted slaves of the South, and it is only fair to assume that they were unwilling to prescribe a rule of such tyranny and disaster, and that its adoption by the requisite number of States would have been rendered doubtful if such a purpose had found positive and arbitrary expression therein.

Mr. President, as we have seen the first Section of the Fourteenth Amendment made all negroes citizens of the United States and of the States of their residence. The Amendment which fol-

lowed prohibited the denial or abridgement of that vote for three certain specified reasons, or either of them, and for those only. For any other reason their right to vote may be denied or abridged. You cannot say that because the effect of our plan will be to restrict the right of the negro to vote that it necessarily violates the terms or spirit of that amendment. For with the same force of reasoning you could say that an educational or property qualification imposed on all alike would result in denying to the great mass of negroes the right to vote, and was therefore unconstitutional. If the effect or result of a law restricting suffrage was to determine its construction it would have been held that the effect of the provisions found in the Mississippi Constitution requiring a voter to be able to understand or give an intelligent explanation of the Constitution militated against this article of the Federal Constitution. It would have been held that the laws of Massachusetts which imposed an educational qualification, of Rhode Island, which demanded a property qualification, were in conflict with the Fifteenth Amendment. In the one case it could be truthfully said that the whole or greater part of the negro race in these State were disfranchised, because they on account of their poverty or ignorance were unable to vote. Yet, in the debates in Congress and in every judicial construction of the two amendments, the presence and continual existence of these and other restrictions on suffrage in the laws and constitutions of other American States show that they are not antagonistic to the two amendments, that the question of their violation of the amendments is not determinable and has not been determined in a single instance by the effect or result of the restrictions imposed upon the voting of the negro race.

I therefore assert that the State can impose any restriction it may see fit on suffrage which is not directed in hostility to the negro race, not imposed on account of his race, color or previous condition of servitude and will not when tested by enlightened judicial construction be disturbed. If we abridge or deny the negro the right to vote, we take this action not in hostility to him as a race, not on account of his color or previous condition of servitude, but because his exercise of suffrage without restriction make it unsafe to the life of the State and detrimental to all the interests of the people among whom he resides. We can deny the right of suffrage to the natives of other countries, or extend the age of majority from 21 to 30 years, for it has been decided that the Fifteenth amendment was intended to protect the negro race alone. No, Mr. President, we are not in this hour of our State's deadly peril seeking to wreak any vengeance upon the negro, or venting any ill will on account of his race or color; but we are restricting our suffrage for the sake of the life of our Government, for its honest and faithful administration, for the sake of our civilization,

for public morals, for personal integrity, for the emancipation of all that is good and pure among us from that bondage of the soul and of thought which has been forced to participate in wrong doing from fear of a greater evil. We perform this duty for virtue, for decency, for religion, for liberty, for life itself.

The enfanchisement of the negro race furnished one of the darkest chapters in the history of this Republic. When Lee laid down his sword at Appomattox the South recognized that the abolition of slavery was one of the inevitable results of its failure to establish separate and independent Government. It submitted loyally to this gigantic confiscation of property, which it had acquired under the sacred guarantee of the Federal compact. Following swiftly upon the abolition of slavery, came the enfranchisement of the negro race. The shackels were scarcely stricken from his limbs before the ballot was placed in his hands? Not only was he clothed with the right of suffrage, but he was elevated by military force to the control of the States of the South, a condition of affairs more humiliating than that to which any free and enlightened people had ever been subjected.

Then ensued a carnival of crime, of robbery and jobbery without parallel in history. A horde of most venal and corrupt adventurers gathered from every haunt of vice and crime, swarmed into the South, and by appeals to the passions, the credulty, the prejudices and the ignorance of the blacks, organized them into a compact political party, and by aid of federal power, secured control of every department of the State governments in all of the States of the South.

The leadership, of course, fell to the white adventurers, whose scanty stock of portable property won for them the name of carpet-baggers. They organized the negroes, tampered with the electoral returns, stuffed the ballot boxes, secured all the lucrative offices, increased salaries, devised the various methods by which taxation was increased and imposed on the impoverished States of the South a burden of debt which destroyed public credit and bankrupted the public treasuries. In speaking of this period, Mr. Brice, in his celebrated work, "The American Commonwealth," says:

"But as the voting power lay with those who were wholly unfit for citizenship, and had no interest as taxpayers in good government, as the legislatures were reckless and corrupt, the judges for the most part subservient, the federal military officers bound to support what purported to be the constitutional authorities of the State, Congress distant and little inclined to listen to complaints of those whom it had mistrusted as rebels, greed was unchecked and roguery unbanished."

But, not satisfied with clothing the black man with every political right, with elevating him to the control of his former masters, the radical party in the North undertook to regulate the social relations of the races, with the avowed purpose of forcing an assimilation of the negro, and destroying Southern civilization.

Impoverished though she was, crushed by defeat, exhausted by the protracted struggle in which she had lost the flower of her manhood, rallying her sons from the ashes of her homes and the graves of her dead she closed her decimated ranks, determined at any cost to preserve her social purity and maintain her civilization. She braved federal bayonets and federal power and her brave sons stood with unyielding ranks around the inner temple of her social system. In every village and town of the State was heard the voices of her sons, rallying her forces to the conflict, and under the leadership of Houston the plunderers were driven from their power and honest government restored. The gallant Randall gathered together that small Spartan band of Democrates at the national capital, and by his skill, courage and superb leadership arrested and defeated this last and most humiliating measure of hate to the South. The grant of unrestricted suffrage to the negroes of the South was the colossal crime of the nineteenth century. No people could be imagined more hopelessly unfit for this important power. It was thrust on the negro in hot and vengeful haste, without previous preparation—not to elevate or protect him, but to humiliate and degrade us. It created an epoch of crime, corruption and misrule never before known in any civilized land. It filled our halls of legislation with men to whom honesty was an unknown virtue. It elevated to the bench men without legal training, to whom Blackstone was a myth and Kent a meaningless name. It filled the land with crime, intensified racial prejudice, demoralized our labor and retarded our growth and prosperity. It hindered immigration, rendered life and property insecure and allayed the investment of capital and the development of our marvelous resources. It has prevented any division of our people on economic or political questions, repressed freedom, of thought and debaunched our suffrage. To prevent a recurrence of the frightful misgovernment which followed reconstruction, it has forced our people to adopt methods to retain honest government which were repugnant to their consciences and which have debased and lowered our moral tone. No king, however despotic, would have subjected his subjects to the peril, the ignominy, the moral and financial ruin which has walked in the train of this unwise experiment. As the editor of The Chicago Chronicle recently said: "The history of the world may be searched in vain for a parallel to the spirit of savagery which inflicted upon a defeated and impoverished people the unspeakably barbarous rule of a servile race just liberated from bondage." As a distinguished English statesman recently wrote, "To nearly all

Europeans, such as step as the grant of the suffrage to the negroes en bloc, seemed then, and still seems monstrous."

After over a quarter of a century's experience, we know that it is as much a failure today as it was the hour it was first inaugurated. Hence I but voice the sentiment, not only of the white people of Alabama, but of the intelligent, unbiased judgment of the North and of the civilized world when I denounce the fifteenth amendment as not simply a political blunder, but a crime—a crime against the white people of the South—a crime against the black people of the South—a crime against local self-government, and the sovereign rights of the States. For I am sure the time has come when we can challenge the criticism and the favorable verdict of the civilized world to whom we can show and who have already seen and known that we have tried in humiliation and under protest, but still in patience, the experiment of unlimited suffrage, which heedlessness, animosity and hate put upon us. That we have tasted its bitterness, drained the cup of hatred and empericism to its dregs, inhaled its poison until the State reels from its effects, and that it has been demonstrated after a third of a century that this investiture of the unqualified element of our population with the sovereign robe of suffrage was a costly and a ghastly failure—a crime against us as well as the negro.

In the dark days of reconstruction Thomas A. Hendricks declared in the Congress of the United States that the fifteenth amendment was a violation of the original compact between the States and changed the nature of our government. Its adoption was secured by force and fraud and in the States of the South its ratification was compelled by military authority. The pretext that it was necessary to secure the results of the war is not sustained by history, for Congress had solemnly declared that the war for the Union was not waged to free the slaves, and Abraham Lincoln had said, "I did not at any time say that I was in favor of negro suffrage. I declared against it. I am in favor of negro citizenship." This opinion, it is said, he never changed. The impartial student of history knows that this amendment would never have been proposed had it not been confidently believed that its adoption would perpetuate the rule of the Republican party. Can anyone at this day, who has studied the history of that period stand in this presence and contend that this amendment would have been adopted had it been then supposed that it would result in the South casting a solid Democratic vote.

Mr. President, what is the situation that confronts us in Alabama? We have here two distinct races, one two thousand years in advance of the other, representing the highest type of modern civilization, the other a race whose ancestors were a hundred years ago naked savages, living on the banks of the Congo or Niger.

The records of history are largely narratives of man's advancement from barbarism to civilization. The great dominant white races of the earth have been thousands of years in reaching their present state of development. The advance has been by slow processes, long and laborious struggles, and not by sudden leaps and bounds. Every step taken seems necessary in the march to the present development. For two thousand years while the white races have been progressing, the negro in Africa remained stationary, as uncivilized today as he was before the birth of Christ. In the case of the great Asiatic and European races we find that the early stages of development are lost in the mists of antiquity. From the days of the Roman Empire to the present hour, a perusal of history shows that advancement and progress has been slow, gradual, laborious but steady, development depending largely on the progress of the arts, sciences and good government. With the progress of learning and material prosperity there has come a growth so to speak of the human mind, until today the white races have reached their highest type of culture and development. Yet a study of the African races back to the days of the Pharoahs of Egypt show no such progress. So the singular condition exists in the South of the most primitive, rudimentary race living side by side with the most cultured and highly developed. It has been truly said that not greater is the interval which separates the chipped flints of the stone age and the maxim gun of today. A hundred years ago a body of savages were torn violently from their homes in Africa, sold to masters representing the highest type of civilization, put to work on the plantations, taught the arts of agriculture and mechanics, deprived of law by all participation in government, forbidden to read or write, and civilized as far as was possible by contact with a highly developed and civilized race. Suddenly, without previous preparation, they are enfranchised, made citizens of the most advanced government of the earth, forced from their simple primitive life into all the turmoil of politics, organized into a compact political party, clothed with office, and at the point of the bayonet set in control of the government administered formerly by their masters. The proudest, bravest and most cultured portion of the Anglo-Saxon race in America compelled by military power to submit to the domination of their former slaves. As soon, however, as the Federal bayonets were removed all this structure of negro domination which malignity and savage hate had framed after so much deliberation, by so many gross violations of the cardinal principles of our government toppled to the ground. The whites, though numerically inferior in many States, found the means by the grace of God to restore white supremacy and good government. To establish this, however, the whites in the South and in Alabama were forced to stand in solid phalanx to the detriment of their political life, forgetting all differences of opinion on political and governmental questions,

casting their ballots solidly for the Democratic party. Division amongst them meant ruin. If they divided into factions here was this great mass of illiterate, purchasable votes, easily influenced by the appeal of the unscrupulous to passion or prejudice, a constant menace to our peace and security, and standing between, holding the balance of power.

Mr. President, the white race must dominate because it is the superior race, and in that domination the negro will find the safest pledge and guarantee of just and impartial administration. We remember with gratitude that during the dark days of the war, when our fathers and brothers were at the front fighting the battles of the Confederacy, the negro was left at home, and in many cases was the sole protector of the helpless and defenseless women and children of the South. We recall with gratitude the fact that in not a single instance did he betray his trust. He worked in the cotton and corn field to feed the armies that were fighting to rivet the chains of slavery on his limbs. No higher tribute could be paid to the institution of slavery. While all this is true, while we propose to accord to the negro all his rights in the courts, to share with him more than his just proportion of the educational fund and to accord him that justice which the strong always owe to the weak, we can never consent to share with him the responsibilities of government. Mr. President, this is not a sectional issue, the race problem is no longer confined to the States of the South. The acquisition of the Sandwich Islands, the Phillipines, Porto Rico and the control of Cuba has forced the race problems to the attention of the whole country and in the wise solution of this question we have the sympathy instead of the hostility of the North. Mr. President, wherever the white man has come in contact with an inferior race, whether in Massachusetts, in Kansas, in California or in Alabama, whether with the Mongolian, the Indian or the Negro race, race instinct will assert itself and the white will dominate and control. It has been wisely said that this race instinct is of divine ordination. It should not be decried, derided or denied, because it preserves the integrity and purity of each race. The races of men are the creations of God, the markers of his will. He who attempts to overcome this race instinct is defying a power which is higher and wiser than that of man, and which will in the future as it has in the past, preserve the social purity and integrity of each race, preventing that assimilation and debasement, the very contemplation of which fills our minds with horror and repugnance.

Mr. President, the whole force of the opposition to the suffrage plan seems to be directed against Section 4. It is claimed that it violates the Federal Constitution by indirectly denying the suffrage to the negro. It is not true that this section denies the right of suffrage to the negro for it simply allows the lawful de-

scendants of soldiers to vote. The son of a negro soldier is embraced in this class to the same extent as the son of the white soldier. It cannot be claimed, however, that because there may be more descendants of white than colored soldiers that this renders the provisions unconstitutional. The same argument could be made against the soldier clause itself. It could be said with the same force of argument that because an educational and property qualification or even a poll tax affected more negroes than whites it was unconstitutional. I am wholly unable to comprehend the consistency or logic of the argument which assails the descendant clause as unconstitutional and admits the legality of the section which excludes all soldiers from the operation of the suffrage qualifications. Neither section singles out the negro as a subject of hostile legislation. It is not class legislation, for the class legislation denounced by the courts is legislation discriminating against some and favoring others. As Judge Miller declared in the Slaughter House cases the action of the State must be directed by way of discrimination against the negroes as a class, on account of their race in order to be violative of the Federal Constitution. It may be conceded that the clause erects an arbitrary standard of qualification, but the state in the exercise of its sovereign power to regulate suffrage can act arbitrarily provided it does not deny the negro the ballot on account of one of the three grounds mentioned in the fifteenth amendment. As Senator Morton declared the State might deny the right on the ground that the negro was incompetent to exercise the suffrage intelligently. It is claimed that the test required is not a rule or condition to which all citizens similarly situated may conform and which is required under the decisions of the Supreme Court. I challenge those advocating the minority report to cite a single decision of the Supreme Court which sustains their contention. If the argument is sound the soldier clause is equally objectionable for a man who was not a soldier in any of the wars mentioned could by no exertion on his part become a soldier now. It is claimed it establishes a permanent, hereditary governing class, which is undemocratic and un-American. The argument is utterly misleading. The descendants of soldiers admitted to the suffrage by this clause are already voters. The son of the soldier does not inherit from his father the right to vote. He simply retains what he already had under the system of universal manhood suffrage which has heretofore prevailed in this State. It is claimed "we had better pursue the course which our fathers traveled and use the helm with which they steered." Mr. President, the conditions which surround us are not the conditions which confronted our fathers. Extraordinary conditions require extraordinary remedies. I venture the prediction that if they had been similarly situated, if their slaves had been clothed with suffrage and good government, honest elections, and the preservation of the splendid civilization which they had created

had been in jeopardy they would have followed the paths which we have trod and would have adopted the same methods to secure their safety. The gentlemen of the minority have refused to boldly face the perplexing problem we are forced to solve. I do not question their sincerity but the arguments which they have advanced show that they have not risen to the height of this great question. Their reasoning smacks of special pleading, of carping criticism, and of fault-finding without offering any remedy. Mr. President, no one denies that the State has a right in the exercise of her sovereign power to regulate suffrage to provide that all soldiers shall be allowed to vote or be exempted from the operation of any restrictions imposed on others. It is claimed that this is justified on the ground that it is solely a recognition of valiant services rendered. Why then I ask, if this be true, can the State not go further and say that in recognition of your valor in war, your willingness to sacrifice life for the common welfare we will not only exempt you but those nearest, dearest and closest, your lineal descendants, from the operation of any provision restricting suffrage. So long as the State does not violate the provisions of the amendments to the constitution there is no limit on its power to control the suffrage of its citizens. Delegates of the Convention, our plan may be imperfect but I ask its critics, those who have been so persistent in denouncing it as unwise and dangerous what better plan have you to offer? We cannot afford to leave the ballot in the hands of enough negroes to form a respectable faction, for if we do, whenever the whites divide, they hold the balance of power and we have failed to accomplish our mission. Have we grown so careless of the past that we can undergo that danger? Cannot we, brothers, kinsmen, inheritors of the glorious past, united as we are by every tie of affection and interest, joint sharers of the blessings of free government transmitted by our fathers, can we not forego our petty bickerings and unite to accomplish this glorious mission? Let us be equal to this great occasion, this golden opportunity in the life of our State and put into our Constitution an article on suffrage that will guarantee to future generations the blessings of Anglo-Saxon civilization and liberty in this State. We cannot afford to disfranchise the ignorant or illiterate white. It was the illiterate and uneducated white man that fought the battle of the Confederacy. They and their descendants were educated not in books but in the traditions and principles of free government. The race to whom they belong have been educated for centuries in the practice, participation and conservation of free institutions. The men who won Magna Charta from King John were uneducated and illiterate, and yet, in the language of another, they were the men who, from merely hereditary aptitude, acquired for generations in the administration of free institutions were enabled to lay their foundations deep and secure in England. The negro on the other hand has no traditions of liberty, no pride of

ancestry, no environments which fit him to intelligently discharge the great duties of citizenship. I for one can never consent to cast my vote to deprive a single man who wore the gray or his descendant, whether he be learned or illiterate, the right of suffrage. Mr. President, the Committee has been fortunate in having as its Chairman not only a distinguished lawyer, learned in all the learning of the law, patient and painstaking, but a patriot who has lived in that section of the State where the evils of an unrestricted suffrage have been most severely felt and who has earnestly labored to present a plan and yet accomplish the mission for which the people have delegated us to assemble in Convention. Mr. President, I feel sure that this Convention will give the State such reform in suffrage, such purity in the ballot as the people have demanded and that this Convention will prove equal to its great task —will solve this problem with all the wisdom possible to the fairest mind—solve it permanently—without make-shifts or subterfuges, so as to make permanent good government in Alabama.

MR. OATES—In the time limit fixed, I shall endeavor to say nothing except that which may be considered to some profit, and is absolutely pertinent to the question in hand.

Now, sir, it has frequently been asserted that the primary object in calling this Constitutional Convention was to completely eliminate the negro from politics, or disfranchise the negro. This, gentlemen, is stating the question too narrowly. The primary and broader object was to seek to reclaim our beloved State from that evil into which it had fallen, of dishonest elections. How did we get there, and who is responsible therefor?

I am by nature a conservative. I am entitled to no credit for it, because I was born that way. I am not radical in anything, pertaining to public affairs; never was, and as long as I retain my memory and reasoning powers, never will be, and I never will, if I know it, be a party to an injustice to anyone—it matters not what may be called the exigency.

Now, sir, we will take the negro. We find him in his native Africa, a savage. He is not responsible for his being in America and in a state of slavery. He is not responsible for his emancipation. He is not responsible for his enfranchisement. He had no agency in any of it, and there is not a delegate on this floor who will rise in his place and say that he had, or that he did. Then, how was he enfranchised? You know by whom. By the policy of those who fought us in war and conquered us, the Federal administration. They saw proper, as a part of their policy, towards this conquered people, and this large population who had been emancipated from slavery, by a war that had been urged upon us. As a part of their policy they passed the Fourteenth and Fifteenth Articles of the amendment. The negro, therefore, is not

responsible for it. It was the work of the white man. The negro, when informed that he had been emancipated, was grateful to those whom he understood had done that work, and gentlemen, whether it was beneficial to him or the reverse, this was but the bubbling up of nature. Even the scorned earthworm that you trample upon will turn and sting you. It is only nature. Everything—the birds of the air, the animals and human beings, desire to be free, although in the case of African slavery, it had benefited the negroes because it lifted them higher in the sunlight of civilization than anything before. It was a blessing to them. But it was only natural that they should aspire to freedom and welcome it, and when it came, to be grateful to those whom they understood brought it. In a like spirit of gratitude, they were grateful to the people whom they understood had enfranchised them. They were much misled and misinformed, and I think with all their misinformation that they did remarkably well.

Now, when the distinguished delegate, the Chairman of this Committee, was on yesterday addressing this Convention, pointing out the abuses of the elective franchise at the hands of these people, he seemed to charge it altogether to them. I differ with him in reference to that part of our history by charging it to the carpet-baggers and scalawags with white skins who led it on. I want to place the responsibility where it belongs.

MR. COLEMAN (Greene)—Did the scalawags lead away the white people that way?

MR. OATES—They led the negroes and the negroes have always been led by white people. One statement of the Chairman (Mr. Coleman) was that a negro boy 16 years old had voted sixteen times. Gentlemen, I happen to know about that, and the Chairman probably got it not directly but indirectly from me?

My law partner, with the act of 1868 in his hands, in which the carpetbag Legislature had made it an indictable offense to challenge anybody who offered to vote, with that statute in his hands, carried his office boy, 16 years old, to the voting place in my town of Abbeville, and voted him one time for every year he was old. He did it to show the infamy of carpet-bag legislation, and not that of negro enfranchisement. Let me say, furthermore, I suffered as much from reconstruction and took as great a part in it personally as anybody else, but that is not material to the consideration of this question. I am making no complaint now on that, though I had a right to complain.

I will tell you what I conceive to be true statesmanship. It is to act with conditions as we find them. We may be indignant about some of our past history. We may feel that transpired twenty-five or thirty years ago is irritating, and as I have seen

black heads banked around the polling box, and I could not get there to vote without swimming through them about 100 yards deep, I felt the sting of it. When a company of Federal troops was sent to my town, I was arrested and put under bond of $10,000 that I would not hurt any carpet-bagger, because I and one or two more one-armed men like myself, got after one and run him out of the county, and I haven't any respect for the KuKlux of that day. They were inefficient, or the negroes would never have been led into the errors they were.

The negroes were enfranchised, and I think wrongfully. I opposed it. It is the only instance in history where the Congress of the United States violated its fundamental law, and undertook to fix suffrage for the States. They never did it before and have never done it since. The negroes were enfranchised and they went right on and crowded to the polls, and they were in the hands of carpet-baggers and scalawags, and being led by them, brought governmental evils almost untold, and there were but two ways to correct it. One of these was to take shot guns and go to the polls and disperse them. We either had to leave our homes or stop that kind of thing, and if we took guns to the polls somebody would have gotten hurt.

The other way was to cheat them. I was an advocate of the latter because it didn't take life. Now, I never changed votes with my one hand, but I upheld it and counselled it in those who did. I am just as guilty as those who did. I am about like a person who lived in my county before any railroads had come to that country, and they hauled cotton in wagons here to Montgomery and these black prairie roads were almost impassable. The old parson had a fine six-mule team loaded with cotton one day, and with his son John to drive, he started to Montgomery. The roads were awful, and the wagon sunk into the mud and had to be pried out time and again. John was a little wicked and disposed to swear. The old man protested, "Johnny, my son, don't curse that way, that's wicked." After a while the wagon got stuck and he tried to pry it out, and tried to get the mules to pull it out, but it was all without effect, and John says, father if you will just step aside and let me cuss these mules a little while, I believe we can get this wagon out. The old man seeing that everything else had been tried in vain, got out behind a tree and says, "Now, Johnny, you may curse them just a little." Well, Johnny mounted the saddle mule and popped his whip and hollered "Hell and twelve, come out of the mire." The mules got down steadily to it. The old man saw the wagon moving, which so delighted him he cried out, "Thirteen and the devil, cuss them a little more, Johnny."

I was no better than Parson Reaves. I told them to go it, boys, count them out. We had to do it. Unfortunately, I say it was a necessity. We could not help ourselves. We had to do it

or do worse. But we have gone on from bad to worse until it has become a great evil. It has gone to the point where the negro found out some time ago that it was no use for him to vote. White men have gotton to cheating each other until we don't have any honest elections. That is the trouble we have to grapple with. Now, it is said that the right way to grapple with it is to disfranchise the negro, and according to our platform no white man shall be disfranchised. If no white man is to be disfranchised, then there is nobody to disfranchise but the negro. As we have taken an oath here to support the Constitution of the United States, and if there is nobody to be disfranchised but negroes and we disfranchise them, how does that fit the Constitution that we have sworn to support. Now, the platform has a pledge in it. I was nominated under it. I wasn't there when the platform was adopted, nor was I present at Birmingham at the meeting when the delegates ratified it, and said they would stand to it. I said all the time on the stump that I would vote for and support a reference of the Constitution back to the people. I was opposed to increasing the rate of taxation; but I was in the field and wanted to come to the Convention, not for any honors it would bring to me personaliy, but to pay a debt of gratitude I owed to the people of Alabama for having honored me. I was willing to aid them by lending my feeble efforts to help them out of the trouble into which they had fallen in consequence of this evil of universal manhood suffrage, which had been thrust upon us without our consent and without our agency. And I said to them I am for making a Constitution which will elevate the suffrage and I am for eliminating from the right to vote all those who are unfit and unqualified, and if the rule strikes a white man as well as a negro, let him go. There are some white men who have no more right and no more business to vote than a negro and not as much as some of them.

Now, it is true statesmanship not to legislate, especially in making a fundamental law, on account of the smarts and wrongs done us in our past history. That is not it. It is to deal with present conditions, whether they came by our permission or were thrust upon us. That don't make any difference. You are considering today a Constitution for the people hereafter, people who have to succeed us after my hairs have gone down to the grave and after you and I sleep in Mother Earth. You—every man of you, are doing a work that, it is to be hoped, will be beneficial to those who succeed you. Now, to what shall we look? Shall we go back to the irritations of the past to guide us, or shall we look to our present surroundings and cast aside the things of the past, which are not alive today? I have said about all I intended along this line.

Now, as to the question whether this grandfather clause, so-called, is constitutional or not. Gentlemen, I do not claim any

more for myself than I concede to any other man in this Convention or out of it. I am keeper of my own conscience. You are keepers of yours. I never yet blamed a man who honestly differed with me in opinion. Thank God, I am constituted on broader lines than that and can concede to my fellow man all I claim for myself. I believe that this clause which the minority report against has two objections to it. One is, I believe, it is unconstitutional. I may be mistaken, but my belief is more that way than it is in favor of its constitutionality.

As to the one that precedes it about the soldiers, gentlemen, I am doubtful about that, but the soldier who has served his country is always pretty near the American heart, and if there is a doubt in that case, it can be waived in favor of them. I am disposed to waive it. I say this just here before entering upon the argument.

There were two points, it seems, that have been in the minds of the committee. One was not to disfranchise any white man, in obedience to the platform. The other not to violate the Constitution of the United States. They sail between Scylla and Charibias. If ever there was an instrument framed more artfully to sail between those points, I have never seen it. Two ex-Judges of the Supreme Court and able lawyers, astute gentlemen, closely giving their attention to this work, and they have produced a masterpiece of its kind, and I am glad that I am able to concur with it in the main, but I would be untrue to myself, sir, if there is any part of it which I can not endorse, if I sit down here like a mummy and a whipped cur and say nothing. From my boyhood, I have acted upon the advice of that greatest of poets who makes the father say to the son on leaving his household, and after giving much advice, this above all:

"To thine own self be true, and it must follow
As the night the day, thou canst not then be false to any man."

Now these decisions of the Supreme Court of the United States none of them have settled this question—none. I want to give a very short space of time to their consideration, and in order that I may be brief, I have not brought the volumes here to quote from, but have brief extracts. But in the case of Yarbrough, 110 U. S., it is simply declared that the Fifteenth Amendment was designed primarily to prevent discrimination against colored men where the right to vote may be granted to others. Now, there is no difference among the committee on that. Then, in the Cruikshank case—why, there is nothing in that except this: They say, "Inasmuch, therefore, as it does not appear in the counts of the indictment that the intent of the defendants was to prevent these parties from exercising the right to vote on account of race or color, it does not appear that it was their intent to interfere

with any right granted or secured by the Constitution or laws of the United States. We may suspect that race was the cause of the hostility but it is not so averred." That decision went off simply on a question of pleading—an insufficient averment in the indictment. The courts might suspect, but they could not decide when it was not in the case.

Now, in the Williams case, which is the latest, 170 U. S., it said: "The Constitution and laws of Mississippi are not limited by their language or effects to one race. They reach the weak and vicious white man as well as the weak and vicious black man, and whatever is sinister in their intention, if anything, can be prevented by both races by the exercise of that duty, which voluntarily pays taxes and refrains from crime. This is the premise from which Judge McKenna, delivering the opinion of the court, draws the conclusion as to the legality of the Mississippi Constitution. He said: "The Constitution and statutes of the State do not on their face discriminate between the races, and it has not been shown that their actual administration was evil, only that evil was possible under them, and hence the Supreme Court of the United States have not disturbed the judment of the court below."

That was—I will state it for the benefit of some gentlemen who may be present who have not heard it—the case of Williams who had been convicted of murder, and an appeal taken to the Supreme Court of Mississippi. It was over the clause in the Constitution which provided that only qualified electors were eligible as jurors. That was the point. Now, I say that the question has never been decided. It is only a matter of inference from the cases which have been adjudged as to what the Supreme Court of the United States will decide. I lay down this proposition by which I am governed, and I believe that it is sound law:

To include a class as voters on grounds that are repugnant to the equality of rights and privileges that are the common heritage of the people, violates the spirit of the Constitution, if not its letter. Now, would it be constitutional? Suppose that this Convention was to declare, in favor of the negro race as voters, practically excluding the whites. Would that be sustainable? I think not. Such discriminations are not allowable by the Fifteenth Amendment. I have not the time to express my opinion on the clause admitting soldiers to the franchise, which I hope to do some time hereafter. But as to the clause admitting descendants of soldiers—going back to the Revolutionary war and coming on down through all the wars to the Spanish war—the descendants of those who were soldiers are to be admitted to the franchise, if not disfranchised by other parts of the Constitution, and are residents of the State as prescribed. Gentlemen, there are two points of objection. The first is, I believe that is unconstitutional. That is, I am more inclined to think that—more inclined to that view than

I am to think that it is sustainable before the court. The object of it is what? Among ourselves, why let down the bars not only for the soldiers, but the descendants of the soldiers? What is it for? Is it not to let in nearly all white men, and isn't it to keep out the negroes. Isn't it in fact a discrimination? If it be a discrimination, then it is violative of that clause of the Constitution.

While I would like never to have had the Fifteenth Article of Amendment, when you swear me to keep it, gentlemen, I never have when I ever have felt my honor grip. I've let that be my border. When I feel that this clause is contrary to the oath I have taken, I cannot support it. Even if it is a matter of doubt, I would rather not do it. It is not consistent. Such action would not be consistent with my oath to support the Constitution of the United States.

We passed to another point. I insist that it is not at all necessary. The way it is now the gap is mighty narrow and the gate is mighty near closed on the road that will admit any negro to the franchise. They would be very few and far between, like an angel's visits, and even without this, the conditions are such that you would find eliminated from the franchise about three fourths of them. Now, gentlemen, is it good to be radical in anything, or is it not best to be reasonable? We have a race of people amongst us here, and I am not one of those who concur in the opinion that there is a race-war on. Not so. Some claim that there is a race war that is as irrepressible as was the conflict between free labor and slave labor as proclaimed by Lincoln. Not so. They say, "Oh, well, history shows that two races of people never did live in the same country long. The white race always drives out the colored and inferior race." Are we not people of the United States? Are we not Southerners who fought for four immortal years against four and a half times our number, and carried the flag of the Storm-Cradled Nation to victory on a hundred fields? Is it not possible for us to do what no other people have done? I maintain that it is. Some people say you cannot, while the negro is here unless he is thoroughly subordinated and practically a slave. I say no, you can admit him to some participation in our government so long as the white man rules, and he ought to rule, but he ought not, because he is strong like Samson, to strike down the weaker, who gets in his path, when God and the Bible teaches him to do kindly unto those who are in his power.

THE PRESIDENT—The time of the gentleman has expired.

MR. SANDERS (Limestone)—I move that the time of the distinguished gentleman be extended for twenty minutes.

Upon a vote being taken, the motion was carried.

MR. OATES—Gentleman of the Convention, I thank you for your kindness, but I will endeavor not to consume much time. I am not a man who loves to speak just to hear my voice. I have heard it long enough, so that I am not particularly enamoured with it.

Now, this thing presents to us a problem much deeper and broader than that of merely going to the polls and casting a ballot and electing somebody to office. It is one that affects us and our future for years and years to come. What is it? Will we completely exclude the negro from participation—all participation—in the affairs of our State, or will we allow a reasonable number of them—the better element of them—to go to the polls and vote? In a people so large a minority of the population as they are—eight hundred thousand, and whites ten hundred thousand, eight hundred thousand out of eighteen hundred thousand—did you ever in all your reading know of a people, and so large a minority as that, who were not allowed any voice at all in the affairs of government who remained contented under that government? Have you ever heard of so large a minority who have been admitted into the participation of the affairs of government for thirty years, who were afterwards silenced? Will not there be disturbances? Why, some of these people are becoming very intelligent and acquiring property, and gentlemen, it may not occur next year, or the year after, or five years hence, but, if you go along with this and practically none of them having any voice in our affairs, you may live to see the time of outbreaks and troubles not now contemplated, such as every man who participates in making it thus will live to regret. Let them occupy a subordinate position, but do not silence them. Let the better element of them, though of an inferior race, who have won the confidence of their neighbors, won respectability and acquired property—allow all of that class a fair showing, and let them go to the polls and vote. There is no danger in that. Exclude the densely ignorant and corrupt. I do not stop at the exclusion of the negro, but exclude the whites of this class and deny to them the right to vote also. The privilege of voting is not a natural right. Those ladies up there are citizens, and naturally have as much right to vote as I or you or any of us, but the voter is one who is selected on account of his supposed capacity for handling the ballot wisely and well. He handles it as a trustee. He votes for his wife and children, and for his neighbors who are denied the privilege. Take it on the basis of all males 21 years of age and upwards, it is about five to one, and he is voting for four others as well as himself on that broad basis. I would not allow the ballot, if I had it in my power, to go into the hands of a vicious and notoriously corrupt white man any more than I would a negro, in fact, I would not trust him as quickly as I would a negro of intelligence and good character. You want that matter handled wisely and well for the best interest of the community,

It is not a racial question. If you propose to make it a racial question, what would be the end? As some say, the extermination of the negro. Prepare him and then send him back to his native Africa? That is a doctrine that is advocated now, not only by some men, but by some statesmen. Gentlemen, it is an utterly impracticable thing. In the aggregate, there are ten millions of these people in this country. They are citizens not only by our State laws and our State Constitution but they are citizens by the Constitution of the United States and it is so declared in that instrument. They have the right to go when and where they please as other citizens. The power don't rest in the government to rob them of this right or to colonize them in any other country. Then there is the labor question. Why, as I sit in my door and look out, who is it that fixes all these telegraph and telephone poles on the street? I have never seen a white man on one of these poles. The negro performs nearly all of the labor down here in this country, and isn't he better as a contented man than a discontented one? Wouldn't it pay us to treat him right, and give him full protection under the law and give him a voice in the affairs of State, and retain him here, rather than to engage in this impracticable theme of a race conflict and his expursion. We do not own any lands in Africa to which we can send them. Such land mostly belongs to European nations, and even if we had that power, and he were not a citizen, where are the vast sums of money to come from to take him over there and settle him? You would not take him over there to starve. You would have to support the whole colony for a time. Then what would you do for labor in the South? The climate invites them, and the occupation of our people invites them here, where we raise cotton, the great staple product of this country. Here where we have been raised up among the negroes, nine-tenths of these delegates know that there is an attachment between them and the white people which I say ought not to be disturbed. My friend, the delegate from Greene, on yesterday told us how he was shot down on the battlefield of Chickamauga, how his faithful slave and serving man attended him, stopping to serve him when he could have gone off to the other side and have been free. The negroes knew what that war was for. They knew that their freedom was involved. Yet, look at this conduct, in the main, all through the South. They remained at home and made corn and supplies to support our armies in the field, and throughout the length and breadth of the Confederacy there was not a single outrage perpetrated upon any man's family, or any woman or child, or helpless person, by these people, although they were slaves. President Lincoln called for 75,000 troops to serve for ninety days to put down the rebellion, and he expected these negro slaves here would rise in insurrection and apply torches to the homes of their masters. Sadly mistaken was he. There never was such an instance in the history of the world, as of this division of the slaves

to their masters, presented during that remarkable conflict. Gentlemen, my memory is good, I do not forget such things, where they have shown devotion to us. It may be exceptional in individual instances, but can we blame them for showing gratitude to those whom they believed had freed them, and those they believed had enfranchised them? Another case, on all-fours with that stated by the delegate from Greene. I will draw a comparison. A negro whose name was Willis Hill, the servant of Captain Hill, of Company D, in the 5th Alabama, that on the morning of the 6th of May, at the Wilderness, when Longstreet's corps got in there, and Hancock had enveloped completely the right of Lee's army, almost doubling it up, and Law's Alabama brigade came in and formed left of the Texans and north of the plank road. The bullets were flying from the right and the left, and front; the roar of artillery, and the bursting of shells, just at the time when that grandest of men, Uncle Robert, as the boys called him, went in to lead the Texas brigade, and the soldiers caught his horse by the bridle and refused to let him go. Just then the 5th Alabama Regiment went into line to go forward, bullets flying in every direction, and men falling; and just when we commenced to move forward, that grand Commander, Robert E. Lee, asked, "What troops are those?" and they replied, "Law's Alabama Brigade." He said "God bless the Alabamians." Just then that negro Willis—I do not know but what he yet lives in Barbour County—seized a gun and took a place in the ranks, and fought on as gallantly to the close as any white man in those ranks. I will draw a comparison between him and a white man who belongs to another company in that same regiment—a cross-roads bully—and when under fire, where shells and shot were so thick that it looked as if no man would escape, he lay upon the ground. I ordered him on the line to fire, and do his duty, and he moved forward an inch or two, and stuck his head down again. I quilted him with stripes all over his back with my sword to force him to fight, and he falsely said, "I am wounded." He got up and rode saplings ten feet high running to the rear and out of danger. He was a white man! You tell me that man is better than Willis Hill, that negro? No, I would trust the ballot or anything else to Willis Hill a long ways in preference to that white man, or his son. All white men that were soldiers are not angels, nor are the descendants of them. No man honors a good soldier more than I do. My association with them was from the first to the last. It was my fortune to serve in an old regiment that was in thirty-nine engagements, as the roll will show from the files of the Adjutant General's office. I happened to be in twenty-seven of them, and while it is no concern to you how many marks of bullets are on my body, I did my duty, and I am going to do it here, and everywhere else, as long as God lets me live. (Applause.) But, gentlemen, it will not do for us to undertake to tie our hands to anything that don't run right all the way through. I want to be a little broader and

more liberal than that. I have no contentions that this Committee, of which I have the honor to be a member, except where based on my conscientious conviction, and I concede to them their right to differ with me as broadly as I claim the right to differ with any them.

Now, gentlemen, there is this other objection to this provision. I tell you it is a regal form of government, or royal form of government, which is sustained by the doctrine of inheritance. It never has a place properly anywhere in our American form of government. I would like, if I only had the time, to have read some of the letters I have received from our distinguished Senator. I have not always, nor do I now on every question, agree with Senator Morgan, but I can say of him from my long acquaintance with him, and my close observance of his work in the Congress of the United States, that he is a learned man, the most learned and versatile man in the Senate of the United States. (Applause.) He is a patriot. He is learned in the law, and the old man's heart is in his work, and never in money. It is in completing that great column of glory that he has erected to himself by twenty odd years of service there, that he is now engaged. Of his letter to me on July 2nd, I will read only one paragraph: "My Dear General —I agree with the minority in their objections to the second subdivision of Section 4 of the suffrage ordinance reported to the Convention. The language of the subsequent sections," and then he goes on to discourse upon it generally.

Now in another letter of July 10, from Warm Springs, he says: "My Dear General—If I were to address you by the title I would prefer, it would be that of a Confederate Colonel, but you and General Wheeler and others have united in your military histories events that are so significant of the restored harmony between the white citizenship of the United States, and so honorable to the motive that has influence your action, that I am proud to address you as Brigadier General of United States Volunteers. Surely the people of the North will give you credit for honesty when you still proclaim the necessity for white supremacy, secured by law, in the States that are dominated or threatened with negro supremacy in government, to a degree that requires the unlawful manipulation of the ballot box as the means of public security. In the letters I have written you and others touching the action of the Constitutional Convention on the suffrage question, my purpose has been to suggest rational methods by which white supremacy can be secured by the laws that are consistent with the Constitution of the United States, and as my letters to members of the Convention are intended only to promote its purposes without reference to the questions of party policies, I have no wish that they should be treated as private or confidential. Every citizen has the right to offer suggestions on such a matter, and it is no

intrusion if they are made in respectful terms. I have the additional fact that as a Senator, I must answer in debate and by my vote on questions that are certain to arise in Congress relating to negro suffrage, to excuse my anxiety as to what will be the action of the Convention. Consequently I have written letters to you and the Honorable Frank S. White, Honorable B. H. Craig and others, all of which are to be used at the discretion of the gentleman to whom they are addressed."

I have presumed, Mr. President and gentlemen, to read that much of these letters from Senator Morgan to show you why it is he is interested so deeply not only as a citizen but as a Senator in what we do, and whatever Constitution we adopt will be brought under review, and attacks will be made upon it. He is our mouthpiece to whom we must look to defend our action here. Then ought you to put anything in the Constitution which is not absolutely essential to your welfare, which would embarrass him, and his associate. Senator Pettus? Answering any and all of these questions I think not. I think it is, as I stated before, wholly unnecessary and it is un-American. Why should we have any inheritable political right? Did you ever hear of it before. Why our country and government proceeds upon the hypothesis that commonly speaking every tub stands on its own bottom, and it ought to so stand. That is Americanism. Not that there should be an inheritable political right, with respect to voting or anything else. We do not want anything of the kind. Some say, however, and the able delegate from Greene (Mr. Coleman) in his speech says, who would deny the right of the son of the father that wore the grey in defense of his country? Ah, that is a narrow view! If the son was worthy of the father who did his duty, I would say never deny to him the privilege, but not give it to him as a right established by inheritance. We must not shut our eyes to the facts, that there were a good many that wore the grey who did not wear it very honorably. We know that. We know we had to conscript hundreds and thousands of men and send them to the front, and as a rule they did themselves no credit. They made records as a common thing which I do not think would reflect any credit upon their sons, for a large number of them deserted, and you know it, or every old soldier knows it who did his duty, that this is true. If you adopt this provision, it means those who fought in the Union army, as well as those who fought in the Confederate, and there were a few negroes in the Union army during the Civil War, and that is all. There were none in the prior wars. In not one of them was there a negro, for they could not go in. There were a few in the Union army from Alabama along towards the close, but is it not a principle which is wrong in itself, and which we ought not be parties to? We claim a good deal for ourselves, as being Democrats, standing on Jeffersonian Democracy, and if we do, ought we to adopt any questionable means here in order to

give a white man the preference over the negro? Do you suppose that any white man would be proud of legislation which gave him such an advantage, to keep him out of competition with the negro for the obtainment of the political right? If so, the man that seeks such an advantage as that is unworthy of having it.

MR. WALKER (Madison)—Mr. President, the distinguished character and ability of the gentlemen who have opposed the majority report of the Committee on Suffrage, demands a consideration of the objections that they put forward and an attempt on the part of those who are responsible for placing before the Convention the proposition involved in the majority report to sustain that proposition by argument. I have had the honor to share in the deliberations and the work of the Suffrage Committee. I have concurred in the conclusions reached by the majority and I propose within the time allowed me to meet some of the objections that have been urged against the proposition that has been presented to you. It is well in the first place to understand what the majority proposes. It is well to understand what they undertook to do, and to understand the methods and ideas that they undertake to put into practical operation. The fact that we are here, the fact that this Committee on Suffrage had imposed upon it the duty of reframing our fundamental law so far as the suffrage is concerned, is the result of a great movement of public opinion in Alabama. That public opinion has become clear and defined on certain propositions. One of those propositions is that the right to vote should be taken away from certain citizens who under existing law now possess that right. Another proposition is that the right to vote should not be taken away from a large body of citizens who under the existing law possess that right, and have used it in the interest of social order, security and progress. Our mission here is to strike at the evil in our electoral system and to let what is good in it remain as it is. To carry out these objects we are expected to put into operation the power to act upon this subject which the State of Alabama has, and to refrain from the folly of undertaking to use a power that has been taken away from us. Now the Committee on Suffrage and Elections has long and carefully deliberated upon this subject and has come to the conclusion embodied in the report that is placed before this Convention for its action. They have undertaken to enumerate the citizens of Alabama who should be allowed to retain the right of suffrage and they think they have enumerated all of our present voting population who are fit and competent to retain the right of suffrage when they name the soldiers who have fought in their wars, the descendants of such soldiers, and all others who are of good character and who understand the duties and obligations of citizenship under a republican form of government. But a minority of the committee composed of four distinguished members have singled out one clause in that enumeration and have made it the object of

their attack. That clause is one that names the descendants of men who were soldiers in the wars of this country down to and including the great war between the States, and the main ground of attack by the minority upon that clause is that in effect it denies or abridges the right of citizens of this State to vote on account of race, color or previous condition of servitude. Well now gentlemen, when you stop to consider that the clause which is attacked is a mere enumeration of certain citizens who shall have the right to vote, some of whom are white and some of whom are black, and that it does not deny or abridge any one from the right to vote on account of race, color or previous condition of servitude, directly or by words of exclusion. The objection is further remarkable, I submit, in that it loses sight of the very plain proposition that the clause which is attacked is one clause only in an enumeration which includes other clauses. When you undertake to classify and to enumerate to this Convention the people in Alabama who shall retain that right of suffrage, it is impossible for any man to say who is excluded until the entire enumeration has been gone over and examined. No man who is neither a soldier, nor the descendant of a soldier, is in a position to say that his right to vote as denied or abridged upon any ground unless in the enumeration taken as a whole no place can be found for him. Now is that the case here? Can anyone say in reference to the enumeration made by this committee that his right to vote is denied or abridged because his case does not come within the clause that is now the object of attack, unless he also goes further and puts himself outside of the third category which includes all who are of good character and who understands the duties and obligations of citizenship. The gentlemen attacking this plan, as a whole, must put themselves in the position of asserting that the State of Alabama has been deprived of power to limit the right of suffrage upon grounds of character and fitness. Can anyone say under the plan that is proposed by this committee that his right to vote is denied or abridged unless he puts himself beyond the pale of citizens of good character and who understand the duties and obligations of citizenship. You cannot single out in an enumeration one subdivision and say that that is the whole scope of the plan presented. You must look at the plan as a whole and determine whether or not that plan as a whole is open to the legal objections that are now asserted against it. Now, gentlemen, at this point in my argument, I will assume that it is competent for the State of Alabama to fix and prescribe qualifications of character or of intelligence for its voters. Unless at least that much has been assumed we would not be here to deal with this question. In approaching this task, it is proper for us to take a survey of our population as it now exists in Alabama and to devise some means of separating that part of the population which should retain the right of suffrage from that part of the population who have demonstrated their

unfitness to retain that privilege. In this work of separation, several plans may suggest themselves to different minds. One plan would be to make some rigid rule of qualification, such as to his ability to read and write or the possession of a stated amount of property, and require every citizen seeking the right to vote to come up to one of these tests. A test of that kind as applied to the period of transition, lying between the old order of things which we are here to do away with and the new order of things which we propose to establish, would operate unjustly upon a very considerable part of our voting population who are uneducated or are without property, but who have had the right to vote and have exercised it and still exercise it in the interests of social order. Another plan that might suggest itself would be to provide for the submission of his qualifications by every individual in Alabama claiming the right to suffrage, to some official or body of officials appointed for the purpose of passing upon the question of qualifications. That plan would be subject to this objection, that the power conferred upon such official necessarily involves the possibility of the abuse of that power and suggests that so far as practicable, the exercise of power which may in this way be abused, should be confined in its operation to as narrow a field as possible. Another plan that suggests itself and one that has been adopted by this committee is to separate from the general mass of our voting population some considerable well defined group of citizens now having the right to vote who have demonstrated their fitness to continue to exercise that right, to say plainly that the group of citizens shall retain the privilege which they have properly, and to provide that those not forming a part of that group shall have their fitness and qualifications passed upon by an official or by a board established for that purpose. Now, gentlemen, that is the plan that has been adopted by this committee. They have segregated from the mass of the voting population of Alabama that body of citizens included in the description of soldiers and the descendants of soldiers, and have opened the door to the right of suffrage to all others who can bring themselves within the definition in the third clause of the Article, namely, all others who are of good character and who understand the duties and obligations of citizenship. Now, objection is made to this upon the ground that it is not warranted by good policy; upon the ground that it is arbitrarily and capricious. Why, gentlemen, we are here to undertake to meet those grounds. Now, who are the soldiers and their descendants? They have the right to vote now. They form a distinct and well-defined part of our present voting population. for more than a generation they have participated in the public affairs of this country and as a body have participated freely and without injury to the public interests. They constitute a well-defined and prominent part of our citizenship. Objection is made by the distinguished gentleman from Montgomery that there will

be found in this class that we have named in this way, some who are unfit to be voters because of deficiency in character or deficiency in intelligence. The same thing could be said about any other general qualifications that might be prescribed. Make reading and writing the general test. There will be no difficulty in the world in finding many men who can read, and many men who can write who are totally devoid of the qualities of good citizens. Make the possession of a certain amount of property the test. There will be no difficulty in finding men with that amount of property who are vicious and debased and wholly unfit to exercise the privilege of citizenship. I submit, gentlemen, that, take the body of our citizenship that you segregate by describing soldiers and their descendants, and you take a body of men whose capacity for self-government has been more fully demonstrated than a like body of men with education or with property that you might select in any other part of the world. That is a body of men who have assimilated the principles of our government. The proportion of the unfit among them is hardly an appreciable quantity. Let me ask you this question: If the right to vote in Alabama had heretofore been confined to the soldiers and their descendants, would we have this suffrage problem now? (Applause). If this State could suffer this misfortune of having taken out of its body politic the soldiers and their descendants and have them transplanted to any part of the world, civilized or uncivilized, that group of citizens would transplant Alabama's self-governing system upon whatever soil they occupied. Carry them to the Philippine Island or to South America and colonize them there, and you would carry an alert public opinion; you would carry the principle of no taxation without representation; you would carry the rule of the majority. Our popular system of government would go wherever those men went. Is there a political philosopher or a practical statesman in the wide world who would look upon that body of men and propose to take away from them the powers of self-government, unless he was an open enemy of popular government? As the distinguished gentleman from Montgomery said, we are here to deal with conditions. The majority say, leave the right to vote to the soldiers and their descendants, because there is no reason for taking it away from them. Is that not practicable statesmanship? Are we to deal with something from which we have suffered no evil? Are we to erect some imaginary arbitrary standard here that will operate to take from that portion of the people of the State of Alabama who have demonstrated their fitness the right to exercise the privileges of self-government, in order to make harmonious some political scheme? Why, gentlemen, we are dealing with a practical problem. We come here to take the right to vote from those who abuse the privileges and as to those who have exercised it rightly to leave it just where it stands. Is anything more done? Is that not the general result of the action of the Suffrage Committee? Can

any man say that that body of citizens have not more fully demonstrated by their history that they are qualified to retain the privilege of suffrage than any other body of men that may be found in any part of the world? That body of citizens, though scattered over the face of American society and spread in every direction, yet is as distinct as is the Gulf stream in the waters of the Atlantic. The question is, shall we take the right away from them? They already have the right to vote. We are not conferring it upon them. We are here to strike out the evil in our election system and to let what is good in it remain as it is. This is a movement of reform, gentlemen, but reform becomes merely folly when it strikes out blindly and tears down what is good as well as destroys what is bad. We have confined the exercise of the power that is vested in us to that which is bad in the system we are dealing with, and when you analyze the proposition that we have submitted to this Convention, you cannot find that our action has gone beyond that. There would not have been any Convention here if this body of men in whom we propose to leave the right of suffrage, had alone up to this time had that right. There would not be in any part of this country a movement to abandon the time-honored custom of universal suffrage unless our voting population had been diluted or polluted by the infusion into it of elements that ought to have been excluded. We here in the South have this problem to deal with, because the self-governing element of the population in this part of country has been vitiated by the injection into it of a large mass of ignorant negroes. In other parts of the country, the proposition to limit universal suffrage has been brought about by the fact that the old American stock that held aloft the possibility of free government by a free people had been diluted by the infusion into it from foreign parts of the illiterate and incompetent. This is a practical question to be dealt with by practical men. There has been in America no proposition to limit the suffrage except to meet conditions which have been brought about in one or the other of those two ways. We are here to deal with the practical question before us and not to become idealistic reformers. Gentlemen, reading and writing, or the ownership of property are not the best evidences of a capacity for self-government. There are all over the world men who can read and write and men who own property who are totally unfit to participate in the kind of government we have here. The best evidence in the world on the fitness and capacity of any body of men to take part in the popular self-government as we have it here and as we wish to maintain it is the fact that for a long period of time that body of men has participated in the forms of self-government as they prevail in this country or in England. If we are attached to the system of self-government, which we have heretofore enjoyed and wish to perpetuate it, is there any reason under heaven for taking the privilege of voting from the men who have vindicated before the world that system of government.

MR. COLEMAN—I move that we remain in session twenty minutes longer.

MR. HOWZE—I move that the gentleman's time be extended thirty minutes.

MR. COLEMAN—The gentleman says he would rather conclude after dinner. I move that he be allowed thirty minutes longer.

The motion was carried and thereupon the Convention adjourned.

AFTERNOON SESSION.

Convention was called to order by the President and the roll being called showed the presence of 119 delegates.

THE PRESIDENT—The special order for this afternoon is the consideration of the report of the Committee on Suffrage and Elections. The gentleman from Madison had the floor when the Convention adjourned at noon.

MR. WALKER (Madison)—I regret that I have to avail myself of the kindness of the Convention in extending my time on this occasion, but whatever excuse I have for taking up more of your time now than was allowed to me on the division of time for the argument of this matter, must be that I have not on former occasions unduly trespassed on your time, and I will ask your indulgence for a few minutes further. It seems to me that the most successful attack that the opponents of this special feature of the report of the Committee on Suffrage and Elections have been able to make upon it has been in the fact that they have succeeded in fixing a nickname upon it. They have succeeded in having this provision appear before the public under the nickname of the "grandfather clause" or the "grand daddy clause," and a great many people are so constituted that they are unable to treat except in a spirit of levity anything that makes its appearance before them under a nickname. But the people who have been misled by the nickname in referring to a provision of this kind as the grandfather clause, have put themselves in a position I submit on the losing sight of the real meaning and effect of the provision. It is that expression that has fixed itself upon this provision that has enabled some gentlemen even in this Convention to base upon that the idea and the argument that this provision operates to establish a class of nobility or a system of heredity privilege or honor in this State. Well, gentlemen, if you stop to consider what is a class nobility and what is the meaning of the Bill of Rights in speaking of an heredity honor or distinction, you will see that these terms cannot, with propriety, be fixed upon this provision. What

is the operation and effect of this provision? Is it to put in any man's hands now the privilege of the ballot and to make that a piece of property to be transferred by will or otherwise at his volition? Not at all. What is its construction and effect? How did those people who have the right now acquire it? They acquired it, not as an hereditary privilege or distinction. They acquired it by coming up to the requirements of the existing laws. They have it now. In leaving it with them we give them nothing but what they already have. Is the ballot now in the hand of the soldier, or in the hands of anybody else in Alabama a special privilege or an hereditary distinction, to be used as if a piece of property that would be transmitted by inheritance and go from father to son, whether the son came up to the requirements of the law or not. Not at all. The operation and extent of this provision is simply not to take away from a body of citizens the privilege of voting which they now exercise, and to refrain from interfering with that privilege upon the ground that their history has demonstrated that there is no occasion to take it away from them. You simply find a body of men exercising that privilege now, and looking upon that body of men in the light of their history you say it would be folly to attempt to take it away from them. I understand an hereditary privilege to be one that is transmissable by inheritance, and goes by inheritance regardless of other considerations. Will some gentleman who maintains this position in the minority report explain how the ballot now in the hands of the soldier becomes any more a hereditary privilege than it has been in the past?

The extent of your objection has been not to take away the ballot they have not abused.

MR. LOWE (Jefferson)—May I ask the gentleman a question?

THE PRESIDENT—Will the gentleman yield.

MR. WALKER—Certainly.

MR. LOWE—The ballot is also now in the hands of the naturalized foreigner, is it not?

MR. WALKER—Yes.

MR. LOWE—But in the provision you now seek to incorporate in the Constitution you make a distinction between the son or descendant of a soldier and the naturalized foreigner. Would it not establish one test for one and another test for another?

MR. WALKER—I see that the minority have changed their ground of attack. I was addressing myself to the position that was solemnly taken by this minority when they came into this Convention. I will come to the new ground that has been taken

since their first position has slipped from under these gentlemen. I think I have said enough in reference to this matter to justify the action of the majority of the Committee on Suffrage and Elections as to the policy of not taking away from the old soldiers and their descendants the rights which they now have. I will now, Mr. President, very briefly address myself to the power of this body to take that action. In doing that, gentlemen, I will call your attention to the power and faculties which the State has to deal with this question of suffrage before that power was in any respect invaded by constitutional legislation of the United States. I will invite you to the inquiry as to what has the extent of the power before there was adopted any of the amendments of the United States Constitution which operate upon this question in any respect. I will then invite you to consider the extent of the power that was left when those constitutional provisions are given their full operation and effect. The end of the great war between the States found the State of Alabama with full and practically unstricted power to deal with the question of suffrage. Under that ample power left in the State by the Constitution of the United States as it was originally adopted, the State of Alabama could confer the right to vote upon any man, and could deny the right to vote to any man. The sole limitation upon its right of selection of its voters in this matter was the one provision in the Constitution of the United States, the fourth Article of it, that the Republican form of the Government should not be changed. So long as the Republican form of the government was maintained in Alabama, no matter what might have been the restriction upon the right to vote here, there was no right of interference by the United States Government. Now what was the extent of the operation of the Fourteenth Amendment upon this power of the State? So far as the Fourteenth Amendment dealt with the question of suffrage, the extent of its provision was to put the penalty upon a State which exercised its power of limiting the suffrage on any other ground than that of participation in rebellion or other crimes. After the passage of the Fourteenth Amendment the State of Alabama was still free to exclude from its suffrage all black men and to include all white men, and the extent of the operation of the Fourteenth Amendment upon the power of the State was that in the event of the exercise of that power so as to give th right to vote to all white men, and to take it away from all black men, was that its representation in the Lower House of Congress might be reduced in proportion to the number whose right to vote was denied. Now that was the extent of the operation of the Fourteenth Amendment. The right of the State to confer a vote upon all white men as such, and to exclude all black men as such, remained unimpaired. There was simply a penalty imposed upon the exercise of this power. Now while the Fourteenth Amendment did not mention the matter of race specifically, it is known as a matter of

history that the occasion of the adoption of that amendment was the contemplated probability that in the Southern States black men would continue to be excluded from the suffrage, and there were simply put upon this section of country that penalty, involving merely the loss of a proportion of its representation in the lower House of Congress. But the successful part of the country in this great movement of which the war between the States was a part, concluded that the extent of this restriction had not been satisfactory to them, and they concluded to go further. What did they do? They adopted the Fifteenth Amendment, which provides that the right of a citizen of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude. You will observe that they do not confer the right upon the class of men who could be excluded from the franchise under the Fourteenth Amendment. They did not confer upon them that right. While so far as the suffrage is concerned the Fourteenth Amendment was directed against the action of the Southern States in depriving negroes of the suffrage, when it came to the adoption of the Fourteenth Amendment they did not deny the right of a State. They did not confer the right of suffrage upon that class of citizens who formerly might have been denied the suffrage. Now consider for a moment the variety of discrimination that might have been adopted by the States before the Fifteenth Amendment was passed, and then consider how far that wide choice was curtailed by the adoption of the Fifteenth Amendment. Before the Fifteenth Amendment was passed any State might have confined the right to vote to the educated, to the property holders, to natives, to persons who were the descendants of the people of this country at the time of the Revolutionary war, for instance, to persons who were the descendants of people who had migrated to this country from a certain part of the Eastern hemisphere, for instance, to persons who for a stated period of time had been accustomed to the exercise of the rights of popular government as it was practiced in England or in America; and they might have confined it so as to exclude all men of Spanish descent, or of French descent, or of Italian or of Polish, Hungarian or Russian descent. There was a great field of choice left in the State in reference to this matter. Now how far has that choice been curtailed? Certainly, certainly there has been no curtailment by that provision of the right of the States to make a selection from its population of those who by reason of intelligence or possession of good character were fit to exercise the suffrage. There was no requirement under the operation of the Fifteenth Amendment that all negroes should have the right to vote equally with all white men. There was no requirement that the proportion of negroes who were allowed the elective franchise should be the same as the proportion of white men who were allowed the franchise. I think some confusion in reference

to the operation of this fifteenth amendment has found place in the public mind by reason of undertaking to apply to this question certain decisions, certain expressions used by the Supreme Court of the United States in dealing with the fourteenth amendment, and I submit that those decisions and those expressions which are relied upon are not properly applicable to this question which we are now dealing with. The two amendments are very different propositions. The fourteenth amendment, except in the respect that I have called your attention to it—operated upon the civil right of all members of society, the right to life, liberty and property, the right to follow all the pursuits of business, the right to make contracts, the right to sue in the courts, the right to have evidence, the same as everybody else, the right to have the laws against crime apply to all alike. That amendment in broad terms established a rule of equality. It operated to make the laws throughout all this broad land fall like the gentle dew from heaven upon all the people alike. The fifteenth amendment on the other hand, recognized the existence of a rule of inequality. It recognized the right of a State to make selection of those upon whom the right of suffrage should be conferred. At that very time and up to this good time political rights are all conferred under rules of inequality. There is no such thing as an equality in the political right of suffrage. Under our present system we do already what the suffrage committee has attempted to carry farther. We establish qualifications as to character and qualifications as to intelligence, although under the system as it now stands lack of character cuts no figure unless it is so glaring as to put the person among those who are convicted of crime, has been publicly and officially recognized by a conviction of crime. A lack of intelligence is also made a test of qualification to the extent of excluding those who are classed as idiots and insane persons. Now we simply, by this provision, fix a standard of character and intelligence. We draw the lines closer than heretofore drawn but we are exercising the same power as was exercised when our present system was established, and I submit that the right of making the selection with reference to the lack of character or lack of intelligence is one that is still left with the States, and that there is nothing in the fifteenth amendment to deny the validity of any provision which is really directed to the question of limiting the suffrage to those possessed of such character and of such intelligence as to be entitled and qualified to exercise this right for the public benefit, and that no provision on the subject can be said to disregard that consideration when the people who are admitted to the suffrage can be shown to be admitted upon grounds of fitness of character, or fitness in intelligence, for the exercise of the privilege, and I sumbit that as to this clause the provision has as clear reference to the fitness and qualifications of the persons who are to come in under it as the other clauses which in so many terms

confer suffrage upon the ground of the possession of good character and of the understanding of the duties and obligations of citizenship under a republican form of government. We give to the soldiers and their descendants the right which they have already because the history of that body of men shows that that right in their hands has been safely and properly lodged, because in that body of men there does not exist the evil which we are here to legislate against, we give it to them because they have had the best possible schooling in self-government, because they have lived and become a part of our population under conditions which have developed in them the capacity to enjoy the rights of citizenship, and I submit that it would not be in the power of any court to say that the selection of this body of men was not a selection made in reference to their recognized capacity to continue in the exercise of the suffrage. Gentlemen, I have consumed as much of your time as I feel I should take up, and I thank you.

MR. WHITE—I move that the gentleman's time be extended indefinitely.

MR. WALKER—I thank you, but I will not avail myself of any further time.

MR. FREEMAN—Mr. President and gentlemen of the Convention, I am somewhat in a different attitude from many of the delegates to this Convention, inasmuch as I was opposed to the calling of this Convention, because I saw no good reason for calling it to amend the Constitution of the State, when, in my opinion, the amendments, if desired by the people of Alabama, could have been made by the legislature and saved the State from $150,000 to $200,000 for which the common people of Alabama will have to pay. Mr. President, I do not desire to say any thing in reference to the grey or the blue, for I do think those partisan questions should not come up in this Convention, for I feel that we have one of the greatest countries on the globe, and we should know no North, no South, East or West, but should stand together as one people. And I do not desire to violate the Constitution of the United States if I know it.

I do not desire to take up your valuable time in this Convention in a lengthy speech; but, Mr. President, I feel that I may say something in behalf of my constituents of Alabama in reference to the right of franchise proposed by the Committee on Suffrage and Elections. Mr. President, I do not agree with the committee on their report, for it does seem to me that if enacted it would be a failure.

It is so arranged that the plan could be so abused by politicians that, in my opinion, would be a disgrace to the State. You can take the words "all persons of good character," in Section 4 of the majority report, and qualify whoever you desire and also disqualify

whoever you desire; so, in my opinion, that part is a total failure, if you desire to disfranchise the negro as you claim you do by the calling of this Convention.

Mr. President, I desire to notice Section 5 also on the majority report as follows: Those who, unless prevented by physical disability, can read and write any Article of the Constitution of the United States in the English language etc., Twelve months preceding the time they offer to register, or own in good faith in his own or the husband of the woman who is the owner of forty acres of land situated in this State, or the owner of $300 worth of personal property in his or his wife's own name, for a year preceding which he offers to register.

Now, Mr. President, this section is not only discriminating, but humiliating to the white man of Alabama, and an enactment of this section will disfranchise thousands of white men of the State.

For the fact that they will feel the humiliation that this section refers to, and they will bow their heads with shame and shirk back from exposure of the humiliating effect this will have on them, and turn loose the State in a political life to gasp and die for the want of nourishment in the sense of illustration. So, Mr. President, in my opinion, this would be our situation in Alabama if this section is adopted.

Mr. President and Gentlemen of the Convention, I will never register my vote in this Convention for anything that will have a tendency to disfranchise any white man in Alabama. Yet, I realize the corruptness in this State in the ballot system, and I would be glad to see a remedy, but I can't devise any remedy only honesty, and I realize that honesty is the only remedy for fair election by which the will of the people can be expressed. Now, the plan of a new Constitution has been tried by other States—Mississippi, Louisiana, North Carolina, Maryland and others—and the right of franchise so enacted by those States are a failure, especially the registration and the grandfather clause, for the fact that the grandfather clause is too humiliating in the Declaration of Rights for the white man to come up and acknowledge his illiteracy under this clause to register to vote.

So now, Mr. President, you see what Louisiana and Mississippi think of this plan. The Mississippi scheme has been worked over by the able hands of Senator Morgan. It has some brilliant advocates, but there is one point that sticks out that nothing can hide; nothing can change; nothing can justify it. It cannot guarantee the very reform which our conditions demand. Election under it would turn not primarily upon the will of the people but upon the partisan or factional allegiance of the registrars. Are the registrars for you, then you are elected; are they against you—if so, you

can stand aside and wait for a new century, or go off and groan your life away for not being on the partisan side of the question, and ask that what time you do live, that God will direct the ravens to feed you as he did Elijah in the wilderness, as fate is against you and you must die.

For when this partisan Board of Registration is appointed by a partisan party or composed of a partisan party, the common people of Alabama has just as well say, "Oh, King, where is thou crown?" for it will be equal to monarchial government, and we will be subject at their hands for disposal.

Mr. President and Gentlemen of the Convention, I desire further to show you that the Mississippi plan of suffrage is a failure, for this reason: In 1888 the Democratic vote for President was 85,471, this being before the enactment of their new Constitution. Now what do we notice there—in 1896, being one of the most exciting campaigns ever known in the South and yet in Mississippi there was only 63,859 votes cast for the President, a loss of 21,612 votes for the Democratic party only, and still there are negro voters in Mississippi since the enactment of their new Constitution, while they claim this new Constitution was to prohibit the negro from voting exclusively, so you see it is a failure.

So, Mr. President, we will now notice Louisiana's plan: They have the grandfather clause and many other provisions in their Constitution, and they also have some brilliant features at first sight. It seems to be popular here, and it is always popular where it has never been tried. Where they have tried it, the approval is not unanimous. It provides, as this report does, a general suffrage restriction, while one additional clause is that they provide that no one shall be subject to this restriction whose ancestors voted before 1867. This plan was supposed to let in all the white men who can't meet the general test, but the Louisiana people claim that is what it does in theory, but that is not what it does in practice. They further claim that the poor white people who cannot meet the general test have, in large numbers, flatly refused to avail themselves of this grandfather clause. They are quick to see, gentlemen of the Convention, that the very pleadings of this clause is a confession of deficiency. The more intelligent and capable the voter the more sensitive he is, but the very class of white illiterates that ought to vote will be kept out if this grandfather clause fails to stand the test before the courts—that is, if Section 5 becomes a law, which provides for an educational qualification.

So, Mr. President and Gentlemen of the Convention, I trust that you will not allow such a discriminating section ever to be written law in the great State of Alabama. So with this educational and property qualification in our Constitution it will, to my opinion,

stagnate business and stop immigation into our hill counties of this State from other States, for the poor man's freedom is all he enjoys in this world and this would deprive him of that God-given right.

After all why may not Alabama fall back on a simple poll tax provision of $1.50 from the age of 21 to 45 and this would guarantee our freedom and it could be met with by all deserving illiterate poor white men in Alabama, and we would not be subjects to adverse decisions from the Supreme Court, neither subject to a reduction in representation in Congress and the Electoral College of the Southern States.

So, Mr. President and gentlemen of the Convention, in conclusion I wish to appeal to you not to allow Section 5 to be written in the Constitution, which provides for education and property qualification for the reason should the grandfather clause be decided by the courts unconstitutional, many of our old soldiers and thousands of white men in Alabama would be disfranchised, and I shall never permit myself to vote for such a proposition, for during the time of the cruel war between the States, and also before the war of 1861, our school system of Alabama was very limited and our young men was deprived of the grand opportunities we now have, and our young men as well as older men were drug off in the war and never had the opportunity we have now, and even after the war was over they were too poor to seek for an education as their property was all gone and their wives and children were in a destitute condition, and those who had families of their own, and the young soldiers who had no wives and children, had mothers who were left widows, and sisters who were left orphans, and those who loved their families, their mothers and their sisters had no time to educate themselves, and now for this Convention to go and provide laws that will deprive those people from their rights is something more than I can do, for I never will disgrace my father's gray hairs by depriving him of the only free right this Government has granted him after he has fought for his country and his people and for what he thought was right. I do hope, gentlemen of the Convention, that you will vote that part of Section 5 down and not allow it to go before the people of Alabama to ask their ratification of such, for it would not only be a shame on our fathers, but a disgrace to our State.

In conclusion, I wish to say that I shall at the proper time offer an amendment to Section 10 of the Committee's report on Suffrage and Elections.

MR. GRAHAM (Talladega)—I would like to ask the gentleman a question before he resumes his seat.

THE PRESIDENT—Will the gentleman yield?

MR. FREEMAN—Yes sir.

MR. GRAHAM—I understood the gentleman to say awhile ago that he would not vote for any proposition that would disfranchise any white man.

MR. FREEMAN—I did say so.

MR. GRAHAM—I would like to know whether you would vote for any proposition to disfranchise any class of colored people?

MR. FREEMAN—I will sir. I am willing to sacrifice anything on that line, but the white man, and the man of my own color, I shall never agree to sacrifice.

MR. BANKS—This Convention cannot afford to do anything unworthy of itself, inconsistent with its own dignity and exalted character. There are many great questions that must be settled by wise enactment of law and all these questions should be met in a spirit of fairness and in a spirit of utmost candor. There should be no dodging, no evasions, no trickery, no subterfuges, but recognizing the value of truth we should apply its rules and principles without fear and without thought of consequences to ourselves. This is not a political or party caucus met together for the purpose of gaining some party advantage under the specious plea of moral reform. This is not a body of political tricksters who by the arts of political legerdermain or the skill of political jugglery would produce measures that the courts would condemn as shams and artifices to evade law, not to conform to it. This Convention has great power, but it is not absolute. There are constitutional barriers to this Constitutional Convention. We ourselves are under authority, authority that we must fully and loyally recognize and obey, if we would expect to command the respect and obedience of those for whom we are enacting law. If a spirit of disloyalty to constituted authority is allowed to find a place in the organic law of Alabama, its poison will diffuse itself through this whole instrument and this Constitution will lose its majestic place as the defender of society against wrong, and will furnish an excuse and plea for lawlessness. Our ears must be deaf to the clamor of passion and prejudice, to the loud behests of party frailty and to the mean and deceitful plan of expediency when we stand face to face with dangers like this. Let us seek to conform to that law that we have sworn to obey—not gingerly, not partially, but freely and fully.

The conditions from which we are seeking relief are bad and great harm has resulted to Alabama from the evils that have grown up in our midst out of these conditions. There has been one great safeguard for us, and that is this: Law has never sanctioned immorality. We could not plead that law itself justified and approved the violation of law.

One of the great questions before the Convention—and in the opinion of many the greatest question before us—is the regulation of the suffrage of Alabama. There are peculiar difficulties in Alabama and the other Southern States that confront us in the settlement of this question. It is an old question—one that had its origin in the institution of African slavery in the South—that grew in intensity and bitterness until it precipitated the most disastrous war of modern times, costing the government of the United States billions of dollars and almost a river of blood and tears and that cost the South—we have no measure by which we can estimate the cost and no desire to detail the horrors of that sacrifice. As we began again the struggle for existence in the most desolate of homes, dispirited by defeat, weakened by four years of war and with many of our bravest and wisest men slain in battle, we were confronted by a new phase of this same negro problem. The recently emancipated slave entered the race of life with his former master as a competitor for political honor and for all the best prizes in every sphere of life. Under the direction of shrewd political leadership for a time he had the advantage, but it was only for a brief period—for nothing is sure—not a law of nature more inexorable than her decree that in every sphere inferiority must yield to the control of the superior. For the past twenty-five years there has been no negro domination in the South and there will never be again unless the time should come when the negro will be superior to the white man in character and intelligence. But despite this fact and despite the fact that the South is no longer apprehensive of negro domination, the negro problem is still the malignant fretting, running sore on the body politic and Alabama is sick and every fiber of her political organization is suffering from the poison of this plague spot. Alabama is pleading for relief and she has called this Convention for the purpose of devising plans that shall give her relief. In 1861 when she felt that the question of African slavery was to be a source of perpetual strife so long as she remained in the Union, the South determined to end the strife—to settle the question by withdrawing from the Federal Union. The results of that plan are fresh in our minds. After the close of the war when the negro problem assumed a more aggressive form, believing that the safety of every Southern Commonwealth depended upon speedy relief from negro rule, the fact that the end justified any means that would secure it she swept away all legal barriers that interposed themselves between her and white supremacy. The question of white supremacy has been settled. We have here a Constitutional Convention and there is not a representative of the negro race to be found among its one hundred and fifty members. Are not these strange and anomalous conditions when we remember that the negro problem is still the unsolved, unsettled problem before this Convention.

The methods of 1861-1865 ended the controversy over African slavery, but they resulted in the more serious problem of negro supremacy. The methods of 1870-1875 ended the problem of negro supremacy, but they have resulted in such corruption at the ballot box as has destroyed confidence among white men and weakened the very foundations upon which popular government is based. Now this Convention stands face to face with another imperious demand for change—some new plan by which she may forever settle this oft-recurring question that like Banquo's ghost, will not down at her bidding. There have been many plans suggested, nearly all looking to one end—the disfranchisement of the negro race. If it were possible to do this there would be a serious question in the minds of many good men in the State as to the wisdom of such a course. Would that settle the negro problem? It would settle this phase of it just as the war of 1861-1865 settled a phase and as the methods of 1870-1875 settled a phase, but as in the past so in the future, would it not assume a more virulent and more dangerous form than ever before? If it were possible for this Convention to entirely disfranchise the negroes of Alabama then it would be well to consider and well to make effort to answer this question. But we cannot disfranchise the entire race and so we are shut up to the adoption of other methods of relief. Let us calmly and dispassionately consider this whole situation. More than a third of the population of Alabama are negroes. They constitute more than half of the laboring classes of the State. In intellectual power and capacity they are inferior to the white man and in moral attainments they are far behind him. There are, however, possibilities of growth and development in the negro, possibility that should be brought out. The negro is here, he is here in vast and increasing numbers, he is here to stay. He is here to affect the life of Alabama, her commercial life, her political life, her moral life. He is here to expand and uplift and ennoble the white race or he is here to degrade and brutalize it. The two races are to be of mutual service and mutual blessing to each other or they are to be mutual hindrance and mutual curse. This harmony and prosperity of the two races must depend upon their mutual good will and mutual fair dealing.

MR. JENKINS — If the Suffrage Committee were to get up some scheme that you thought would accomplish the purpose that we aim at, would you inquire into the details of the scheme that would accomplish the purposes?

MR. BANKS—Why, yes.

MR. JENKINS—Will you answer this question. If the main proposition is not the accomplishment of the purpose and not so much the scheme by which it is to be done.

MR. BANKS—Methods have a great deal to do with it. I always inquire as to methods. Methods are important. I do not

belong to that class of men who do evil that good may come of it. Not at all. Methods are as important as the ends that you desire to accomplish.

This Convention is here in the interest of these races and as we have said one of the important questions for it to determine is what shall be the political status of the negro race, this race constituting such a large part of our industrial population. The Constitution of the United States says that we shall not discriminate against him on account of his race, color or his previous condition of servitude, and we have solemnly promised that we will not discriminate against him. The Constitution of the United States has conferred upon them rights in a general way and says that he shall not be debarred from those rights because he is a negro, and among those rights are the rights of American citizenship. It has not said that he shall be endowed with those rights because he is a negro but it says that he shall not be deprived of them because of that fact. As we have said, let us deal with this and with every question that we consider, in a spirit, not of passion or prejudice, but in a spirit of fairness. Let us be willing to accord the negro his rights. Let there be no discrimination, or even attempted discrimination, because he is a negro. It is important that we shall have white supremacy in Alabama, not because of the color of white men, but because of their character and mental superiority. The disqualifying principle in the negro race is not color, but character, and the qualifying principle in the white race is not color but character and mental superiority. The contest between the two races for dominion is an unequal one. The natural advantages in favor of the white man are so preponderating that he has nothing to fear in the struggle. There are possible dangers of negro domination. One of these dangers is to make too low the standard of citizenship. The higher the standard the greater the advantage to the white race, the lower the standard the less the advantage, because the contest is then waged on grounds that give greatest advantage to the inferior race. The higher the standard erected the further you remove the struggle from all danger of failure by the white race and from the need of employing those methods that are purely physical or brutal and immoral. The contest between the races waged on any low plane not only gives advantage to the less favored race, but it will serve to perpetuate the continuance of those methods that have brought Alabama into so much trouble and that will produce great friction between the races. The necessity for a high standard of citizenship appeals strongly to every friend of both races and especially to those who feel that white supremacy is necessary to the good of the State. Why should this Convention be tempted to adopt a policy that subjects it not only to the charge of wanton unfairness, but to the imminent danger of having its work declared unconsti-

tutional and thus bring upon itself the ridicule of fair-minded men everywhere. Upon the settlement of this question by this Convention momentous issues hang. You are not only to determine what the status of the negro shall be but you are to fix the moral as well as the political status of both races. The attitude that the organic law of the State assumes toward the negro will unavoidably affect his standing in every sphere. Society will naturally conclude that if his rights under the Constitution of the United States can be taken from him and should be taken from him, that the welfare of the white man demands this, then he may be deprived of any right or seeming right, if by the exercise of that right he becomes the competitor of the white man. If the organic law does not regard his every right as if it discriminates against him under the plea of expediency what will become of his right under the statutory law and before the courts of the country? Does it not point to him and to his as legitimate prey for every plunderer?

But how is this to affect the white race—this Anglo-Saxon race of whose achievements we are justly proud and whose future promises so much to civilization? Is this race beyond the reach of temptation? Can nothing corrupt it and nothing impede its march onward and upward? The history of other races furnishes not only an answer but points with warning finger to the dangers that threaten this great race. If you give men the power to oppress, the temptation to use that power to advance sordid ambition or to gratify passion or prejudice appeals with irresistible force to human nature whether that human nature is in the form of Indian, African, Mongolian, Latin or Anglo-Saxon. In making it possible for white men to degrade the negro by operation you provide the methods by which white men will become brutalized. Do you not read in the signs of the times the prophecy of this danger? The more degraded the inferior race becomes the more inevitable is the brutality of the superior race. This race question is one of the great world questions that must be settled. What are the dominant races to do with the inferior races? is one of the many problems that steam and electricity have propounded to the philosophers and statesmen of the twentieth century. Alabama is intensely interested in its solution. She is one of the centers of this great world storm that is rapidly over-casting the whole political sky. Will she rise to the dignity and importance of this question? Will she lay aside all passion, all prejudice and in the steady, clear light of reason and justice, settle righteously and therefore permanently, this great question? Every State in the United States is waiting to hear Alabama's answer. She is represented by 155 white men who are supported by the public sentiment. Louisiana, Mississippi, South Carolina and North Carolina in depriving the negro of the right of franchise by methods whose legality and fairness, to say the best for them, are questionable. The States have temporized with this question. The history of

the past would indicate that it will assume some other and perhaps more malignant form in the future. Will Alabama settle it? Let us hope so.

The white race of the State is greatly at advantage by erecting high standards. It insures white supremacy, and we cannot compute the gains to both races in the vast improvement of the economic, the political and moral conditions of the State. It places this Convention absolutely above the criticism of that class of acrimonious South haters who never leave an opportunity to malign us. It does more—it gives us the moral support and endorsement of right thinking men everywhere.

It accords with the principles and traditions of the Democratic party—equal and exact justice to all, special privileges to no one, is one of the maxims of the party. It agrees with the spirit and genius of our free institutions that the right of government is based upon the consent of the governed. It applies that great principle that has made the Democratic party great in the past—an adherance to the plain teachings of the Constitution.

Let me say in conclusion, that it is not absolutely necessary to have the work of this Convention ratified by the people. We can go along under the old law, but it is necessary that every section, every Article and every line of the new Constitution shall be just to all races, to all classes and to every interest of the State.

MR. WEATHERLY—Will the gentleman allow an interruption?

THE PRESIDENT—Does the gentleman yield?

MR. BANKS—Yes, sir.

MR. WEATHERLY — The gentleman has propounded the statement that there should be a method for placing the voting privilege of the citizens upon a high standard. He has in a general way indicated simply that it should be a high standard. Will the gentleman now specifically state what that standard should be, and whether or not it should go into effect at once?

MR. BANKS—I recognize, Mr. President and Gentlemen of the Convention, that there are some difficulties in answering the question that has been propounded to me. In the first place, in answer to the question, I would say that I would not erect a high standard that was to go into effect at once, but I would have a temporary plan, but not such a one as provided in this grandfather clause.

MR. WEATHERLY—Will the gentleman state specifically the temporary plan he would suggest?

MR. BANKS—Yes, I will, with a great deal of pleasure. I offered an ordinance to this Convention on the suffrage question, and it occurs to me it provided the temporary plan that would meet all the exigencies of the case. It provided for a graduated suffrage plan. It did not disfranchise a single man in Alabama who had any sort of right to the exercise of the franchise, but it did this: it did not give to the man who did not know how to read and how to write, and who had not the means of informing himself as to the great questions as issue in this State, the same power to exercise the ballot as was conferred upon the man who knows what he is doing.

MR. WEATHERLY—I beg your pardon for the interruption. I have some recollection of your plan, but I do not know that I am able to state it exactly. Was that the one which gave the man who could not—

THE PRESIDENT—The time of the gentleman from Russell has expired.

MR. WEATHERLY—I rise to a point of order. The chair recognized me to ask a question, and I was on the floor.

THE PRESIDENT—The chair had recognized the gentleman from Jefferson to ask two questions, but not three. He was on the third question, and the time of the gentleman has expired.

MR. WEATHERLY—I wanted to avail myself of the privilege, and I desire to ask an extension of the gentleman's time which my questions to some extent curtailed.

THE PRESIDENT—The time of the gentleman had really expired before the first question which the gentleman propounded. The chair, by indulgence, extended the gentleman's time to give him an opportunity to conclude. The chair recognized the gentleman from Randolph before the gentleman from Jefferson entered his motion.

MR. WEATHERLY—I would like to ask an extension of five minutes to enable the gentleman to conclude.

THE PRESIDENT — Will the gentleman from Randolph yield five minutes to the gentleman from Russell?

Mr. Heflin (Randolph) yielded the time.

MR. BANKS—I have no desire to detain the Convention. I am very glad to answer the questions of the gentleman from Jefferson, and would like to give him the information. The plan provided for a system after the Australian ballot system. The ballot was to be arranged very much like the ballot is under our election law now, but there were to be two ballots. They were to be so printed as to be clearly distinguishable, one being on white

paper, for instance, and the other to be on colored paper. An elector applying for a ballot from the managers of the election has this question propounded to him: "Are you able to prepare your own ballot by making a cross mark opposite the name of the candidates you wish to vote for?" If he answers he is not able to do so, then a colored ballot is to be given to him and he is to be allowed the privilege of securing any marker that he wished. He is not to be confined to the managers of the election—but may call in any man in whom he has confidence, to mark his ballot, and after the ballot is marked and handed to the managers of the election, it is to be counted as one-fourth of a ballot.

MR. WEATHERLY—That was my recollection of it.

MR. BANKS—A man coming to the election managers who can mark his own ballot would be given a white ballot, and after he had market it without assistance and turned it over to the managers of the election, it is to be counted as a full ballot. This system was to be in operation for five or six years, and after the expiration of that time, then every man coming into the State and every man arriving at his majority, should go before an examining board, to be provided for by the Legislature, and certain questions would be propounded to him. One of those questions is what are the boundaries of your State; another question, how many counties and where are they situated? Another question, how many departments are there in your State Government? Another question, what are the functions of the officers who are to fill these departments? When these questions were all answered satisfactorily, then the man was to be given a certificate as an elector, which would entitle him to vote, and a registration list would be provided showing all persons who had complied with these requirements, and in this way Alabama was eventually to come into a better political condition.

MR. HEFLIN (Randolph)—Mr. President and gentlemen of the Convention, we are today face to face with a problem that has agitated the minds of the people of the State of Alabama for many years and we should march out like men fearlessly in the discharge of our duty and solve that problem. It is not my purpose to consume much of the time of the Convention. I do not propose to discuss this question from a constitutional standpoint, but I will address my few remarks to the Democratic platform and the section known as the grandfather clause. We are here today as servants of the people to discharge a solemn obligation. We are here to regulate the suffrage in Alabama, and we are to deal with facts and pass on things as we find them. We are here for one purpose. But for the cause of suffrage and the regulation of the franchise, you nor I nor any of us would be in this Convention hall today.

Mr. President, I believe, sir, that the white men should control the affairs of government in Alabama and in every State of the Union. I believe, sir, that in the discharge of our duty we should go forth and do our whole duty after having considered it carefully, regardless of consequences. I am willing to treat the colored man, the negro race fairly, honestly and all right, and give him his rights, but I am one of those that believe he is incapable of self-government. I believe, sir, that the white man should rule. I believe that there are racial distinctions and prejudices implanted by God himself that cannot be wiped out by any human law. I believe, gentlemen of the Convention, that we should go further and discharge this duty as the servants of the people.

This is our country by virtue of inheritance, and it is right that we should rule it. We will rule it. Then, if we are to rule it, how shall we rule it? We should purify the ballot. We should so regulate the franchise and suffrage that the white man will be in control. He is better capacitated to govern than the negro, as you all know.

Now, sir, there has been a great deal said about the report of the Committee. I believe the majority report of the Committee on Suffrage is one of the best documents it has ever been my pleasure to read, and among all the good sections in that document, the grandfather clause is the best. (Applause.) It says that "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 the lawful descendants of persons who honorably served in the land or naval forces 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 shall be entitled to vote.

Now, you heard the argument this morning that the grandfather clause was an unjust discrimination against the negro. I deny the allegation and demand the proof. It does not shut out the negro, but it is the saving clause and brings in every white man, and that is what we were sent here to do. We are tired of frauds; we are tired of ballot box stuffing; we are tired of buying negro votes, but the fraud will never cease until this vote is eliminated. Now, sir, I for one, when the ballot is purified, when the suffrage is so regulated that it is in the hands of white men only, would be in favor of putting in the penitentiary any man who would stuff a ballot box or buy or sell a vote.

Mr. President, the negro is here among us and I want him to have his civil rights, but I do not believe he is entitled to political rights. He is of an inferior race. He is not capacitated to govern and rule the white man, and I want to say to you now that the white man has ruled this country from the beginning of the world, and that we are going to continue to do it until we are all dead. (Loud laughter.) They say that the fourteenth and fifteenth amendment conflict. I do not believe it. You have heard the able argument of the gentlemen from Madison. He has investigated this question thoroughly. He says by this provision that every white man can vote and there is no unjust discrimination against the negro. Some of the negroes are, perhaps, descendants of some soldier and they are not shut out. We are here in the discharge of our duty, and if we go forth earnestly and honestly and courageously, we will surmount every obstacle, and when we have finished it, all will be well.

"One ship drives east and another drives west
By the self-same winds that blow.
It is the set of the sails, and not the gales,
That show us the way they go.

Like the winds of the sea are the ways of fate
As we voyage along through life.
It is the set of the soul that decides the goal
And not the claims nor the strife."

If we are here to discharge that duty it matters not what the obstacle may be, if we come here with a fixed determination to stand on the platform and to discharge that duty, white supremacy would be perpetuated forever in Alabama. (Applause.) If we are true representatives of the people who sent us here, we will settle this question of franchise for all time to come. Let us be men and come up to the high standard—come up to the expectation of the sovereign people who by their ballots sent us to this Convention hall. The eyes of the people of the world are upon us today, they know we are wrestling with great problems, and there is great doubt as to what the result will be. Let us be true and stand by our people and pander to no sentiment, it matters not from what section it may come, but do our whole duty. If we will do that, we will perpetuate the supremacy of the white people of Alabama. The people of Alabama decided that they wanted a Constitutional Convention to regulate this question, one that had troubled and worried them so long. They demanded a Constitutional Convention, and by their votes they sent us here. Let us prove that we are not unworthy of the trust reposed in us. Yes, Mr. President,

"There is a day and there is an hour, a moment of time,
When the gods shall be willing to try us,
This test of our strength, of our purposes sublime
They cannot, they would not, deny us.
'Tis our right to demand the occasion, else how
Shall we prove by our courage undaunted
That we merit the crown that is placed on the brow
Of the man who is there when he's wanted.
The world is a stage and our lives are a play
And the part that is cast for us in it
May be very obscure, yet there comes that one day
When we speak its best lines for a minute.
Then the dream of our lives
Through all these years of trials and tears
The soul like soft music is haunted
Comes true and we see through the tangle of years
The man who is there when he's wanted."

Let us discharge that duty as becomes citizens, patriots and statesmen, and prove to the people that we are the men who are here when we are wanted.

Mr. President, some objection has been raised to the grandfather clause. I say to you, gentlemen, that I believe that is the best clause in the entire report. They say it is an unjust discrimination. Why? If a negro served in any of these wars, or any descendants of those of that race who served in any of these wars, does it shut him out? Not at all.

The white man has ever fought the battles of his country, and it is right and proper that he should rule and govern, and in my humble judgment, he is going to rule and govern while time glides nimbly by.

Let every man with white skin have a pride in the good work, and disfranchise no white man on account of illiteracy or poverty, but say to him, you and your ancestors have fought the battle of the world; you have stood up for liberty in the years that have gone, in recognizing you for the brave deeds done on the field of battle, we grant you this privilege. Mr. President, our armies have been composed in the past largely of illiterate and poor men. Take the war between the States, and who rallied to the tune of Dixie when the tocsin of war was sounded? It was the yeomanry of the country. The illiterate and the poor man went forth to fight for and save their country, and Mr. President, the world has never seen such patriots nor braver men. In the language of the Great Hill of Georgia, I will say: "He who saves his country, saves all things, and all things saved do bless him, but he who lets his country die, lets all things die, and all things dying, curse him."

We should recognize these men for what they have done in the days that have gone. When the political firmament began to darken, and it was foreseen that war was inevitable, and when the liberty of the chivalric sons of the South was threatened, the Confederate soldier coming from every walk of life, the farmer, the merchant, the professional man, the rich and the poor, enlisted under the starry cross and went forward armed with the laws of our country and the constitution of our fathers, they went forth with gun and battle-blade to meet fourfold their number in the death struggle of war. They believed that they were right, and we believe it still. A great majority of them were poor men, illiterate men, men who never owned a slave and who owned very little land. Shall we deny them in this, the morning of the twentieth century, the right to vote? I, for one, will never consent to the proposition. Who in this Convention would deny them that privilege? They were good soldiers as you all know. They were patriots. They were not the Caesars or Napoleons of history, but were the Spartans of the South. We should teach the present generations to honor the memory of those who have gone across the river and to honor their descendants. The lives and characters of men, in a great decree, are shaped and moulded by the records of the past. Then, if this be true, we may expect the South to produce heroes and statesmen for ages to come. May the sons of the South study the lives and the characters of those heroes, and so reflect on their great achievements that it will enable them to build a stately craft that will sail the stormy sea of life. By adopting the grandfather clause, you honor the men who are living and the memory of those who sleep in their honored graves, and we say to those men who may be among us of that grand and glorious band of patriots in that conflict of arms though we were defeated yet in sentiment, thank God.

The South is solid yet,
And those who died to win the cause
We never can forget,
And here's to those with empty sleeves,
And those without a scar
We wave on high the bonny blue flag
That bears a single star.

MR. BYARS—I wish to ask the gentleman a question.

THE PRESIDENT—Will the gentleman yield?

MR. HEFLIN—Yes, sir, be right quick about it.

MR. BYARS—In honoring the men who fought in the war, do you not honor the negro who left the South and went in the Union army?

MR. HEFLIN—I think not. We are not able to pension our soldiers nor build costly monuments to their memory, but we should here today in Convention assembled build a monument by our votes that will live through all the ages to come. Mr. President, we should not forget the wars of the past, and we will not, as a patriotic people. Those men who left home and its happy surroundings to go forth and battle for the love of country were deprived of education. Their property was swept away by the ravages of war, many of them were killed on the battlefield. They had no means left to educate their children, and but for this one clause they would be disfranchised on account of poverty and illiteracy. I do not believe this Convention will strike it out. We say to them, those who are gone over, that

"Cold in the grave their perished hearts may lie;
But that which warmed them once can never die."

The cause they espoused will ever be dear to us, and we will love their memory while we live. The principles for which they fought, bled and died on many battlefields cannot be wrapped in a shroud nor committed to the grave. When the history of the world is written by an unbiased historian, he will point to the Confederate soldiers as the one who comes up to the requirements of the world's highest idea of a soldier, and for the sake of the glorious past to honor their descendants let us here today by our votes grant this privilege for the things done in the past. Let us say to the Confederate soldiers who may be living, and the soldiers of all these wars, and their descendants: "You stand today among those whose lives have been characterized by honorable and noble deeds. May you continue in the path of righteousness while you live and when you come to that river that marks the unknown shore, may you die with the sweet consciousness of having discharged your duty to your God, your country and your fellow man. Then the lamp of your life will go out as beautifully as fades the morning star away and your reward will be a home in Heaven.

Now, Mr. President, one word in regard to the pledges of the platform and I am done. I say to you that I expect to keep it in every word and sentence if I am the only man here who does. We said we would disfranchise no white man, no matter what his condition might be, unless he was convicted of infamous crime. Now, let us keep that pledge. Be true to the people, and they will be true to you. If we break our pledges made to the people who elected us, I tell you there will be 155 of the deadest statesmen in Alabama you ever heard of. If I forget the teachings of my youth and if I forget the hardships and privations of the women of the South and of our soldiers from 1861 to 1865, if I am untrue to my promises made to my people on the stump, if I go back on the promises made to my people, when I come to the judgment, may

God forget me. In conclusion, I want to say that I believe every Democrat here will keep the pledge. If you do it, all will be well, but whether you do it or not, I say to the white people of Alabama, as Ruth said to Naomi, I will not leave you nor return from following after thee, for whither thou goest, I will go, where thou lodgest, I will lodge, where thou diest, I will die, for the white people are my people and their God is my God.

Now, Mr. President, if we are to disfranchise that class of men, I want to make one request of this Convention, after we have shut out all the illiterate and poverty stricken whites, I want an appropriation from the State of Alabama to build a monument to that band of men we are disfranchising, if this section is adopted, but which I know this Convention will not do, but in the event it shall be done, we should build a monument to that noble band of men who on account of misfortune failed to get an education, and who were illiterate and poor and inscribe on that monument the words,

"Freeze, freeze, oh bitter skies,
Thou dost not bite so nigh
As benefits forget,
Tho' thou the waters warp
Thy sting is not so sharp
As friends remembered not."

Now, let us move along in the good work which we have started, let us in this the morning of the twentieth century settle this question of the suffrage and perpetuate white supremacy for all time to come. If you do it this Convention here now is as the morning bud to the evening rose, of what the future will be, and Alabama will prosper as she has never prospered before, and with white supremacy perpetuated we will be a contented, happy and prosperous people, and the great cause of morality, temperance, industrial development, education and religion will prosper, and the grand old ship of state will sail on and on, and will finally land in the sunny harbor of peace and happiness and bask in the smiles on an approving God.

MR. LOWE (Jefferson)—That same old ship has been sailing on and on, without the intervention of this Convention. As I understand, Mr. President, there is no proposition here as to the disfranchisement of white men. As I understand, this Convention meets today in response to the call of the people of Alabama for fair elections. You may observe the differences between fair elections and elections made possible under the report of the majority of the committee. If there be a difference, Mr. President, I wash my hands of it. I stand here now, pleading for fair elections in Alabama, not for white supremacy. The time has not existed in the political life of the gentleman from Madison who spoke today, nor in mine, when the Democracy of Alabama need appeal

for white supremacy in Alabama. White supremacy was established in 1874, and has never been threatened. This Convention comes not in response to the demand of the people of Alabama for white supremacy, as the gentleman from Madison indicates, but it comes in response to the demand of the people of Alabama for honest elections. How are you to make possible honest elections in Alabama? In the first place, I would appeal to this Convention, and particularly to the Committee that had the suffrage franchise under consideration, that those twenty-five men, the most distinguished in this Convention, should not feel that they are bound by the spirit of comradeship to stand by the majority report of that Committee, because if they do, yielding to that spirit of comradeship they may do great harm to the State in the crucial period of her history. This is a solemn hour in Alabama. It is not worthy of a member of the Suffrage Committee that he should feel that he is bound by the report of the majority to lend his voice, his influence and his vote, in maintaining the report of that Committee, if, after a full discussion, it should appear that that Committee is in error. One distinguished member of this Convention on yesterday—a man whom I love and for whose judgment I have great reverence—told me on the proposition I submitted hostile to the Committee, I was right, and yet he had to support the Committee. Let us do away with that, gentlemen. It is unworthy of you in this crucial hour. Let us consider these questions as they present themselves upon their merits.

What are we here for? Not to preserve white supremacy. White supremacy is secure in Alabama. We are here to promote fair elections. How? Are we to promote fair elections by departing from the very principle that was instilled into each one of you Democrats by your Democratic father? Is that the way that you will promote Democracy? Will you promote the interests of the people by departing from the pure instincts that were put into your minds by your Democratic fathers, who got their instincts and inspiration from Jefferson in the early days of this Republic? Why the gentleman from Madison says, you may transport the soldiers and their descendants, and you take away that element capable of self-government in Alabama. Might that not have been said of any despotism that ever existed upon this earth, whether it be a Republic, whether it be an Empire, or whether it be a pure despotism? Take Russia, transport from Russia the class capable of self-government, the class that maintain the throne, and would you not take away all the element in Russia capable of maintaining self-government? It was argumentum ad hominem. The gentleman from Madison made one of the most adroit, one of the most specious and fallacious arguments it has ever been my pleasure to listen to, and when I put to him plainly the question, "If you did not intend to depart from the principle

of the old Constitution and deprive of the right of suffrage those entitled to it under that Constitution and prefer others not entitled to preference under the old Constitution," he said he would answer, and he never did.

Gentlemen, can we for expediency, when we are safe, when white supremacy is safe in Alabama, absolutely safe, and there never will come a time when there will be danger of negro domination in Alabama, adopt the report of the majority of the Committee? Will you then for an experiment, when the people cry for bread give them a stone? I do not confine my objection to the grandfather clause, but that is thoroughly obnoxious to me. Take the grandfather clause, however, with the other, and in a Republic, where all white men are created equal, a man because his grandfather served in the army, would be entitled to a privilege that another white man would not be entitled to. Is that fair and in accord with Democratic doctrine? I know but by one light by which my feet should be guided. It is not only the light of experience, but the light of principle. The right of a man to vote in Alabama should be plain. It should be so plain that the wayfarer, though a fool, need not err therein. It should be so plain that he who runs should read. Will you substitute for our present magnificent system of fraud, long tried and well established, a commission established from a central office in Montgomery? You tell me that it means white supremacy! They may have intended it so, and I impugn the motives of no man. I know the Committee was composed of men the peers of any man in Alabama. I know that they came here with the same impulse that I came. I know that they are all as honest men—most of them as honest as I am. I know that very few of them desire to acquire political power by the establishment of a permanent Registration Board in Montgomery, but it is significant, gentlemen of the Convention, that not one of them who has spoken has defended the propositions they have submitted to you—not one of them. They have spoken in generalities. They have spoken of the greatness of our race. That I believe in. They have spoken of the magnificent development of our State. They have told us about reconstruction, but they have been very silent as to their Board of Registration.

MR. SANFORD—It has not been reached yet.

MR. LOWE—It was all open, under the ruling of the Chair for them to reach it. It is an arbitrary selection, and it is strange to say they selected the only two State officers that have to stand for re-election. Both of them are my personal friends, and both of them I will ardently support for re-election. Gentlemen, they denied us the right to speak in caucus, behind closed doors, on this question, after eighty-six members of the caucus had invited

the call of the caucus. If I say now what may seem to be imprudent I hope I will be entitled to indulgence upon that score. They propose, in the first place, to fasten upon the people what? The first qualification I am thoroughly in accord with. "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 way 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." I am thoroughly in favor of that. Whenever a citizen of Alabama has bared his breast to the bullets of the enemy, I say he is entitled to his place and he is entitled to the rights of citizenship without denial and without limitation whatever. The next section, "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." Gentlemen, for what did men serve in the war of the American revolution? It was to overturn the law of entail. It was to destroy forever the law of succession in rights, privileges or franchises of their descendants, and shall Alabama in this late day, return to the old doctrine for which the very men whose descendants you expect to pick out, forfeited their lives to defeat. If, to do a great right, you do a little wrong it will be an example whereby, in after days, many evils may rush in to afflict the State. Are you going to depart from the principles that those men fought for, the men who did the fighting, whose descendants you seek to crystalize into a special class? Are you going to depart from the principles that inspired them, and for what? Not to preserve white supremacy in Alabama. White supremacy is secure enough in Alabama. For what purpose then are you going to do it? Now let me tell you what I believe. I believe that a descendant of a soldier of the revolution—I believe that the son of the soldier in the war for the dissolution of the union, who has so far forgotten the principles that inspired his father, that he is not able to qualify under the rule you prescribe in Alabama for voting, is not worthy to vote. Would you believe that your son, any one of you, would ask special privileges in the matter of qualification for voting as against the son of your slave? Would you be gratified to know that your son would ask the State of Alabama to pass a law that discriminated in his favor as against the son of a slave when it came to a matter of the right to vote? That is what you say here.

Gentlemen, the whole scheme is not in favor of fair elections. I will not question the motive of those who prepared it, but I declare to you that the scheme, as presented by the majority of this Committee, permits the most infamous frauds that were ever planned in Alabama. They provide for a Committee on Registration. They provide means for limiting the membership of the Registration Board. They will register them for this year, and every ne-

gro that registers may be over forty-five years of age, and will be voting forty-five years hence. I do not say they will do it, or that they intend to, but I say that this scheme permits them to do it. I say there are counties in Alabama where it will be impossible to do it, and I say there are counties in Alabama where it will be entirely practicable, and the Chairmen of the Committee is not ill-advised as to some of the counties in which it would be practicable to do it. Then what do we come to next? "All persons of good character and who understand the duties and obligations of citizenship under a republican form of government." A commission of three to serve at two dollars per day to pass upon a person's good character. Men who are willing to serve at two dollars a day are to determine whether these men are persons of good character, and understand the duties and obligations of citizenship under the republican form of government, and they are to be appointed by a Central Commission at Montgomery. It is an abomination. It is offered, when the people cry for bread, and you give them a stone, and we propose to perpetrate upon them the miseries under with they have suffered, when they have cried for fair elections.

I am not discussing the theories of government, or the philosophy of government, but I am discussing the practical proposition that you gentlemen of the Committee have submitted, and it is an outrage that you should offer it to the free white people of Alabama. I say that no commission should ever pass upon my right to vote. I say that the law, as written here should determine whether I have a right to vote or not. I say you should write the law plain and simple, as to who has the right to vote, and not give me a commission in my county and another commission in another county to establish different standards of good character. What is good character? It is a relative term. A man who has good character in Alabama would not have good character in Guam. A man who has good character in China would possibly not enjoy a good character in New England. Good character is a relative term, and it will be decided by your commission in each county, and will be decided according to what? I leave it to you politicians. I do not know. They tell me that 30 per cent of the negroes will be registered. You say you cannot exclude the negroes by any law. They tell me that 30 per cent of the negroes will be registered under this provision. I think so, and perhaps more, and what does that result in? It results in pulling the white people into security, and divisions and the power that has the money will come into your elections, and conclude the result of them. Did they not reject my amendment on yesterday, when I suggested that the poll tax should be paid in the year in which it was due. Didn't they reject that, leaving it payable in February of the year of the election, and why? Gentlemen, I am dealing with this now from a practical standpoint, impugning the motives of no man.

I believe no man could sit in this Convention who could prefer his own interests above the interests of the State. I believe every man is just as sincere and honest as I am in the consideration of this question, but some of you gentlemen have been attending to your private affairs while others have been attending to practical politics and I am speaking to you of the practical politics of this proposition, I say to you that it turns us over absolutely, horse, foot and dragoons to the counties that are willing to indulge in fraud.

Now, what do I believe? I believe a man should not be tested by what his grandfather did, but his right to participate in the government of the State of Alabama should be based on what he is willing to do. Now the substitute that I shall offer later for this proposition, will simply provide that every man white or black, who is willing to make his contribution to the public school fund each year as it matures, shall be entitled to vote. I was not entirely in accord with the remarks of the distinguished gentleman from Montgomery, the ex-Governor, this morning. I have not been entirely in accord with the argument of any man who has preceded me, but I have totally failed to find in the remarks of the gentleman who spoke for the majority report a defense of the proposition which comes from the Committee. Now, gentlemen, I know that in Mississippi and Louisiana they have adopted a similar constitution. They have been driven to worse extremes, perhaps, than we ever were, but I notice that whenever a man in his private conduct, in the discharge of his private business, or in public affairs, departs from the path that he had mapped out for himself, the beaten path, and goes into the wilderness of experiment, the sooner or later comes upon the rock, or the quagmire. Now, my substitute that will be offered when this matter is disposed of will provide that any citizen of Alabama who, in the first three months of each year, is willing to make his contribution to the public school fund, shall be entitled to vote. That will be perfectly fair, discriminating against none. It will stand by the platform; it will be in entire accord with the platform, and what man in Alabama can object to it? It will be a three dollar contribution until forty-five years old, and one dollar and a half afterwards. What men in Alabama entitled to vote cannot make his contribution of three dollars until he is forty-five years old, and a dollar and a half afterwards? There will be no remedy for the enforcement of the collection of that poll tax. It will increase the contribution to your public school fund largely, and your public school funds poll tax will be nearly doubled.

MR. WEATHERLY (Jefferson)—Will the gentleman state why he doubles the amount of the poll tax, and provides that it shall not be collectible by law?

MR. LOWE—I will. I think it should not be collectible by law because, in the first place, if you make it collectible by law, you will enable every man from whom you collect to vote. I think that every man entitled to vote is willing to make the contribution of three dollars a year until forty-five years old to the public school funds, and the contribution of one dollar and a half after that time. It is not a burden on anybody. It is not a property tax! Why, you all know old Ben Franklin's answer to the proposition that came out in Poor Richard's Almanac? That is involved in this proposition here. Ben Franklin was discussing the proposition. He was opposed to the property qualification, and gave an illustration in his Almanac. There was a fellow that had a jackass that was worth one hundred dollars, and under the provision of the law he was entitled to vote. The next year the jackass died before the election came off, and the owner was not entitled to vote, and the question arose as to whether it was the owner of the jackass or the jackass that was voting. Gentleman, it is infamous that at this stage of Democratic government in Alabama we should propose a property qualification for voting. It is unjust. We should propose an educational qualification for voting. It is unfair and it is indirect, because the gentleman who framed this——

MR. WALKER—I will ask the gentleman from Jefferson if under his plan, it would be the three dollars voting or the man? (Applause).

MR. LOWE—I might fairly treat the gentleman as he did me this morning—not answer him, but I won't do that. I will say to the gentleman from Madison that I think any man who has not a sufficient amount of patriotic instinct to contribute less than one cent a day to the maintenance of the public schools is not fit to vote in Alabama. That is a more direct answer than the gentleman gave me this morning.

Now, Mr. President, these provisions that I have discussed, are abhorent to every principle for which Democracy has stood since it began to follow Jefferson. I say, that Jefferson abhorred the property qualification, and educational qualification, but they go further, and have given us a commission appointed by whom? A Board of Registrars that shall pass upon the good character of a man who applies to vote. They have appealed to Democratic inspection, to Democratic memories, and it should make the bones of the oldest Democrat rattle in his grave. Are we to allow the present condition that does not threaten us, to drive us from Democratic principles to which we have adhered since before the foundation of this governmnet? Why, our fathers came here with those principles instilled into them. Are we to allow the fear of negro domination to drive those principles out of us? I would rather take my chances under the old law. I would rather take

my chances in the field or anywhere. I am not willing to depart from those principles, or prejudices, if you please, that I have inherited, because of the shadow of negro domination. It was no such spirit that called you here. The people of Alabama are not afraid of negro domination. I believe that the standard ought to be the man who is willing to bear the burdens of the government today. I believe that a poll tax properly administered, a contribution to the public schools, as defined in my substitute, collectible not as the distinguished Chairman of this Committee insists, on February before the election, but collectible each year within the first three months of the year, as it falls due. It will be an absolute guarantee that those who are interested in maintenance of good government in Alabama alone shall vote in Alabama. I was astonished when the distinguished Chairman, after contending, as the stenographic report shows he did, that the report meant it should be paid in each year, when I showed him it did not, as the stenographic report in this morning paper shows, he backed out of his original proposition. Now I say that the man that is willing to bear the burdens of government, and to do that within the first three months of each year, is a worthy citizen to vote. How do they propose to eliminate the negro vote? They have given us no suggestions. The majority of the committee have given you no suggestions as to how they are going to eliminate the negro vote. They do not intend—I won't say they do not intend—but their proposition does not contemplate the elimination of the negro vote.

THE PRESIDENT—The time of the gentleman from Jefferson has expired.

MR. WEATHERLY—I move that the time of the gentleman be extended fifteen minutes.

MR. ROGERS (Sumter)—I move that the time be extended until the hour of adjournment.

The motion was carried.

MR. LOWE—Gentleman of the Convention, I thank you, but I do not need that long, I think. What I have searched this report in vain for, what I have listened to speakers who have represented the majority on this floor in vain for, is to show me, to show us, to show the people, how the great question of fair elections is to be met. You can have fair elections, gentlemen of the Convention, when every man who is entitled to vote shall be required before the first of March of each year to come up to the Tax Collector's office and pay his poll tax, his contribution to the public fund of three dollars. But if you appoint a Committee on Registration, gentlemen, with power to appoint local representation in sixty-six counties in Alabama, I tell you, you are building a machine and you will regret the day, if not the day you were born, you will regret the day you were sent to this Convention.

To be honest is always to be plain and simple. The man that intends to deal honest with you can deal plainly with you. The man that intends to be dishonest shields his meaning behind a veneering of words. What is the report of this committee? What does it mean? Does any man understand it? Does any one here thoroughly grasp the full scope of it? Why, Mr. President, take the names of the officers of the State that compose the committee in Montgomery. How did they take them? They did not take the Governor, Secretary of State, Attorney General, in the order they come. They did not even take the men retiring from office next time, but they took the names of the men who are to be candidates for office next time. The only three men who will be candidates next time they took to constitute the Central Board. That is not reflecting upon those men at all, each one of them I expect to vote for to succeed himself, but I say it was an arbitrary arrangement, and I say it provides for a system that we have never known before, and will give us a central system emanating from Montgomery. If that Central Board are State officers seeking re-election, that gives them the appointment of something like two hundred Registrars in Alabama, and with those two hundred voters have the right to pass upon the qualifications of the voters of Alabama. Gentlemen if you want to be honest, we came here to make an honest election law, let us make plain and simple and define the qualifications of a voter. Then if one who is not qualified seeks to vote, deal with him in the criminal courts of Alabama. I do not want any number of men in Alabama appointed by a Central Commission in Montgomery to determine my right to vote. The gentleman from Madison this morning referred in the early session to the fact that all these people, the veterans and sons of veterans had a right to vote already. Nobody is proposing to take away their right to vote, but will the sons of soldiers of the Confederacy ask that in competition with him, the son of a slave should be handicapped by such a provision? I wish it was so that we could say that none but white men could vote in this republic. It is not so, we cannot say that, but we can say only those shall vote who are willing to bear the burdens of a fair, free and honest government. Mr. President and gentlemen of the Convention, I have spoken longer than I intended, and I thank you for the consideration you have extended me.

MR. PROCTOR—I move that we now adjourn.

The Convention adjourned until 9:30 tomorrow morning.

CORRECTIONS

In the remarks of Mr. Smith (Mobile) in referring to the case of the water front in the city of Mobile, in the fifty-second days' proceedings, it should read:

If the city could settle that claim fairly with individuals, the individuals could improve the property and enhance its value to the commerce of the place, and create a large class of taxpaying property. There would be no question as to the claim itself. It would not be a doubtful claim, but it might become one where it would be both to the interest of the city and of the citizens that an adjustment of some sort should be made. I merely call attention to this case, not that I am interested in this particular section because of that matter, but because it is only one instance of many that might exist, where it might be proper for a municipality to adjust a controversy that does not depend entirely on whether the claim is of a doubtful character.

Corrections, fifty-second day:

MR. ASHCRAFT—That is true, if he has all the qualifications that make an elector in the first Section, but he cannot exercise the right of an elector, unless he fulfills the conditions in the second Section. The first tells who shall be an elector, and citizens and persons who have declared their intention to be citizens are to be electors. He may be registered, and still, if he fails to pay his poll tax, he is not entitled to vote, although he has all the qualifications of an elector, and Section 2 refers to just such omissions as that by using the term elector instead of citizen.

In the remarks of Mr. Ferguson, on Section 1 of the Article on Suffrage, "emigrant" and "emigration" should read "immigrant" and "immigration."

"The minimum punishment in grand larceny is one year's hard labor for the county."

The following sentence should read: "Now for these reasons, gentlemen, I merely ask you to put it in the power of the Legislature of this State to dispense with the necessity of indictment in that class of cases."

FIFTY-FOURTH DAY

MONTGOMERY, ALA.,
Thursday, July 25, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by Rev. Dr. A. L. Andrews, as follows:

O Lord, our Heavenly Father, we pray that Thy Blessings may rest upon us, and that Thou will prepare and fit us for the duties of this day. We beseech Thee, O Lord, to forgive our sons, cleanse us in the blood of Christ, our Lord, and grant that each of us may feel in our hearts the presence of Thy Holy Spirit, and that we may have that divine help without which we can do nothing. O Lord, help Thy servant here, we pray, the presiding officer of this Convention; help each one of these delegates. May the Lord take all that is done today, and may the work that is done redound to his glory, and to the good of the people. We pray Thy blessings upon them, Our Father, and wilt Thou bless all for whom we should pray. Bless the people of our land and country; bless those especially of our commonwealth, and may the Lord smile in favor upon our beloved State, and may peace and plenty be showered upon us abundantly. Bless the people in the humble walks of life, that they may honor and serve God in all their ways. Bless us, O Lord; forgive our sins; help us in our work today, and when it is ended may none of us have any cause to regret anything we have said or done. Bless, O Lord, these delegates; help them, we pray Thee, in the responsible work upon which they are now engaged. May they do that work faithfully, and well, and, O may they as upright men be not only the representatives of the people, but may be pure and holy in their lives, and may the Lord be with them; may He bless them; may He bless their loved ones at home and keep them under the shadow of His wing. Lead and guide and preserve us through life, and when it is Thy will that we live no longer, in Heaven save and crown us, for Christ's sake. Amen.

Upon the call of the roll 108 delegates responded to their names.

The report of the Committee on the Journal was read, stating that the Journal for the fifty-third day had been examined and found correct, and the same was adopted.

The roll of delegates was called for the introduction of ordinances, resolutions, etc.

Leaves of absence were granted as follows: To Mr. Palmer of Washington, account of sickness in family.

Mr. McDonald for today. To Mr. Stewart for today.

THE PRESIDENT—The question is upon the adoption of the minority report to Section 4, pending amendment by Mr. Sanford. Is the convention ready for the question?

MR. WILLIAMS (Marengo)—Mr. President and delegates, if I am not out of order I would like to submit a few remarks on this question and possibly the only question on which there has been leaders, and in deference to this leadership if I am out of

order, if some one else has not a set speech for this particular time, I will submit my remarks now. Of those who have spoken on this question heretofore, I do not think any one of them can trace their birth back to a time since what is called that direful and sorrowful time of the South, "the surrender." I think it is time, Mr. President, that one of the younger generation, that one of those who has nursed the breast, not of a slave, but of one who had been a slave, since the war, that we should make known to this country the position of the younger men of the South on the question of suffrage, and of the negro. With all due deference, and with the greatest regard and utmost respect to those of the older delegates who have spoken on this serious question, I desire to say that we of the younger generation have more at stake than these older men have—more to learn and live for, than these older men who will soon pass over the river. The older ones have not the fear of the future generation before them, except that they would plant the seed which may germinate and grow into a living lasting fruit, that they do for us and our and their future generations, something for the good or for bad. I concede that these men are now attempting, wisely contending among themselves, for the future good or bad, not only of the individual members, but of the collective members of this, a sovereign State, and the concern of the great hereafter for the young citizenship that these older men cannot help, but come here and do us honor. It is not without grave and serious doubts that I am persuaded that some short message should be delivered to this Convention by one of these younger men and one who has never known slavery. I mean slavery as it existed prior to the war, because so far as I am concerned, and we of the younger generation, we have known but one slavery, and that—slaves to the negro vote, and when I say this I mean it in its fullest and deepest sense, for if there ever was a set of people who have been slaves, it has been our Southern people—slaves to the votes of an unprogressive race; slaves to the slaves of our own fathers, the hardest task-masters that ever drew the blood of life from a quivering nation. Not slaves in a physical sense indeed, but even worse, for while we of the Caucasian race are held responsible for the policy and politics of this country, yet those of the North, not understanding that they have thrown upon us a vote—a vote that is harder to bear than the lash of the cruel task-master, they hold us to account for the progress and the rectitude of this, our Southern country. When you, Mr. President and delegates, know that you nor none of us are responsible for this direful state of affairs, nor have we been for a generation. We now come to say to our people that we favor to its fullest extent the granddaddy clause of the majority report, we do it because we believe earnestly and truly that which future generations will see, that it is to the very best interest and the best policy of this country. What has built up the solid South till it stands like a stone

wall? What has made us here of the South but of one mind and one idea, why is it that we are not allowed to go to the ballot box and there deposit our ballots, as we believe in justice and in truth is for the best interest of the broadest policy of this country? It is simply because of the fact that we have over us taskmasters to control the votes of this country, had he but the brains to control it with. It is to get rid of this particular class of people that we are now contending for and are met here in this Convention. I say to the older men now who are opposing the majority report—stop and think what you would thrust upon the future of the South. I say to the younger men who possibly are not of the generation of myself, but still young, to stop, pause and think what you would fasten upon us, until another Constitutional Convention can meet and undo what you would do here today. Imagine a race subservient for hundreds of years to a superior race, turned loose upon us by force and by virtue of the bayonet, and give into the hands of that race the right to ballot upon the future destinies of this country, and which has become so strong that in thirty-six years thereafter, we cannot stand up and take away that right without being abused, by not only those of the North, but by men of the South. This is a serious matter with us, I tell you, and with honesty and truthfulness I believe we do no wrong when we take back our birth right and when we say to the negro as a race, you shall not cast your ballot against the policies of your country. The majority of the people at home and for whom I speak, believe in the absolute disfranchisement of the negro as a negro. We do not believe in disfranchising a single white vote. We do not say as some of the distinguished gentlemen on this floor have said that a negro at times and certain negroes are as good at times or as good as certain white people. This discussion must necessarily be in public because the Democratic party refused to have it behind closed doors. I say here without fear of contradiction that if there is any good in the negro race—such as elevates a nation, or elevates his race—I say that good comes from the Caucasian blood that runs in his veins. If, per chance, there is one—even ten—negroes who have attained eminence and superiority in this country, and over his race, who has not one drop of Caucasian or Anglo Saxon blood in his veins, then I say to you the fact that that African has attained eminence, but goes to prove the rule. I have above laid down, that it is the learning and blood of the white man that flows in the veins of negroes, except, possibly an exception, that enables them to become renowned among their own people, or among nations or other races. I do not believe with some learned gentlemen who have discussed this matter, that because the negro bore the gun during the Civil War and was subservient to the will of his master, that he, in any sense of the word is as good as the worst—I don't mean as a criminal—but I mean as the least, poorest, lowest-down white man I ever knew. I do not be-

lieve that the negro can attain that eminence that will entitle him in any sense to mingle politically or socially on an equality with any white man who was ever born into this great nation. Neither the majority of my people nor myself, believe it, and I come from the black belt. I come from that country which was singled out on the floor of this Convention yesterday by one of the delegates to this Convention who was placed in the high position that he now holds by virtue of the black belt. I came from a country that has ever been true to the white men of Alabama and so help them, God, they will ever be true in the hereafter to the white men. There have been insinuations passed on the floor of this house against certain distinguished men of this Convention, and more particularly against the chairman of this Suffrage Committee, that great thoughts were had far reaching and deep seated, that the mind of the mighty Ceasar was at work, while the balance of this Convention slept, that he conceived, forged the thought contained in that suffrage report, forsooth to carry out the intimated low down meanness of our black belt country. I defy that, and I defy the man that says such words upon this floor. I say that the purest motives that have ever been given to men have actuated the chairman of this committee and the men of the black belt who helped to frame, and who did frame this majority of this suffrage report. How can men get up on the floor of this Convention and say that there is any hidden meanness in this report, how can they get on this floor and say that the white men would, by some act of his, or that this Convention lead on by this committee by some act of theirs, defy the white men of the State of Alabama. I say to you today that if that suffrage report cuts down one negro vote, that the white men of Alabama has just that one negro less to contend with than he has at the present time. The absurdity of the argument presented itself to me when offered, that could it be thought there was any hidden reason why certain negroes should be allowed to vote if the black belt registered and voted them to the best interest of the State even if it be put that way. White men have nothing to fear from the black belt. When one single vote is cut off from that black masse of voters, they who have arrayed themselves against the white man every year that there has been an election, can you argue that this majority report has a hidden meaning and was framed in viciousness, that it will hurt the ignorant white man in this State. Take it up and go through its provisions one after another and you will see that there is nothing there but that which the white men of Alabama pledged themselves to do and only that which the white Democrats of Alabama pledged themselves to do, when they were making this race for the Constitutional Convention. We said then, that we would not disfranchise a single white man. We should not go back upon the pledged of the party to the people. I am reminded of the blind man in the Bible who was made to see, and when asked how he

saw, how it was done, said, I know not how it was done, but one fact I do know is that whereas I was blind now I see. If this thing is bad, gentlemen of the Convention, I know not whether it be good or whether it be bad, but the Democratic party pledged itself to this plank in the platform and whereas, they did that, I am for it. I believe we should put ourselves in the position, so that when we go not to secure ratification of this Constitution, all we will have to do is to set up on the stump and kindly and pleasantly begin every speech by saying, men of Alabama, white men of Alabama, we have carried out every pledge that we made you. Can you disfranchise a single white man and carry out that pledge? Can you disfranchise the mining vote of Jefferson County, that has not yet registered its citizenship, and say that you have carried out the pledges to your party. Let us be able to go forth before our people in the purity of our actions, and do as we said we would do, disfranchise every negro vote that we could under the Constitution of the United States, and leave the franchise to every white man so he be of good moral character. I submit that this plank as laid down in this majority report contains the pledges absolutely and unconditionally that we made to the men of our race. How does it establish a permanent, hereditary, governing class? Would to God that it did if it puts white men in permanent supremacy in Alabama, that they may vote as they please, then I am not ready to go back on what has been called on the floor of this Convention that hereditary clause, or war of 1812 clause. I am ready to say, let us have the inheritance, and let us send it down to our children unspotted and as pure as the Caucasian blood that we would have alone to cast our ballots and govern our people. If this is the heritage that we are after and we are getting it by adapting this particular section, I say then let us have it. Is it in keeping with the dignity of a progressive, just and enlightened State? I do not see how it is not in keeping. How can you have a progressive and enlightened State unless the white men rule it? I submit that question, and proceed further. It does not insult the white men of Alabama, nor do you put the slave of your father above him, when you require the slave to have a qualification that the white man does not. Gentlemen of the Convention, we do not place that difference or that distinction on the white man, God Almighty Himself put the seal on the white man, and He put it upon the negro. He has made the distinction and we only ask you to stand by your own people. I was more fortunate when I was born in that my father had a competency after the direful and dreadful Civil War. I know young men, who at home were the play fellows of my elder brothers and of myself whose fathers before the war were wealthy men, these young men today can scarcely write their names, and after it is written for them can scarcely read it though printed in the boldest of letters. Would you disfranchise those men or the children of those men who were denied

opportunities, because of the scourges of war, to get an education? Does not this section guarantee the right to vote to these men, grown to manhood, and now having children of their own, and who have been so unfortunate as not to have been able to attend school, and are you not willing to guarantee the ballot to those who will not be able to give to their children's children as much education as will be necessary to compete with the negro child whose blood has possibly mingled with the Caucasian? It is an absurdity to me that any man who has seriously watched the current of events through their boyhood and young manhood and seen the changed conditions sweep over this country, that they cannot realize and see that our country demands the enfranchisement of every man with pure white blood in his veins in this State. They say that this device is invalid. I shall not discuss that proposition now, because it is a proposition which has been tried and has not been found wanting, and I think delegates to this Convention, when you get through that you will see when this matter is tested that it is not found wanting in the State of Alabama. It has been said that a race war is possibly imminent in Alabama. I don't believe it, but for the sake of argument I will admit it, and should a race war come, will not delegates to this Convention want the lowliest white man that plows the cotton row in South Alabama or the corn row in North Alabama, who works and delves in the mines, whether they are able to read or write, will you not want him to shoulder the musket and go out against the black? I say, put the test; I say if the test is white man against negro, who would you want to place against the black man? And we ask you in this majority report to place the white man, be he ever so lowly, against the negro, be he ever to high and exalted among his own people. We are tired——

THE PRESIDENT—The time of the gentleman has expired.

MR. WILLIAMS—And I am tired also.

MR. HEFLIN (Chambers)—Mr. President and gentlemen of the Convention—I have enjoyed the earnestness of the gentlemen who favor the minority report and I have the utmost respect for the ability and convictions of those gentlemen who have followed in the lead of the distinguished gentleman from Montgomery. This is a serious question that confronts us. This is a great battle that we are fighting and a great problem that we are to solve. The historians tell us that when Spain had pressed her conquest to the limits of the then unknown world, she stamped the pillow of Hercules upon her coin with a scroll around it, bearing the legend, "Ne plus ultra," no more beyond, but one day a bold and adventurious spirit sailed out far beyond and discovered a new world of transcendent beauty and riches, and the proud nation convinced of her mistake, cut the negative from her coin and left the words

"plus ultra," more beyond. Since man tasted the supernatural joys of Paradise and lost that high estate, he has been wandering in search of an ideal country. It was this love of an ideal country that painted the Arcadia in the brain of the French philosopher; it was this same love of an ideal country, Mr. Presdient, that inspired the pen of Sir Thomas Moore to write his far-famed Utopia; it was this same love that thundered in the eloquence of Cicero and thrilled the heart of Plato. It was this same love that inspired the men of the imperial Ceasar to follow him beyond the Rubicon. It was this same love that fought the decisive battle of Hastings. It was this same love that carried the torch of revolution through the iron storms of war, seeking liberty; it was this same love, Mr. President, that glowed on the canvass before the eye of Columbus and impelled him to brave dangers until he touched the shores of an ideal country to be, and uttered pean of praise and song, the hymn of hope fulfilled. It was the same love that burned in the temple of the Pilgrim Fathers and kindled the fires of revolution, which no power on earth could extinguish until the Goddess of Liberty waived her sceptre over the land of the free and the home of the brave. It was here, Mr. President, that the Caucasian hewed out a Republic, below whose temples and institutions will break harmless and billows of time and it was here that the representatives of the proudest race that ever lived established a government that will never fall. It was here that the white man drove the red man from his home in the forest, and took possession of this land as we find in the Bible that God gave His servants command, to go up and possess the land. I verily believe he reserved America, this section of the Western world, for the permanent settlement of the Caucasian race, and here by mutual consent, they came together and by mutual consent established a Government for the good of all the people. In the course of time, gentlemen of the Convention, the slaves were hunted out in Africa. The negro wandering through the woods like a beast of the field, and brought here to do what. Put upon the block and sold to the highest bidder, to be the servant of his superior, the white man in this country. I believe as truly as I believe that I am standing here, that God Almighty intended the negro to be the servant of the white man. I believe that the Scripture will sustain my position on that question. I know he is inferior to the white man and I believe that delegates of this Convention believe him to be. He knows it himself. After remaining here the servant of the white man for years and years, finally upon a question of State rights, and not on the question of slavery, the greatest civil conflict in human history was enacted in our country. Great men were arrayed upon opposing sides, and for four years the undaunted sons of the South illustrated to the world the bravest spirit that has ever throbbed beneath God Almighty's sun. Fighting for home rule, and fighting for self-government and what occurred. They issued a proclama-

tion, the President of the United States, freeing the slaves of the South, taking from them that which they had bought and paid for with their own money, snatching from them this property that they had bought in the market, and which belonged to them, and that they of right, could not take from them by the stroke of a pen as they did. What else, Mr. President? This was a military blow at the labor system of the South. Later on they said to this mass of ignorant slaves, untutored and uncultured, you may walk side by side with your master of yesterday and cast your vote and kill his will. Unfit for the responsibilities of Government they were turned loose upon the people of the South and marched side by side with the chivalric sons of our country, up to the ark of the covenant, the ballot box in our land, and voted like the high-spirited, free-born Americans of our land, like the men who fought the battles of this country, the men who bought it with their blood, and who with their arms bravely and undauntedly secured American independence.

I take the position, Mr. President, against the gentlemen of the minority of the Committee, that the negro never had the right to vote. I take the position that the exercise of the suffrage was an inherent right with the white man and a privilege with the negro, granted by the white man. There is a distinction. We have it in our power to give him the privilege to vote if we see fit to do so, but as to the white man, it is his birthright in ths country. The gentlemen of the minority make the mistake in reasoning from the standpoint of equality. It is true under the law of this State the negro must be equal with you in the exercise of the ballot, but we know as a matter of fact that he is not equal to us. God Almighty did not make him so, and the work of the artists of the minority report cannot improve on His handiwork. (Applause.) Why, Mr. President, the striking from him of the title slave, and placing in his hand the ballot was the most diabolical piece of tyranny ever visited upon a proud though broken people. I believe, sir, that the tour of the President of the United States through the South has opened the eyes of the Northern country on this proposition, and that they see today that they made a mistake when they gave the negro the right to vote. Mr. Lincoln said upon one occasion, "I do not favor now and I never have favored giving the negro the franchise." Mr. President, it is a fact that the majority of the Northern States, outside of the New England States, voted against giving the negro the right to vote. Francis Preston Blair, in the United States Senate in 1871, said: "Missouri gave 31,000 majority against it. Kansas 15,000, Ohio 50,000, Michigan 34,000, New York, Connecticut and New Jersey, and all the Northern States went against it excepting the New England States." He goes on further to say, Mr. President, that the Representatives in the Legislature and Senators and the Congressmen violated the

will of the people and carried through the Fourteenth and Fifteenth Amendments. We see how it was brought about, was it their desire to elevate the negro? Not at all. As I said before, the striking off the shackles from his feet was a blow at the labor system of the South, and giving him the right to vote was a blow at the proud spirit of the men had by the very force of their heroism killed more of the men in their army than we had men in all the armies of the Confederacy. Humiliated, stricken down, the men who wore the gray were the bravest that ever drew a battle blade. The bravest that ever crossed the field of carnage, or shed blood in the cause of right, and when time is over, when history shall be finally made up, I believe the historian will record the fact that the Confederate soldier was the bravest that ever lived in the annals of time, and yet, Mr. President, the gentlemen who favor the majority report tell us that it will humiliate a descendant of illustrious men to walk up to the ballot box and say I am a son of a Confederate soldier. Humiliate him? If it humiliates him he is not worthy to vote. He is not worthy to have any voice in any government, on any question. The proudest title of the Romans was to smite himself upon the breast and say, I am a Roman soldier. The proudest title that the young men of this day can wear is to walk out and say I am the son of a Confederate soldier. Humiliate him, poor timid fellow, who has got to walk up to the ballot box and say I am a Confederate soldier's son. But they advance the argument that you want to give him an advantage over the negro in the race. No, that is not it, gentlemen. The proposition that I am fighting is the one by which they undertake to put him upon the same level, and for him to march up side by side in the same column with the white man. If you want to make a foot race, let us make it with the descendants of our own tribe.

Mr. President, the only instance in history where a race which you might say was physically prohibited from amalgamating or assimilating with another race, was given equal rights and privileges by the law with that other race in the same community. You can't trace history back to a single recorded instance where two such opposite races were ever brought together under the same laws affecting both alike. There is nowhere a single recorded instance where Africans and Caucasian races impossible of mutual absorption or amalgamation were recorded the same political, legal and social rights under the same government.

The gentlemen urge here that we say where two races are thrown together the stronger will dominate. That is true. It is true, and the white man is going to dominate here.

Mr. President, we have told the people of Alabama for years that we wanted to disfranchise the negro. He has been about the ballot box like sheep in the market for sale and traffic to the high-

est bidder. The white people who love the ballot, who love the sanctity of their fireside, who love the government of their homes and of their States, want to exercise that great weapon in the defense of things that are right and sacred. We want to take it out of the hands of men whom you can purchase for twenty-five cents and a drink of whisky. We want the white men who once voted in this State and controlled it, to vote again. We want to see that old condition restored. Upon that theory we took the stump in Alabama, having pledged ourselves to the white people of Alabama, upon the platform that we would not disfranchise a single white man, if you trust us to frame an organic law for Alabama, but it is our purpose, it is our intention, and here is our registered vow to disfranchise every negro in the State and not a single white man. Why didn't gentlemen speak their views on this question before the sovereign authority of the State that sent them here? Why did they wait until they had gone beyond the border line. Why did they wait until after they had securely enthroned themselves in the confidence of the voting masses of Alabama. But we are here confronted with this minority report. There is a division amongst us. All representatives of the same party, men who were elected upon that same platform, and some gentlemen tell us that we ought not to violate our oath to support the Constitution of the United States, but I say gentlemen, let us not violate our pledges to the people who sent us here.

Mr. President, it required more than a thousand years of education to prepare the thoughtful Saxon and quickwitted Celt for the duties and responsibilities of American sovereignty, and yet the negro by a scratch of a pen and a partisan vote was prepared for it in the twinkling of an eye, turned loose as an enraged mob upon the proud people of Alabama, who had made its name the glorious thing it is. Before the white man saw that his right was infringed upon, when he saw the ballot appear in the hands of his own blood, he loved and respected it above any power in the civic laws under God Almighty's sun. Then it was kept pure. The negro did not vote. Nobody voted but the white man, and it reminds me of that story of the Vestal Virgins, and the temple there in Rome, where the Vestal Virgins kept the sacred fires burning forever, and the Roman consuls would gather there and offer up their sacrifices and their prayers before entering upon the discharge of their duties to their country, but when the sacred fires went out, and profane fires burned upon the hearth stone, they felt that virtue had gone out of the temple, and they no longer worshipped there, and made their offerings. They lost respect largely for the sacred temple, and Mr. President, when the white people of Alabama marched out on the occasions fixed by law to settle the great questions at the ballot box, and walked up elbow to elbow with their own brethren, it may be they were arrayed on opposing

sides, they deposited their ballots, the result was counted out and they shook hands and all was well. Nobody but the proud Caucasian cast his vote. Nobody but him dared to walk upon the sacred soil about the ballot box in that day and time, but when slavery was no more, when the slave was given the ballot, when these great hordes marched to the ballot box, the proud spirit of the white man felt to a large extent that the virtue of the ballot had been removed, had flown and he did not respect it as he did in the glad days that were gone. We want to see that glad time restored in Alabama, and it is going to be restored. The people hope that this Convention will carry out the pledges that were made to the people, and unless they do, the people will pass final judgment upon our work here, and will not endorse our action. They tell us what the Supreme Court may say and do. I want to remind gentlemen what the supreme authority in Alabama will say and do if you do not obey its mandate. I do not believe that we are violating the Constitution of the United States. If so, I am willing to trust my destiny along that line with the distinguished President of this Convention and the chairman of the Suffrage Committee who made the able argument on yesterday, Mr. Walker from Madison, and the other gentlemen who have spoken on this question, and the able lawyers in this body. I am willing to take their decision in respect to its constitutionlity for my part. I belong to that class of young men that General Harrison referred to. I hope to God that I will always stick along the line that I have started on, of living up to the pledges that I make to my people. I have not grown beyond that yet. I want to live up to the pledges that I have made to them. We all must do that. They spoke of the young man back yonder who said that he could drink all the blood that would be spilled in the war, and whip the North with pop guns. We have all heard that old story. We know those were bloody times, but I would remind them for a moment of these of whom I speak, when I speak of the Confederate soldier and his descendants. I would remind the gentleman that it was a Southern man who wrote the Declaration of Independence; that it was Washington who led the triumphant cause of the American Independence; that it was Madison who wrote the Constitution; that it was Marshall and Taney who construed the law; that it was Winfield, Scott and Jefferson Davis that carried our flag into the heritage of the Montezumas. I would say to them that it was these Southern men that for four long years fought the battle of their country, and they could never have fought as they did at Cramptonj's Gap unless they had fought for the loved principle, and the descendants of these men you say will be humiliated and cast down when they approach the ballot box to register their will upon the public questions, must be required to state themselves descendants of Confederate soldiers. For be it from him. There will never be a single instance in this State of that sort. Not one.

MR. PETTUS (Limestone)—Mr. President, I move that the time of the gentleman from Chambers be extended twenty minutes.

The motion prevailed and the time was extended.

MR. HEFLIN (Chambers)—I thank the Convention. I do not think I will take up the time. Mr. President, we have here a peculiar state of affairs. Here we have a widowed woman, who owns possible a hundred thousand dollars worth of property. She is disfranchised. She cannot under our law vote in any election. You say that is taxation without representation. You argue that in defense of the negro, and you say that you are not going to tax him without allowing him to vote, or to shut off his voice in public affairs, and yet here is this property that you are taxing today, the property of all the women in the State who have not husbands or sons old enough to vote, without representation.

Under our law, Mr. President, the Chinaman and the Indian cannot vote. Why discriminate against the children of the forest, the Red Man, who, by some means in the plan of God Almighty, owned this country before we found it? Why say to them that we will shut them away from the ballot box, and say to the negro whom we found in Africa, roaming the woods like a beast, brought here and sold a slave, we will elevate you to the high plane of a citizens in Alabama, and arm you with the ballot, but say to the Indian, you cannot vote; and, as was said by the gentleman from Wilcox (Mr. Jenkins), some of the proudest blood in Alabama today is Indian blood. Some men in Alabama are proud of that blood, but we have said to the Red Man, you cannot vote, but to the negro, you may.

Mr. President, I love to think of how faithful they were during the war. The gentleman from Montgomery (Mr. Oates) spoke about how they protected our homes, and how they looked after our affairs. That, Mr. President, was the old-time slave of over thirty years ago. That, Mr. President, was the negro that had been brought up in the kitchen, in the back yard, and brought up to reverence and respect his master. There was a spirit of fear that went about him; reverence for his superior, and a feeling of humility and obedience on occasions like that was inate, and we are glad that they did so well. I am not an enemy to the negro. I am a friend to him in his place. My father owned more slaves than any man in Randolph County. I love the old-time Southern negro. He was in his place as a slave, and happy and contented as such; and, Mr. President, I love to think of the old black mammy, as Governor Taylor says; I believe the day will come when the South will erect a monument to the old black mammy for the lullabies she has sung. We like to think of all these things. We like to think of old Ephriam, sitting around the fire place picking his banjo and eating roasted potatoes, and "sich." We love to

go back and bring them back to memory; but you take the young negro of today, and put them in the same position that their fathers were in, and, gentlemen, a quarter of a century from now you would not be on a floor like this singing their praises. I tell you that the old negroes are passing out and the young bucks that are coming on have got to be attended to. I like to think of the gegro from the old-fashioned Southern standpoint. I like to tell him you do this, or you do that John, and here is a quarter; you black my shoes, or catch my horse, and you go do this and that, and all is well; but when I have to walk up to him and say, John, come down off of that telegraph pole that Governor Oates spoke of on yesterday, where he is setting telegraph wires through the city; come down, I want to talk to you about the tariff question, and sit down with him at my side, just light up our cigars and talk. We are equal in the light of the law, and I have got to sit down by you and ask you to vote my way, not because you are my equal, for God Almighty never made you so, but because under the operation of a law that was born in hate and malice, makes it so; and under it you are entitled to hear me and be persuaded by me to vote for me, or to vote against me. Is not that a sad state of affairs? Why, Mr. President, I saw this morning a little fellow coming down the street, met by my friend, Mr. Weatherly from Jefferson and the negro was as happy as could be, with a piece of watermelon in one hand and a set of cane quills from the swamp tied together with a string, in the other, blowing "Boogoo Eyes." You see them now and then in a blacksmith shop, with a squeaking bellows, and with the hammer and anvil making music sweet. That is his home; that is where he ought to be, and that is where he must be. For five thousand years, Mr. President, they have remained the same. Go back to the carvings of Egypt, and see their images there; look at the negro of today; he is a negro still, having made but little progress. All things that we see standing accomplished in the world today are properly the outer material results, the practical realization and embodiment of thought that dwelt in the white men sent into the world.

A man goes out and buys a section of land, or inherits it from his father, and in the midst of the place he builds a magnificent home, and there he rears his family, and a negro comes along through the country and builds himself a little house out in the woods, and becomes the servant of the white man and looks after his horses, and stands at the door with his hat off, and asks, "Boss, you want your shoes shined?" and all is well. He stays in the kitchen where he belongs. Finally however, we see that man telling this negro, you are too good a man to be out there; come in by the fireside, and let us counsel together as to how I shall run my property. Mr. President, it is the same case. The white man bought this country with his blood, and the blood of his descendants inherited it, and the negro has no right to help make the laws

that govern this country. He is inferior to the white man, and the white man should make the laws to govern the land. They say we do not hold out any encouragement to him. He doesn't need encouragement. Let him go on, and it won't be two years until he would be content with his condition and happier by far than he is today. Why, as soon as you elevate him, you ruin him. Mr. President, I take the position that it is best for the negro race. Take the lives of the hundreds that are killed every year at the ballot box. They will be saved when they cross the path of the proud Caucasian. It will be better for them. They will prosper more.

Now, sir, I have not the time to say what I would like to say, neither has this Convention the patience to hear me. One other word, and I am through. Why, gentlemen tell us that the son of the Confederate soldier should not be allowed to vote, but he should work out his own salvation as his father did. Do not let him by reason of his father's valor and sacrifices for his country cast his vote. I cite the gentlemen to the Scripture. It is found in Deuteronomy. "And it shall be when the Lord Thy God shall have brought thee into the land which he swore unto thy fathers Abraham, Isaac and Jacob, to give thee great and goodly cities, which thou buildest not, and houses full of good things which thou fillest not, and wells to dig which thou diggest not, and vineyards and olive trees which thou plantest not."

It is the inheritance, Mr. President, that we are asking for the sons of the Confederate soldiers, those who supported their widowed mothers and schooled their sisters, and brought them up, and were themselves denied an education. We throw around them the strong arm of the law, and take them with us as we march up the mountain side, to a higher and better time, a higher and better civilization.

Mr. President, so far as I am concerned, I am opposed to the disfranchisement of any white man, I care not whether he is learned or unlearned, whether he wears the purple robes of good fortune, or the tattered garments of poverty and want. I care not whether he is in a little hut on the hillside or dwells in a mansion on the mountain top; he is a descendant of those who fought for our freedom, and men who have gained their priceless heritage that we love so well, and will die to maintain.

In conclusion, I want to say to the gentlemen who compose the minority of the Committee: You will live to see that we are right, and that you are wrong, and the people of Alabama, whom we represent here today in this supreme body, will endorse our action and repudiate yours. I thank the Convention for their attention.

MR. HARRISON—Mr. President and gentlemen of the Convention, it is with some diffidence that I rise to discharge what I conceive to be my duty. It is with regret that I felt forced to differ with the majority of the Committee on Suffrage and Elections. Four of us at least, who, after six weeks' labor, and after yielding point after point, have felt it our duty to differ at least in one particular with the majority of that Committee. I am pleased to note that of that quartette all four of us tried to discharge our duty as Confederate soldiers. We feel that we are at least entitled in part to represent that element who have been singled out, and have been sought to be made the special recipients of special privileges, and as one of that element, I come before you, fellow delegates not to throw any firebrands, but simply in my humble way to discharge what I conceive to be my duty, to tell you what I believe and to warn you of what I conceive to be the dangers ahead. We are all white men in this Convention, we are very largely all Democrats. The pleasing speeches that have been made, especially by my eloquent young friend from Marengo, might well have been delivered in a Democratic Convention or on the hustings before the white men of Alabama, but I feel that here, where we are under solemn oaths as representatives of the people we owe a solemn duty to our common country, duty not only to the State of Alabama, but to the Federal Union, as well as duty to our party. We have said, some of us in our minority report, that we believe this grandfather clause to be unconstitutional. So believing, however much I may love my party, or love my race, I cannot support it until I am satisfied that I am wrong in this opinion. I hesitated long and well because of my high regard for lawyers on that Committee, led as it was by two of the most distinguished jurists that ever sat upon the Supreme Bench of Alabama, but I am so constituted that I form my own conclusions and I must be the keeper of my own conscience, no other man can keep it for me. While I have deference for their opinions, I find that not only my colleagues in the minority report, but I find many prominent lawyers in the State, and among them two of the distinguished lawyers and greatest statesmen in Alabama, our two honored United States Senators, who agree with us in this matter. Now, briefly, fellow delegates, for I have no set speech to make, nor do I propose to quote any particular authorities, but refer only to a new elementary principles of law, which has induced me to join in the minority report in opposition to this section. The fourteenth amendment to the Constitution of the United States made the colored man a citizen of the United States. Up to that time, he was not a citizen. The fifteenth amendment says that, "The right of a citizen of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude." When I first took the oath to support that clause, I would rather have swallowed a mustard plaster, but I have sworn it repeatedly and I swore it here in

this hall when I took my seat, and whether I like it or not, before God, I will die before I will violate my own convictions, and however much I may love my race and my people, however much I may believe in their superiority to rule (and thank God, they are ruling and will rule, whether you adopt a new Constitution or not.) But this article is an inhibition upon us. I am not only willing, but I desire to carry out every pledge in the Democratic platform as far as it can be done. And I believe it can be done without violating this article, but I do believe that by the adoption of this grandfather clause, you lay the straw that will break the camel's back, and that the plan laid out by this Committee will be a failure. My distinguished friends say that all power is vested in the State, to regulate the privilege of suffrage. That is so without this inhibition. I admit that Alabama as a sovereign State could regulate it as it pleased until this inhibition by the Congress of the United States had been placed upon it. This says plainly that neither the United States nor any State shall abrogate or deny on account of race, color or previous condition of servitude any privilege as regards the suffrage. Does this do it? Why, I have but to refer to the speeches that have been made, to the one that has just preceded me, that we are white men, and that we intend not to disfranchise one white man and to disfranchise every negro. Gentlemen of the Convention, you cannot do it.

MR. SANFORD (Montgomery)—I say to you that there is nothing here against the negro voting, and his children voting. There were 186,000 negroes in the Union army and 20,000 negroes from Alabama, and therefore it does not violate the Constitution of the United States.

MR. HARRISON—I don't know where my friend gets his figures, but I think they are very much exaggerated so far as the number of negro soldiers are concerned. I feel complimented that my friend from Montgomery has come near me to interrupt me, because I believe that what I say is making him think some. I say, Mr. President, that an inhibition has been placed upon us as representatives of the State of Alabama not to make any abridgement upon the right of suffrage to any citizen of the United States, and that negroes are now citizens of the United States. Take the grandfather clause. My friend here says that there were so many, but I appeal to your own general knowledge to say is he correct? Pray, tell me to what extent did the negroes ever participate in any of these wars set out in the grandfather clause? A few of them may have gone into the Union army in the latter part of it, but they were so few that it would amount to nothing. I ask you, my friends, what is the object in placing that clause there? Why do you want to put it there? Ask yourselves the question and let your own conscience answer it. If I believed with the majority of the Committee I would gladly go with you. I never gave the

right of suffrage to the negro, but as has been well said by my distinguished friend from Montgomery on yesterday, I propose to deal with the situation as I find it, I propose to carry out in good faith what I conceive my duty to the Federal government, I devoted four of the best years of my life to the Confederate cause and after coming home and after going through the dark days of reconstruction, I in common with the people of Alabama accepted the situation and for one I propose to carry it out in good faith, however unpleasant it may be to me. It is an established principle of law that needs no authority to sustain it, that we cannot do indirectly that which we are directly prohibited from doing. This clause of the Constitution says that we shall not abridge the right of suffrage on account of race, color or previous condition of servitude. I ask you to apply that principle to the clause. When we single out wars from the Revolution down, when the negro was not even a citizen and could not possibly participate in them, we simply say that these soldiers or their descendants, who were white men, may participate. Is not this true? My distinguished friend from Madison said it was simply to allow them, the descendants of soldiers, to retain the privilege which they already had. Suppose this is so. Does not the negro have his right today? And if you allow the white man to retain it, and not the negro, pray tell me is not this a discrimination. Isn't it doing indirectly what the Constitution says directly that we shall not do?

Tell me, is there any difference because to a class who has had that right you say retain it, and you then take it from another class who has also had that right, that it makes the discrimination any less apparent than if neither class had enjoyed the privilege and it was given to one and not the other. Ah, isn't it a subterfuge? The Supreme Court of Alabama, in a case in one of the '70s says that the law abhors subterfuges and dodges. Isn't this a mere dodge? And if it be a dodge, can we afford to do it? Ought we to do it? Ah, but my distinguished friend says in his argument that this is not hereditary. Perhaps strictly speaking this is so. It does not say any future generation is to inherit it, but when we take the sons of certain sires and confer a privilege, isn't it practically the same thing; is it not hereditary? The article says because you are the son of a soldier you shall have the right to vote. Isn't that hereditary? Does he not acquire it from his parent and not from any merit or fitness of his own? Ah, fellow delegates, I don't believe that the son of a Confederate or the son of a Union soldier (and we have a good many of these in Alabama), would really ask or accept it upon such a ground, or that these soldiers themselves would ask that these privileges be accorded their sons merely because he was a son. Ah, but, says the gentleman from Madison, if this is unconstitutional, then the soldier clause is also unconstitutional. I have some doubts upon that proposition myself, but because of the merits of the soldier

and his own shown patriotism, I am willing to take that clause standing alone. But you weaken the clause and you weaken the entire system by adding the descendant clause, because you make plain the intended effect. The addition of this clause to the other weakens your whole argument, especially after the action of this Convention on yesterday in changing the first section. You are making apparent upon the face of the instrument what has been so often said here—to allow every white man to vote and not allow any negroes to vote. Now, I believe, fellow delegates, that we can comply with the Democratic platform and yet support the Federal Constitution. I believe that this committee has presented you a plan, if you will strike out the clause under consideration that will practically allow every white man to vote and will permit every negro to vote who ought to vote, those who are competent and capable of voting, and it seems to me that that is as far as we should go. The delegate from Lauderdale has shown us a plan that will accomplish this. I say to my friend from Lauderdale, strike out your grandfather clause, and you have a plan that will accomplish it. I do not believe that there is a lawyer on that committee who has studied it but will say without this clause it will be practically just what it is without it. But it is said for the purpose of gaining popularity, to gain certain votes, we will put it in. I appeal to you, gentlemen, not to do it. If we are to make a Constitution let us make one that will stand the test of the courts, and not only of the courts, but will stand the test of legislation on the part of Congress. Give heed if you will, to the sentiment expressed by Senator Morgan who will have to stand with his colleague in the United States Senate and undertake to defend our action doubtless within a very few years, before the American Congress. Let us give them a Constitution which they can stand by and sustain. When I came here as a delegate to this Convention, I came thinking that the best we could do would be to adopt some simple plan, some plan like that suggested in Virginia, the plan of a poll tax and excluding certain classes of criminals, and I believe, so far as my section of the State is concerned, that it is all that is necessary or desired by it. After a long conference and association with gentlemen from different sections of the State on this committee, I was induced to believe that it would not be sufficient for the needs of every section of the State. I feel the necessity of an elastic plan as the conditions are different, in various parts of the State. To carry out the desires and wishes of the people in purifying the ballot and striking from the list of voters the criminals and those who are unfit by character or otherwise from engaging in the suffrage, I am willing to concede even my own better judgment and take anything that the majority of my associates see proper, provided I do not regard it as unconstitutional, or subversive of the very principles of our government. That this clause is subversive of these principles I

do believe. I think my friend and colleague, the gentleman from Barbour, has shown to you this in his remarks on yesterday that by references to our own Bill of Rights which has been in the Alabama Constitution since 1819, and which this Convention itself has adopted without any dissenting voice. I will never, so far as my vote and my voice is concerned, consent to change that principle of Americanism for which our forefathers fought when they established this country, when they left the British government and fought for our independence, because opposed to anything hereditary in the shape of honor, emolument or privileges. You have selected a patriotic and popular clay upon which to engraft this dangerous principle. It appeals to the soldiers, it appeals to country. But you lay down in the organic law principles of an hereditary privilege, where will you stop? You engraft it into the fundamental law of the land. Is it right that a man shall have a certain privilege because he is the son of a certain father? Is it right? Do these sons want it? Especially the sons of Confederates. When you take them to register under this plan, let us see how it will work. He is asked by the Board of Registrars three questions, three qualifications are prescribed. First—though it appears here last—all persons of good character and who understand the duties and obligation of citizenship under republican form of government. Second, all soldiers—and there is a reason aginst the clause under consideration, which does not apply to the soldier clause. This includes the war with Spain and that includes some of the other race, a large number of them, but not their descendants. Now take the son of a soldier before the Registrars, and propound the question "Were you a soldier?" No. Are you a man of good character and do you understand the duties and obligations of citizenship under a republican form of government? No. If he answers, yes, he can come in without the other. If he answers no, he doesn't come up to that qualification. Are you going to allow a man to vote who is not of good character, who does not understand the duties of citizenship nor the principles of a republican form of government, simply because he is the son of a soldier? Do you think the registrars would allow any negro who did not have that qualification to vote? Then is it not violating the Federal Constitution? Is the son of a soldier, though a white man but not a good character, and who does not understand the duties and obligations of citizenship, under our form of government, but simply because he happens to be the son of a soldier to be permitted a vote? Would not that be violating the fifteenth amendment? and would it not be apparent on its face? Is it right? I do not believe that you will find the worthy sons of any Confederate soldiers who would accept it that way. I do not believe there is an old Confederate living who would ask his son, not being of good character, or not understanding the form of our government, should be admitted to a privilege simply because he

was the son of a soldier. I am warned by some one that I have only five minutes left. I don't care fellow delegates to consume your time.

MR. deGRAFFENREID—Will the gentleman allow me to interrupt him for the purpose of making a motion to extend the time.

MR. HARRISON—I will try to get through within the five minutes if you will allow me. I never wish to consume more than my time. And it is always unpleasant to me to speak when it is apparent that my views are against those of the majority of my associates.

MR. deGRAFFENREID—I move that the rules of this Convention be suspended and that the gentleman from Lee be allowed to address the Convention upon this subject for twenty minutes longer.

A vote being taken the gentleman's time was extended twenty minutes.

MR. HARRISON—I thank you. Mr. President and gentlemen of the Convention, though if I had not be interrupted I believe I would have finished in my allotted time. To justify myself in signing the report that I have publicly made and from a deep sense of duty, I propose in addition to what I have said, to ask you if those of us in the minority, if the lawyers in the State of Alabama who agree with us, are right in our views what will be the consequences of the adoption of this section? And I appeal to the distinguished Chairman of the Committee and the lawyers who are sustaining him in the belief that this is not unconstitutional, if they do not honestly believe so far as the practical operation of this plan is concerned that it will work as effectively without it as it will with it, and if so why endanger the whole plan? We have two sources through which to apprehend danger on this line. If our lawyers in this State who are all our friends and of and among us are divided in opinion, what will a partisan court do? I beg to remind you that if this matter is tested, it will most likely be tested by the Supreme Court of the United States, the majority of whom are Republicans. If men whose whole hearts and sympathies are with the people of this State differ so widely, remember in the tribunal before which you are to have it passed upon, the majority of them Republicans, and those who are Democrats occupy a very different position from what the Democrats of Alabama occupy. Already this very clause in substance has been made a subject of test in Louisiana and an appeal will likely be taken to the Supreme Court of the United States. Suppose that decision is adverse to the plan. Then where are you? We are told by some members of the Committee that these various provisions are in the disjunctive. And the Committee have put in an-

other provision that is declared unconstitutional. I will ask you if this law is held unconstitutional would it not break down the whole plan? Who will constitute your permanent list of voters? Although in the disjunctive there are three sources from which you make the permanent list—the character clause, next soldiers, then sons of soldiers or grandsons. Suppose the grandfather clause is held unconstitutional, what court on earth could tell who went in under one clause or the other? There is nothing in here providing that it shall be kept separate. They are so intermingled that no court could tell under which clause the voter registered. Therefore if one is unconstitutional the whole would be void. You could not tell one from the other. If held void who is to fix it? The legislature. I appeal to my friends who want this grandfather clause for the purpose of popularizing it in certain parts of the State, what will be the effect of it? You have gotten up a plan that your committee proposes to leave to the legislature can the courts destroy any part of it? The legislature will not submit it back to the people. Go into that section of the country where you think it is popular to insert this clause and I believe you will find that the sons of soldiers there and the soldiers themselves will not thank you for it. They will tell you their character is as good as that of anybody else, that they understand this government and they are able to stand the test at least with a negro. I submit that you will insult them when you put it in there, and in the second place, when they look at it, and are told that perhaps it will not stand the test of the courts, and in that event you propose to leave it to the legislature which will not submit it back to the people, I believe it will prove to be one of the most unpopular things that you could do. It is not only the courts that we are to apprehend. I appeal to the older men of this Convention who not only were Confederate soldiers but who were through the still darker and harder period of reconstruction when the Federal Congress had declared that Alabama did not have a Republican form of government, when our beautiful State was impoverished, overrun with carpet-baggers and scalawags and when we went through what was worse than four years of war. Through this period of reconstruction which was worse than war itself even soldiers had to pass. I desire to warn you against any step that is likely to produce another reconstruction. If you adopt this clause and we of the minority should be right that it is unconstitutional, and the Court declares it so, what is likely to be the result?

What do you believe that a United States Congress composed of Republicans would do in a closely contested Presidential election, when the vote of Alabama, Louisiana and North Carolina, with these contested clauses in the Constitution, or any one of them, would settle the contest? The Hays and Tilden contest would not be a circumstance. Do you believe that the Republican majority, as partisan as we are partisan, would permit it to

stand? Methinks I see, fellow delegates, a Republican Congress declaring that Alabama has not a republican form of government, and refusing to count our votes, and we are again in the throes of reconstruction. You may tell us this will not be, but I tell you it is more than probable. Because we have had an easy time for the last decade or two, let us not fail to judge the future by the past. I simply desire, in the discharge of my duty to warn you of these apprehensions, which have come to my mind. With no desire to fight the majority in anything, but willing to concede all that I can conscientiously do, I desire to call your attention not only to what the courts may do, but what a Republican Congress may do, and appeal to you delegates who went through the dark days of reconstruction, not to bring on us another like period. It was awful. We would like to blot it out. The beautiful and eloquent speeches that have been made here, particularly by the young men, who do not remember those days are perhaps all right, were their strong point. They remind me of the beautiful speeches that were made in the early days of the secession, when some of our orators offered to drink all of the blood that would be spilled, and to whip the North with pop guns, but admitted afterwards that they had made a mistake, for these people would not fight that way. My fellow delegates, a Republican Congress is what I wish to warn you of. I have been with them. There is a feeling of acquiescence now, and they talk that way, especially so to cover up certain things that are being done in our new possessions, but you bring this matter into a heated political contest, and what may we expect? They are as partisan as we are and they will never submit to it on earth. I for one cannot by my vote run any risk on proposition that I feel will place Alabama again in the throes of reconstruction, and deprive her of her representation in the Congress of the United States. I may be wrong. If you adopt this clause, I hope I am wrong, but I do not believe that I am. Go on if you will, adopt it if you please. But if I am right and the worse comes upon us, I desire you to remember that one of you, one who loves you and loves his people, warned you of the consequences. And, if it must come, then I at least shall have discharged my duty, and you "cannot shake your hoary locks at me and say I did it."

MR. WHITE—Mr. President and Fellow Delegates: I regret having to differ with the majority in its report on this the chief measure before the Convention. I had hoped that our recommendations on suffrage would be unanimous. I am glad to say, however, Mr. President, that we differ not upon the end to be reached, but upon the method or means to be employed. We understand our commission from the people exactly alike, and that was that the ballot and its exalted privileges should be taken from the unworthy, incapable and vicious, and that its free, fair and full exercise should be secured to those who appreciate its responsibili-

ties, and who will be trust-worthy in discharging the sacred obligations which it imposes. It is not remarkable, either, Mr. President and Gentlemen of the Convention, that we should differ upon the method or means to be used, when we recall the fact that in the very outset we were confronted with two barriers directly opposed to each other. One was the Fifteenth Article of the Federal Constitution, which declares that the right of a citizen of the United States to vote shall not be denied or abridged by the United States, or any State, on account of race, color or previous condition of servitude. The Fourteenth Amendment having declared before that time that the negro was a citizen and a citizen of the State wherein he resided, this provision shielded him as such from discrimination and attack. The Democratic platform, by which we were pledged to abide, on the other hand, declared that no white man shall be deprived of the right to vote except on conviction of infamous crime. Were men ever placed in a more narrow or more tortuous channel through which to guide the ship of State than was your Committee on Suffrage and Elections? Besides, the platform declared that we should reform the suffrage within the limits of the Constitution of the United States. Then, without the privilege of discriminating against the negro, because of his race, by the provisions of an instrument, which we had taken a solemn obligation, in the face of men and in the presence of God, to observe, and, on the other hand, a pledge by the party with whose fortunes we had been united from our childhood until this hour, not to disfranchise any white man, was it strange that we should differ about the method or the means to be employed in reforming the suffrage? Mr. President and Delegates, I have faced responsibilities from my childhood until now. I saw the storm clouds gathering when I was a boy in the political horizon of my country. I stood in the battle-swept section of this Union. I shared its fortunes and performed my humble part, and when, with Bedford Forest, at 16 years of age not larger than one of your messengers, I met the advancing column of the enemy, formed in double line, when we were deplored at ten paces apart and were armed with pot-metal guns, while the enemy were armed with Spencer rifles in the last battle of the war on Alabama soil, when I saw seventeen men of my company, composed of thirty, left dead or mortally wounded upon the field in five minutes. I never felt more serious then than I feel today. My flag, my country, my hopes were at stake. My country, my State and our people are at stake today. In my young manhood, I saw reconstruction with all of its horrors. I saw the white men of my State placed under the domination and the heel of the black race. I saw the time when white men had no rights respected by them. It was then, sir, in my town, in another State, the white league was formed of three men. I had the fortune to be one of the three. All swore then that the white men of Mississippi should rule that

State, or every white man within it would die. I felt serious then, but I did not feel any more serious about the situation then than I feel today. We have been called together by our constituents to reform the suffrage in Alabama. Whether that be to maintain white supremacy or to secure honesty and fairness at the ballot box, we need not stop to inquire; but we were commissioned to reform the suffrage in Alabama. That devolved upon us the task of doing that work right, of doing it in such a way that it will stand the test that may be applied to it in the courts and in the Congress of the United States.

This is a time when the sober thought and the highest reason and the deepest patriotism should move us in our work. I have no criticism to pass upon the majority of the Committee with whom I differ. They are struggling to reach the same end that I am struggling to reach. We only differ about the route we should travel. They have selected a plan represented by the majority, and my distinguished friend from Madison is right when he says we must judge of it as a whole. It is a complete plan within itself, and every section in it contributes to it as a whole. I differ with the majority as to the constitutionality of this plan; that is, I mean to say that I believe the subdivision giving the descendants of soldiers and sailors the right to register without any other qualification, is violative of the Fifteenth Article of the Federal Constitution. Let us see whether that be true or not. Most of you are lawyers, and, therefore, your responsibility is that much greater to your people. That instrument says you must not discriminate against the negro because of his color, race or previous condition of servitude; that is, you shall not make a "difference," (because that is what "discrimination" means), between his race and the other people of the country. You shall not do that either directly or indirectly. It is not what we want; it is not what we like, but, Mr. Chairman and Fellow Delegates, it is what can we do to reform the suffrage in the face of that provision in the Constitution? What is the provision in the suffrage plan? The first provision, though last in order in the plan, is that to entitled a citizen to register, he must be of good character and understand the duties and obligations of citizenship. That is the general proposition. That covers all men alike and upon its face, it is perfectly valid. Then the next provision is that all soldiers of the war of 1812, the war with Mexico, the war with the Indians, the war with Spain, in the civil war, and the soldiers of the Confederate army in the war between the States, shall be entitled to register whether they have the character and intelligence to understand the duties and responsibilities of citizenship or not. The next provision is the one that shows the purpose of, and, in my judgment, vitiates the whole. It is the clause which gives to the descendants of those who served in the army of the United States in the war of the

Revolution, in the war of 1812 in the war with Mexico and the Indians, and the civil war, and those who served in the Confederate army, or in the army of the State of Alabama, in the war between the States, the right to register whether they have good characters and understand the duties and responsibilities of citizenship or not. By the clause just mentioned you have formed a group or class who cannot register or vote unless they are of good character and understand the duties and responsibilities of citizenship. By the other clauses you have made a group or class in which you say they shall have the right to register whether they meet that standard or not. Now those are the only three provisions in the temporary plan, remember that. They have no connection whatever with the permanent plan of registration. They all unite to make up what is known as the life electorate. By this scheme we have one class that must conform to one rule; that is, they must possess good character and understand the duties and responsibilities of citizenship; and we have another class which is formed of those who need not possess those qualifications at all. I ask you if, in the formation of these groups—if in the formation of these classes —you have not discriminated in favor of one class against another. That alone will not render the scheme vicious. I ask you as thoughtful men, to answer the question whether you have not made a plan upon which one class shall stand, and another plan upon which another class shall stand. If you do not think over that now and think over it well before you act, you will have the balance of your lives to devote to it. I demand of you as honest men, to answer the question if there is not a distinction, if there is not a difference, if there is not a discrimination, between the group we have formed on one side and the group we have formed on the other? Deep down in your hearts as delegates to this Convention. I want this question to have its habitation. If I am right, in declaring that there is one condition prescribed for one group and another condition for the other thus formed then the next question which presents itself is: Has race, color or previous condition anything to do with the formation of the groups if it has in such sort as to discriminate against the negro as such then it is invalid under the fifteenth amendment. The group, composed of persons having good character and understanding the duties and responsibilities of citizenship, will be composed of both races. The other group is formed of soldiers who served or the descendants of soldiers who served in certain wars. Now I understand perfectly well and see the force of the criticism made by some of the gentlemen on the other side when they ask the question, "If the descendant clause is wrong, how can you sustain and uphold the soldier clause? There is great force in that query, but I think that can be answered. Who constituted the group in the soldier clause? The soldiers of 1812 have passed away and joined the ranks on the other side. The

soldiers in the Indian wars have gone. The soldiers of the war with Mexico constitute an insignificant class. There are probably not one hundred of them in Alabama. The soldiers who served in the Confederate army have mainly crossed over the river. The average age of the soldier in the Confederate army when he enlisted was 35 or 36 years. They entered from 16 to 60. Add to his then age the thirty-six years that have passed since the war closed and you have 71. So the man of average age who entered in the Confederate army has passed beyond his three score years and ten. There are only a very few of them left. The number of them alive is so small compared with the whole number of voters that it could have but little effect and their admission to the electorate could hardly be called a discrimination as against those not so admitted. Moreover these men made sacrifices for their country; they showed their patriotism on the field of battle, they acquired that knowledge and discipline that follow army life and are better equipped for the duties of suffrage, or the duties which suffrage impose, than men who never engaged in it. That classification or grouping is not an arbitrary one. There is reason, there is justice in it. We will take the other class, the descendants of soldiers, who compose it. First, the descendants of those who fought in the revolutionary war; every one of whom are white men; the next are the descendants of those who fought in the war of 1812. Every one of those are white men; the next are descendants of soldiers who fought in the Indian wars, they are all white men.

MR. JACKSON (Calhoun)—I move that the time of the gentleman be extended thirty minutes.

THE PRESIDENT—The time of the gentleman has not expired.

MR. JACKSON—I thought it had about expired.

MR. WHITE—If the motion is to be put, I would rather it be put now, that I may not be interrupted again.

Upon a vote being taken, the motion was carried, and the time of the gentleman was extended.

MR. ROBINSON—I desire to know if you favor all the balance except the grandfather clause?

MR. WHITE—I will answer that directly. The descendants of those who fought in the war with Mexico are all white men; the descendants of those who fought in the Indian wars are all white men; the descendants of Confederate soldiers and of Alabama soldiers are all white men. Ninety per cent of the descendants of soldiers of the Union army in the war between the States, who live in Alabama, are white men. There are only the descendants of a few negroes who enlisted in the Union army in Alabama, just after the close of the civil war, who are black men. The ne-

groes who enlisted in the Union army from Alabama did not have an organization in the Federal army. These are the only ones of that race, except such others as may have drifted to Alabama since the war that would be included in this group. The records of the War Department at Washington disclose the fact that Alabama furnished to the Union army only 2,570 men in the war between the States and we know that there were at least two regiments of those who were white men. I say to you and the statement is conservative, that 95 per cent of this group which you have formed of the descendants of soldiers are white men and only 5 per cent are black men. It is useless to ask whether we want it, because it embraces many more white men than black men. It is not a question of what we want. It is a question of what we can do under the Federal Constitution. Can we discriminate? We know we cannot. Have we not discriminated by this arrangement when 95 per cent of the class we constitute are composed of one race, and 5 per cent composed of the other? And that was done by drawing an arbitrary line without reference to the qualifications for suffrage by those embraced within it. Yes, a line in conflict with the spirit and genius of our government. I maintain that while you do not disfranchise the negro in terms, you do it in effect. Gentlemen, I ask if you have not done so in effect? Remember that this provision must pass under the scrutiny of a gaze not so friendly as ours. I can draw a line no more arbitrary than this that every man in this Convention who is a lawyer will admit is a discrimination against the negro. Suppose by a provision we should carve out the counties of Greene, Sumter, Marengo, Dallas, Hale, Perry and Lowndes and draw a line around them and say that those encompassed therein should not have the right to vote. There are white men in those counties, but there are five to ten black men where there is one white man. Would any man pretend to say that would not be a discrimination on account of race? Suppose, on the other hand, we should adopt a provision that none except those with straight hair like most of us have, should vote. That does not discriminate in terms, but does it not discriminate in effect? There are some black men who have straight hair, and there are some white men who have curly hair, therefore some of both classes would be on either side, but I ask you as thoughtful men, if you would not say that was a discrimination on account of race or color. Suppose you adopt a provision in your organic law that none having flat noses should vote, that is not a discrimination in terms, because there are colored men who have sharp noses, and there are white men who have flat noses, but would any man with reason assert for one moment, that that would not be a discrimination on account of race. When we thus draw an arbitrary line that accomplishes the object and does it effectually, how can we say in our consciences, and how can we maintain before the courts of the country that it is not a discrimination? Under

the law we may adopt a rule, prescribing conditions applicable alike to both races. Am I wrong in that? If I am, I ask some gentleman on the majority side to correct me. I believe that is what was announced by the distinguished gentleman from Madison yesterday. It has been said by the supreme Court of the United States that a rule prescribing conditions alike applicable to all, is permissible. If that is true, have you complied with it in prescribing a rule here that is alike applicable to all? With a homely illustration, I can make it even plainer. When you put a sow and pigs in the pen, and build a fence around them, and then leave a crack throught which the pigs can pass, you have discriminated in favor of the pigs and against the sow. Then, gentlemen of the Convention, when you erect here a plan that covers 95 per cent of one race, and have adopted a provision covering the whole of the other race, save 5 per cent, I ask you if you have not discriminated? Am I wrong in this? Your distinguished Senator, General Pettus, one of the best lawyers in the South, after having investigated it for the purpose of determining whether or not it was in violation of the Constitution, declared that it was. He investigated it for the Louisiana Senators at their request. The provision in the Louisiana suffrage plan is not different in effect from ours, and he gave it as his written opinion, that it violated the 15th Amendment. He is now opposed to this clause, and that other distinguished Senator from this State is also opposed to it. I will send this letter to the Clerk's desk, ask him to read it and I ask you if you will not listen to me, to listen to him.

Warm Springs, Va., July 6, 1901.

Dear Captain White:

The American revolution was not so much a redress of grievances, as it was a struggle to abolish heredity in Government. That was the real line of division between Democratic and regal government and between free religion and the church established by law. Heredity disappeared, with its associated rights of perpetuity in the ownership of lands, and many minor hereditaments of feudalism, such as titles and tenures and servitudes, when our new democratic scheme of government was instituted.

Political heredity, and all its appurtenances, such as prerogative and titular nobility and primogeniture, and all its protecting laws, such as corruption of blood, premunire and excommunication, perished and were placed under the heel of prohibition by our Constitution. Whoever would restore any of these, to that extent, discredits the cause of the Revolution.

Without suffrage, the new system had no possible means of expressing the sovereign will of the people in laws, and their enforcement by executive and judicial authority.

These necessary agents of the government by and for the people can only be chosen by voters; and voters could only be created by law, not by inheritance. These voters are chosen representatives to perform the single function of electing the lawful officers of government.

The trust confided to them is personal, and can neither be sold, or delegated, or transmitted by inheritance, or by will to any other person. It is this quality of non-transmissibility that distinguishes it from the regal form of inheritance power, and marks the line of the impassable gulf between regal government and democratic government. The voters, as a class, or body, have certain physical conditions, such as age and sex, that are necessary qualifications and certain moral and political qualifications that are personal and independent of heritable blood.

To make blood the medium of transmitting the electoral power from father to son, is to uproot from its foundations, the whole system of democratic government, and to reinstate the system and the form of regal government.

The Fourteenth and Fifteenth amendments have no more to do with this subject than any other part of the organic law.

The transmission of the electoral power by the blood of inheritance from father to son, would destroy all distinction between regal government and democracy, and would throw the door wide open for a return to the system that the American revolution abolished. The steps would be few, and would be rapidly taken, to the complete restoration of monarchy, so soon as we give to any class of voters the power to qualify their sons as voters by inheritance. In this case, it is the first step that tells, with fatal and irrevocable effect. The argument is irresistible, that officers should follow the blood, if the power that creates them is the blood of inheritance; and this is all that is meant in the British system of titled nobility which alone legislates in the House of Lords, and of regal blood and prerogative which upholds the throne, and the power of appointment to office, which is an appenage of the throne, and the pardoning power over which the people have no control.

We are making too near an approach to this system of the perpetual transmission of power, by inheritance, succession and appointment in the wide latitude of power, and the wider exemption from responsibility, that our courts are giving to corporations. The process is not identical, and is not beyond control, in the case of corporate powers and the almost immortality of their alleged rights of succession. But their triumphant and alarming license reaching above the powers of government, serve as an indication of the wild demand for office, patronage and power that

will follow when the States have established a right of heredity as to the electoral franchise.

When such a titled class of voters is created by the organic law, it will soon occur to them that no other class should be allowed to vote, and they will usurp all power. It is far from being a comfort to me that some negroes are included, and many white men are left out, by the ordinance reported by the majority of the Committee on Suffrage in this ordinance of inheritable blood. With great respect,

(Signed) John T. Morgan.

To Hon. Frank S. White, Delegate to the Constitutional Convention of Alabama.

Again, on July 17, he says: "Your stand against suffrage by inheritance is so obviously right, that the statement of it is conclusive." Now, Mr. President, my friend, the distinguished gentleman from Madison, says this clause is but another means of designating a class who have the capacity to exercise the elective franchise. In other words, that you could select the men by name, that this is but the means of designating a class which already possess the qualification. I believe I state it correctly. The error in this statement is that he assumes that they possess the qualification. You let a man assume the major part of his proposition, and he can build the balance, so that it will appear sound. You say they are capable because they have had the right, because they exercised the right.

MR. WALKER—Because they exercised it rightly.

MR. WHITE—Yes, because they exercised it rightly, you assume that, and yet we are told—we are here assembled together to prevent fraud from being committed by the white race.

MR. WALKER—Do you deny that they have exercised it rightly?

MR. WHITE—I deny they have all done it rightly. I deny the fact that the sons of soldiers, because they are sons of soldiers, possess qualifications for suffrage to a higher degree than other men. I know men who are the decendants of soldiers who are wearing the stripes in the penitentiary today.

MR. WALKER—They are excluded. (Applause.)

MR. WHITE—Do you deny it? Yes, they are excluded, but they are those who yet may wear the stripes—who are not.

MR. WALKER—And they will be excluded. (Applause.)

MR. WHITE—But they were not excluded by your argument, nor by your plan of suffrage. I could answer you, with your

logic, that if because these men had the right, and have exercised it, they are therefore qualified to vote, leaving out the assumption that they have rightly exercised it, that is, every one of them. I can reply that the negro has had the right and has exercised it. You assume, on this floor, that one race does it well; when it reaches the Supreme Court of the United States they may deny that assumption and say they have the right to assume that such is not the fact. They have already declared in the case of Neal vs. Delaware the reverse of that, when they say that the presumption that there were no negroes in Delaware capable of jury service, indulged by the courts of the State, was a violent presumption, even though made by the Supreme Court. In deciding this matter the Court will look at the history of the times. They will look at the conditions as they exist. They will take judicial knowledge, or that common knowledge known of us all, and then declare what the effect of this instrument is. My friends, the majority of this Committee, in adopting Section 19, have expressed their fears. This child of theirs is a creature of the thirteenth century, born out of time, whose great-grandfather lives in the State of Louisiana, and whose grandfather lives in the State of North Carolina, its immediate parents and the majority of this Committee, and they do not seem to have that confidence in its robustness and longevity that parents usually have. By this Section they prophesy its early death. They have made a shroud of its swaddling clothes, have made the song of its birth its funeral dirge. Methinks I see over the hill standing by a new-made grave a sturdy judicial officer with spade in his hand. I see the procession passing over the hill. I see this infant being borne to its last resting place, and at a turn in the road I see the majority of this Committee with the index finder of the right hand pointing in the direction of the tomb, saying "We will show you the way." Mr. President, they are not mounted; they are on foot, and I want to say that I may be in that procession, but if I am it will be simply as a friend of the family. I am in no way connected with the deceased. Now, Mr. President, what is the necessity of this? Why is it proposed to incorporate into the Constitution of Alabama this clause? It was put into the Constitution of Louisiana because they had erected an educational qualification of a high standard, and in default of possessing the education required by the Constitution, then a property qualification which would have debarred many white men from voting in that State. Remember we have neither an educational nor property qualification. We have nothing except that a man be of good character and understands the duties and responsibilities of citizenship. In Louisiana they only took one horn of the dilemma, they took what is called the descendants of grandfathers clause, but they laid aside the understanding clause. We propose to adopt not only the grandfather clause but the understanding clause as well. Mississippi took the understanding clause, but North Carolina also had an educational qualifica-

tion that shut out many of her white men. We have no educational qualification to shut out white men under the temporary plan. Then why the necessity of burdening this scheme with a thing that is wholly unnecessary. Why should be take the chances in the face of the conditions which threaten us. We are told on the floor of this Convention this morning that the North has become more friendly than it was in the past, and that the President of the United States is looking now with favor upon us. I think the gentleman who gave utterance to that speech did not see the platform made by the Republican party in Ohio, under the dictation of Mark Hanna and Mr. Foraker, the President's own State, in which they declared that the disfranchisement of the black man in the South must stop. It is not the first time we have seen the cloud rising on that horizon. We hear today the muttering thunder and we know, if we know anything, that the Republican party will not lose the great States of Indiana, Illinois, New York and Ohio by keeping their hands off of us when the negroes in those States demand that their race in the South shall be protected, and the negroes in every one of those States control the balance of power politically. The time is coming, and rapidly coming, when in the Congress of the United States it will be declared that Alabama's representation in Congress and in the electoral college shall be reduced in proportion to the vote that has been taken away from this race. Can we afford to spare that now? Do we not need every vote in Congress and every vote in the electoral college to save Alabama from discrimination that may be made against her there? I believe that the Republican party of the North is waiting until the trap is full. They have seen Louisiana, Mississippi, South Carolina, North Carolina fall into line and they are looking for Alabama and Virginia and possibly Florida and Arkansas to follow. When the trap is full they will make a blow at the South and her people will feel it. Moreover if this suffrage plan is declared to be unconstitutional by the courts of the United States the entire life electorate must fall. You lawyers are familiar with the principle that when fraud enters into a transaction, though a part of the consideration may be genuine, and a part of it simulated, you cannot separate the one from the other, but the whole transaction must fall. You no doubt remember the line of cases beginning with Ivy vs. Stringfellow. I believe it is in the 73rd Ala., which declares that in the sale of personal property and real estate made in the same transaction for gross sum, you cannot enforce the vendor's lien because you cannot separate the consideration agreed to be paid from the personal property. The life electorate formed under these three provisions, one under good character and a knowledge of citizenship. I am sure if this clause declared invalid by the courts the life electorate established by our suffrage plan will all fall as it will be impossible to determine under which of the three provisions the voter registered.

THE PRESIDENT—The time of the gentleman has expired.

MR. WEATHERLY—Mr. President and Delegates of the Convention: As a member of the Committee on Suffrage and Elections, and as one who supports the majority report of that Committee, I feel that it is my duty to myself and to this Convention to address it briefly, and state my reasons for having concurred with the majority. The object of the plan proposed by the majority of the Committee was to create a reform in the electorate of Alabama, far-reaching in its character, going to the foundation of our social order, and based upon the hope that eventually, under the operation of that plan, our beloved State and its people might become completely restored to ideally harmonious relations with the nation of which we are a part. Gentlemen of the Convention, it is public history that for twenty-six years we have not been in touch with the nation of which we form a part of one subject, and that subject is the one concerning the exercise of the suffrage by the negro.

The people of Alabama, exercising a revolutionary right, have decreed that the Fifteenth Amendment in so far as it may include all of the negro race of voting age, shall not be enforced in the State of Alabama. Can any man deny that? Can any man deny the fact that almost since the adoption of the Fifteenth Amendment, the very immunity which it sought to secure has been annulled by the unanimous voice of the white people of Alabama? Now that has been done by revolutionary methods; by force and by fraud, and, as always happens when those methods are resorted to, other evils have been created. Fraud having become necessary it has debauched the consciences of our people. It threatens the degeneracy of our descendants, and we feel that we cannot perpetuate our decree of annulment by those methods. That is not because of any antagonism to the national government. That is not because the Southern people, or the people of Alabama are not in accord with the other Constitutional amendments which followed upon the war, and which were intended to adjust our relations with the national government. There is no dissent amongst our people as to the Fourteenth Amendment, which declared that the negro should be a citizen. Although by force and fraud, by revolutionary methods, the negro has been disfranchised for twenty-six years in the State of Alabama, and although the negro who was given the right to vote, theoretically, for the purpose of maintaining the civil rights accorded to him under the Fourteenth Amendment; although side by side these two amendments stand in the Constitution, the one has been discarded by the people, and the other has been maintained in its integrity. The white people of Alabama have showed their allegiance and their loyalty to their Government by according in substance to the negro all of his civil rights. There may be some few scattered communi-

ties here and there in the State where that is not true, but I say it without the fear of successful contradiction, that the people of Alabama are irrevocably in favor of according to the negro his civil rights. In evidence of our loyalty, we have sent our sons to fight the battles of the nation, to the West Indies, and out to the Phillippines, and the National Government has honored our people by making generals of those who are already distinguished amongst us, one of whom sits here in this Convention. We are in accord with the National Government except upon the one single proposition. We are not in accord upon that proposition, and we can never be in accord upon that proposition, if it shall be maintained that it is our duty under the Fifteenth Amendment to accord the full and unrestricted right of suffrage to the negro race; that because he is a negro he must vote, whether he is qualified or not; we can never assent to that proposition.

Now, what are we here for I think, delegates of this Convention, that we are here for a higher and a broader purpose than has been stated by the gentlemen who have preceded me in the opposition. One of them has said that we are here to purify the ballot. Another has said that we are here to eliminate the vicious and ignorant negro from the right of suffrage. Both of those propositions are true, but we are here for a still higher purpose. We are here to put upon a permanent basis the elements which will hold our civilization together, and we are here for a still higher purpose, namely, to restore the State of Alabama to its absolutely normal relation to the National Government by providing a plan of suffrage which will give to the negro an equitable right of suffrage, and give him also the hope of increasing in proportion and in numbers that right of suffrage, a fair and equitable plan, upon which, and by which, he may as the year go by, if he has that in him which will capacitate him for self-government, stand in last upon the same footing as the white man, so far as the right to vote is concerned; but insofar as he shows that he is incapacitated, we want it fixed in our law, in our social structure, that he shall be disqualified from voting. Now, that is a great hope to hold out to the people of the State of Alabama, that all these fears and anxieties of the past, growing out of the disturbance of the relations between us and the National Government, shall be dissipated; that, at last, as the final step in that long drama of our tragic history, beginning with the importation into this country of the negro race—as the final scene in that terrific drama, we can say to the world we have at last been restored completely and fully as an integral part of the most majestic government that ever lived upon the fact of the earth. (Applause.) Now, in accomplishing these objects, we have got to look at the facts as they are. We are not idealists; we are not theorists; we are trained in the art of self-government. We know that there is no such thing as fitting an ideal theory to an actual condition of society—a condi-

tion, by the way, which has been brought about by controversy and bloodshed. We have got to deal with the situation practically. Now, what does the majority of the Committee propose to do, and it is concerned in by the other four members except in one respect? Here is an actual condition of things. The bulk of the negro race not voting at all, and never having freely exercised the right of suffrage since he became a citizen of the United States. The white element of the population, all voters, manhood suffrage established in all its fullness and integrity, and we must adopt a plan which must be sent back to those electors and be ratified by them. Otherwise our efforts fall fruitless to the ground. Won't the people of the civilized earth, the civilized people of the world, won't they recognize that as a practical difficulty? Cannot anybody with intelligence and sensibility, viewing this situation, viewing our hope, and our great ambition to be restored fully to our relations with the National Government, viewing the difficulty of getting a Constitution ratified by the people, which is simply theoretical in its provisions—won't any person of sensibility and spirit, whether he belong to the Republican Party of this Government, or whether he be a member of the Supreme Court, or the President of the United States, be able to see that there must be some compromise? So that, what the Committee has done is this: It has attempted to provide a simple formula of a temporary character whereby the white voters of the State shall still enjoy substantially the privileges, voting privileges, which they have had, and also whereby those of the negro race such as are qualified, may get in as voters, and then at the end of that temporary period, which is short, begins a new era which marks the most perfect equality of conditions, as between the two races. In theory even, the most hypocritical could not make an objection to it. Now, the simple formula provided for in the temporary plan contains substantially two propositions. One is that those who were soldiers in certain wars, and their descendants, shall be entitled to vote, or if they are not soldiers, or the descendants of soldiers, they shall be entitled to vote, if they have good character and understand the duties and obligations of citizenship under a Republican form of government. It has been objected, and it is the sole objection of the minority, that the second subdivision of this arrangement is unconstitutional, is violative of the Fifteenth Amendment, and furthermore, that it is violative of our own Constitution, in that it transmits the right of suffrage, by inheritance; or, to state it as perhaps Senator Morgan has intended to state it, that it is simply contrary to the spirit of our Constitution, and laws—not condemned by the Fourteenth and Fifteenth amendments, but simply contrary to the spirit of our law. Well, now, a great deal of stress has been laid upon the opinions of our two noble Senators. No one on this floor, or in the State of Alabama, has a higher regard and respect for these distinguished gentlemen than I have, but as a delegate

upon this floor, and in part representing the sovereignty of the people of the State of Alabama, my conscience is not bound to any degree by any expression of a Senator of the United States, who after all is the mere servant of the people whom we here represent. Now, what does Senator Morgan say? Does he say that it violates the Fifteenth Amendment? He carefully refrains from saying so. But upon what ground does he put it? Upon the ground that it transmits the right to vote by inheritance, and he puts it upon the broad ground not only that the right to vote cannot be transmitted by inheritance, but no privilege or office of any kind can be transmitted by inheritance. By the permission of the Convention I will simply read Senator Morgan himself, upon that proposition. Whenever any man, no matter how distinguished he is, comes upon the floor of this Convention, either in spirit, or in his bodily presence, or by letter, he subjects himself to comment and criticism as much so as if he were here as a member. I have in my hand the plan of suffrage conceived by Senator Morgan, and which was considered in the Committee. It provides who shall be office-holders under the new regime, and Section 2 thereof says: "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." Would any one believe that our reverend and noble Senator, after having dictated those majestic and rythmic sentences about giving any office as a privilege by transmission, would have proposed it as a perpetual thing in Alabama—not as a temporary, but as a perpetual plan, that only the descendants of white persons should enjoy an office in Alabama? Now, what do you think of conferring thirteenth century rights at the opening of the twentieth century? That does not sound very much as though praemunire privileges and feudatory inheritances would be abolished if Senator Morgan was in charge of things in the State of Alabama.

MR. COLEMAN—May I interrupt you a moment?

MR. WEATHERLY—Yes sir.

MR. COLEMAN—Do you prefer to close your remarks before or after dinner?

MR. WEATHERLY—I believe I prefer to conclude afterwards.

MR. DAVIS—I move the gentleman's time be extended for half an hour.

A vote being taken the rules were suspended, and a further vote being taken the motion was carried.

Thereupon the Convention adjourned.

AFTERNOON SESSION.

The Convention met pursuant to adjournment, there being 131 delegates present upon the call of the roll.

THE PRESIDENT—The gentleman from Jefferson, Mr. Weatherly, has the floor.

MR. DENT—I would like to ask the gentleman from Jefferson a question.

THE PRESIDENT—Will the gentleman yield.

MR. WEATHERLY—Certainly.

MR. DENT—I will ask the gentleman if he is not in favor of the white man holding the offices in the State of Alabama?

MR. WEATHERLY—I am not in favor of putting such a provision in the Constitution. I would not vote for a negro for office. I will tell you that.

MR. DENT—Was the declaration which you read from Senator Morgan anything more than a declaration that the white men of Alabama should hold the offices?

MR. WEATHERLY—That is his personal preference, that is my preference, and the personal preference of all of us. That does not alter the principle—the Section proposes to give them office on account of their being descendants—gives them the privilege of holding office by descent, by inheritance. I don't object to it, Senator Morgan does—now.

The whole idea of this being the conferring of a right to vote by inheritance—well, I like to speak respectfully, but it seems to me "tommy-rot." The State of Alabama, by way of illustration, assembles the grandfather, father and son together in one group, and in recognition of the grandfather's services, and the losses, privations and sacrifices of his son and grandson on account of the war in which he was engaged, the State confers upon you by one and the same act the right to vote, or rather continues them in the exercise of the right—refrains from taking it away from you. The opposition say that is obtaining the right of suffrage by inheritance. I do not think it is necessary to take up any further time on that part of the case. Now, as to the constitutionality of this provision, the Fifteenth Amendment confers no right of suffrage, that is conceded by the lawyers on both sides of this controversy. It has left the sovereign right of the State where it was before the adoption of the amendment, with one condition only, and that is simply a guide-post, a warning to the State, that whatever it may do in the act of conferring the suffrage upon the citizens of the State, must not so confer it as to discriminate against any part of your citizens on account of race, color or previous condition. That

is the only objection. It is a warning. Now the discrimination must be on account of race. The homely illustration used by the gentleman from Jefferson, Mr. White, of the sow and pigs deserves some sort of an answer. He speaks of building a pen around the sow and the pigs, but leaving a crack big enough for the pigs to get out, and that is a discrimination against the sow, but it is not a discrimination because she is a hog. It is a discrimination for other prudential reasons best known to the owner, who is the sovereign. What is the test of discrimination? It is not that a certain proportion of numbers are excluded or included; that is not the test, else the State of Alabama, Mr. President, would be deprived of the power to put any qualification, to hesitate at least before establishing any qualification for voters for fear that more negroes might be disfranchised than whites. She might hesitate before saying to her citizens, before you vote you must be engaged in some gainful occupation. Now, that is the lowest test, some labor by which daily bread is earned. The State might desire to make the test rest on the primal curse that man should eat his bread in the sweat of his brow. We all know that there are more whites who earn their living by their labor than negroes, and yet if the argument of the gentleman is followed to its logical conclusion you could not adopt that simple test. Neither could you adopt the property test nor the educational test, nor the character test, but we all know that we can adopt each and all of them. Then why can't you adopt the soldier test, based on service in the war? You can adopt any test which is not purely and simply and merely capricious, arbitrarily selected out of fancy and for the purpose of discrimination. Is there anything capricious or arbitrary in the soldier test? Suppose the State of Alabama had at some time been saved from destruction by a number of her citizens, by arms. Suppose those citizens had given up their property for the salvation of their State. Suppose other great services had been rendered to the State involving sacrifice to them and to their descendants, could not the State of Alabama say to them: "In recognition to your services, and in recognition of the sacrifices and losses which you and your descendants have sustained, your State confers this political privilege upon you?" Are we estopped forever and forever more from conferring a political privilege upon any one who renders service to the State simply because, in the Province of God, the entire negro race were so situated that they could not render the same service? Why, of course there is no such purpose of meaning as that in the Fifteenth Amendment. The State of Alabama can select a group of her citizens who have entitled themselves, and their descendants who have suffered losses and sacrifices of property and educational advantages on account of those sacrifices—can select the grandfather clause and the father and the son, and that is about as far as we go in this temporary plan, and on account of these circumstances surrounding this class

or group confer upon them this privilege. Now, if that group embraced the entire white population to a man and no others, and it were evident on the face of the matter that the purpose of selecting the group was not to confer the honor, but simply to exclude all others, there might be something in the argument, but the facts do not justify it. I am informed—the distinguished gentleman from Montgomery (Colonel Sanford) stated this morning that 25,000 negro troops went out from this State to serve in the Union army, and I have heard that other distinguished gentleman from Montgomery (Governor Jones) state that there are probably 5,000 negro pensioners on the lists today in Alabama, and their descendants are in Alabama today and they probably number from 15,000 to 20,000 persons of voting age who are included in the descendants' clause. The gentleman, Mr. Byars, asked yesterday if in honoring the whites who fought in the war, we did not also honor those negroes who took up arms for the Union, and my reply to that question is that we do, and that fact confirms the constitutionality and the validity of this classification; but it is further confirmed by the fact that the Committee has deliberately put in another paragraph here, a good character provision, which is a simple test by which every negro can vote who ought to vote. If he should not happen to have been a soldier or the descendant of a soldier, then he comes in under the character clause; if he has a good character and has an understanding of the duties of citizenship, he can vote.

MR. BANKS—Cannot the whites also vote under the character clause?

MR. WEATHERLY—Yes, sir; that is true.

MR. BANKS—Then what is the use of the descendants' clause?

MR. WEATHERLY—Well, I think myself that the two overlap each other to some extent, but the primary group here—that is, the soldiers and their descendants—is a group which is selected by the State, as I have said, for the purpose of conferring a voting privilege upon her soldiers and their descendants. Now there are many many thousands—I myself could not qualify under the soldier clause, because my father, and none of my ancestors, so far as I know, served in any of the wars, and I am bound to come in under the character clause, if I get in at all.

MR. BANKS—Will the gentleman permit a question?

MR. WEATHERLY—Not right at this time.

MR. BANKS—I was right nice to the gentleman.

MR. WEATHERLY—I believe I did interrupt the gentleman twice or three times, but I would prefer to continue the thread of

my argument. There are thousands and thousands of white citizens in Alabama who did not serve themselves and whose ancestors did not serve in any of these wars, so far as can be proved; and on the contrary, there are thousands of negroes who could not qualify under the character clause, who are entitled to vote under the soldier clause. I say, Mr. President that by the good character clause, which is a simple test, and which is intended to apply to all, all the citizens of the State who happen not to have served in any war or who are not descendants of those who served in any war. That vote taken in connection with the other clause which of itself lets in many negroes, both taken together shows that there was no purpose or intention to discriminate against the negro as a negro. It may show an intent to exclude many of those who were not entitled by reason of character or other qualification to vote; it may show an intention to select those who are best able to serve the State, and in the process may eliminate many negroes; it may select those who, by moral qualifications are entitled to the exercise of the government, but the facts in the case; the facts whereby it is demonstrated that those negroes must necessarily be let in here, and let in by the equal force and pressure of the principle of classification, itself shows that there was no purpose or intent to discriminate against the negro because he is a negro. Now, Mr. President, my time is rapidly expiring. It has been said that the Committee itself showed an apprehension that its child—the grandfather clause—would be short-lived, because they provided a means of supply its place when dead. Well, all I can say to that is it is not an unusual precaution for parents to have the means at hand for supplying the places of their children. It is a wise law of nature. Now, the gentleman from Lee, General Harrison, has said that you could strike out the grandfather clause and, leaving only the character clause in the temporary plan, and the whole thing would be satisfactory. Well, isn't that an absolute demonstration that the plan with the grandfather clause in it is satisfactory, because if the character clause in its natural operation operates fairly and equally upon the citizens—if the negroes can get in under that and get it fairly, how, in the name of common sense and reason, does the grandfather clause operate against them, or abrogate or deny their rights? The gentleman's position is an unanswerable argument in favor of the constitutionality of the clause. Really, it adds because it may bring in 15,000 or 20,000 voters who, otherwise, would not vote under the character clause. Now, Mr. President, as I said, we have got to adopt a practical plan, something that the people will ratify and something that will produce the result that we wish to attain. The opponents of this measure offer us nothing practicable. The plan suggested here by Senator Morgan is a plan very simple indeed, but one which the people of Alabama could never be induced to accept. It constitutes a Board of Registrars, chosen in the precinct, which Board of Registrars is to be perpetual

and of absolute and unbounded discrimination. They can let in anybody they please; anybody who is fit to vote in the opinion of the Board, and there is no end to it. The scheme as proposed by the distinguished gentleman from Montgomery, Governor Jones, as I understand it, puts it in the power of the Grand Jury, a secret body, a star chamber, to select those persons whom they think should be electors, and only those who are thus selected in secret can be voted for for electors, and that is to be perpetual, as I understand it. Can any one doubt that in the course of time the worst abuse of political partisanship would fester upon that system. The poll tax provision that has been offered here, I believe by two gentlemen from Jefferson, requiring a contribution of three dollars is simple enough, it is true. The object of it is, and the object of every one of these policies, the gentleman—and I say it with all due respect to them—are a little bit pharasaical. They are bound to admit that one of the objects of their plan is to let in the bulk of the whites and to exclude the bulk of the negroes. Now the plan is no different in purpose and practice than the other, but the trouble about it is that if put into operation it would leave the majority of the counties in the Black Belt just about where they stand today, and besides it would disfranchise a lot of white people in the northern and middle parts of the State. It is not practicable. You cannot get such a plan as that adopted. I have stated all that I care to state upon this question. I believe that we ought to consider this question, not from the standpoint of what we or each of us may want or prefer, but from the standpoint of what can be reasonably expected to be adopted, or with the view of restoring the good State of Alabama to its proper position in this Union, or with a view of putting us upon a permanent basis of political equality with our sister States, or with a view of enabling the free people of Alabama to once more consider the material and spiritual things that are good for them independent of party and unshackled by the past, and I believe the plan that has been suggested here by this committee in the main—of course I know that some amendments are liable to be adopted—perhaps many of them —but in the main, I believe the principle will secure the thing that we want.

MR. HANDLEY (Randolph)—Mr. President, I regret that it has been necessary for some of our Democratic friends to criticise the Democrats of the Black Belt. In this I take no interest whatever. My understanding is that the white people of the Black Belt are a unit. It is union and harmony with them, and they have succeeded in establishing white supremacy in their counties, and they have perhaps frequently saved our State elections, hence I congratulate them upon the good service they have done in the last twenty odd years. I feel that they have been of great value to the people of the State of Alabama. Now, sir, the negro vote in

the Black Belt seems to be one thing and in the white counties it seems to be another thing. Let me tell you how it is in some of the white counties of Alabama and especially in my own county. We have in that county about 1,400 Democrats and we have in that county about 1,200 native born white Republicans, and we have there about 800 negroes. These Republicans are men that stand high in church and State. They help build the churches and they help build the schools, and they are good citizens. There are ministers and lawyers and doctors and merchants and farmers among them, and a great many of them are very substantial citizens and stand high in the financial world. Well, now sir, when our elections come on in Randolph, and I know of many hill counties in the State of Alabama that are in the same fix, they know their rights and they demand them. They have to have half the managers and half the clerks and the election has always been fair. There has never been a charge made in Randolph county of ballot box stuffing or unfair elections. They have been absolutely fair. A man of either party who would undertake to tamper with the ballot box would not live to see his wife and children again. We do not want or need ballot box reform, there has never been any ballot box stuffing or irregularities in that regard, all the elections have been fair, except one thing, and that is that the negro vote in our county is for sale, and it is bought by Republicans and Democrats, all parties buy it. We have had three parties in our county, but the Populist party and the Democrats are about united now and we are together. The truth is this, that when an election comes it is a question who will get the negro vote. In that county away back yonder just after war for three or four elections we could not do anything with the negro at all and it went Republican all the while and the reason of it was that there were a few leading negroes, that thought they could hold the offices in the county, but when they found out that the Republicans would not allow them to hold the offices, why then sir, we first bought all the leading negroes and the teachers and the preachers and when we got them, why they voted all the rest, but in the course of two or three elections, every negro in the county caught on to the trick. So every negro has to be bought, and it makes it quite expensive. Now, sir, I want to disclaim for myself the idea of buying anybody's vote. I never bought a negro's vote, but I will tell you what I did do. I contributed liberally to the campaign fund. Now, that is the condition of things up there. Many of these negroes in the first elections could be bought for a dollar a piece, after a while they got up to two dollars a piece, and they were in fine condition for a week or two before the election would come on. They did not care whether they voted Republican or Democratic. But we had a three-cornered race over there for Judge of Probate. We had an organized Democrat and a white Republican and a Populist, and, my dear sir, some of the negroes charged from five

to ten dollars apiece, so it makes it hard on our people. Now we are not begging for "ballot reform" or anything of that sort, but we want to be relieved of purchasing the negroes to carry elections. I want cheaper votes.

MR. HEFLIN (Chambers)—I know you don't know anything about it of your opinion that some of the leaders cost as high as one hundred dollars?

MR. HANDLEY—I do not remember, I never inquired closely myself, but some of the Big Ikes sold pretty well. The ballot is perfectly fair and the only impediment in our way is the purchase of these negro votes and the Republicans have a heap of money as well as the Democrats up there and they buy them. I tell you, gentlemen, that is what is the matter with our election affairs up there. It is that point alone. The negro simply holds the balance of power, and they have to buy them.

MR. BURNETT—May I ask the gentleman a question?

MR. HANDLEY—Certainly. As many as you want to.

MR. BURNETT—Don't the negro sell out twice over some times?

MR. HANDLEY—Yes.

MR. BURNETT—And you do not always get what you pay for either, do you?

MR. HANDLEY—No, sir; some times you buy one and start him to the polls and another fellow doubles your bid and he has got us both. I tell you another thing, the white Republicans in my county are just as anxious to get rid of the negro voters as the Democrats. That is my information and I have consulted with some of the leaders, and found that much out although I did not consult the masses. They don't want it because it is in the way, and it is very expensive. Now, Mr. President, when I speak of my county, I will also say that there are a great many counties between the Georgia line and the Mississippi lines among the hill counties that are in the same fix that our county is. I know that Clay County is in that fix, and possible Cleburne and Etowah, and in fact a great many of the counties are in that fix in Alabama. My information is that if we will adopt the Constitution here and don't weight it down with outside matter that nearly all the white people in these hill counties are going to vote to ratify that Constitution. That is my information.

MR. O'NEAL—Tell us about the grandfather clause.

MR. HANDLEY—Well, I have been home two or three times since this Convention met and I have been across the State to Birmingham and from Birmingham here and I have met a

heap of people, and what is called the grandfather clause in the majority report is the most popular thing that there is at all. It is going to let in thousands of young men who were in the corn fields during the war, that had to work while their father was in the army and could not go to school. The fact is the schools in the rural districts were all suspended during the war and for some time after the war, and they had no opportunity. They are as good men as ever lived. I know thousands of them myself personally that cannot read and write, but they are splendid workers and pay their honest debts and they can come in under this old soldier clause. It meets the approbation of all the white people in that country so far as I know. I have never heard but one dissenting voice against it, and I trust that we will curtail our speeches here and go forward and vote upon this question.

A VOICE—We are all ready.

MR. HANDLEY—Nearly everybody is ready to vote and we ought to vote. The country is criticising us. They think we are talking too much on other matters that belongs properly to the legislative department and that we ought to get through and go back home. I think they are sensible about it. I am tired of it myself, lugging in all kinds of matters, Shelby County and everything else. Now, gentlemen, I did not intend to take up your time. I just wanted to tell you the condition of our county politically, and I think I have done that and I have told you the truth. We have got high-minded, honest gentlemen in our county, that are native-born Republicans and good citizens, and they know their rights and we have fair elections. The only thing we want is to get rid of the negro vote, get our Constitution passed through this Convention, and submit it to the people. I believe it will be carried by fifty thousand to sixty thousand majority in the State of Alabama, and I know the pulse of the white people, and I am glad that they will ratify. They are the crowd that I want to ratify it. I want the white people in the hill counties as well as in the Black Belt and in the Wire Grass to have a say-so in it. Now, some people object to a soldier's son or grandson voting. I don't. He votes now, he is registered and he votes now, and this article doesn't promote him at all, and I see no reason why he should not be entitled to all the privileges that any man in Alabama is entitled to. Why, sir, some men say we are afraid if you pass this thing that a few deserters would come in. Why, sir, I would rather five deserters would be wrongfully registered than one of these young men should be cut out and not allowed to vote at all. I tell you our people would now stand anything of that sort, they could not afford to stand it, and the Constitution would be defeated. I hope that all this opposition would be defeated. I hope that all this opposition will stop and let us get back. I came down here and I was put upon this Suffrage and Elections Committee. I

went in there and we worked for twenty or thirty days and nights, and we finally came to a conclusion and made up our minds what it was best to do and I lined up with the majority of the Committee for the best interests of Alabama. I lined up with Judge Coleman, an ex-Supreme Judge, who is one of the best lawyers in Alabama; I lined up with Judge Walker, an ex-Supreme Judge, who is one of the best lawyers in Alabama; I lined up with O'Neal, and with my friend from Birmingham that just addressed you, and with twelve or fifteen others who are among the best lawyers in the State of Alabama and they all say that it is constitutional, and I am no lawyer, and I fell into line and I feel that this Committee has done its duty. I never saw a more faithful committee, a harder working committee in my life than that was. I like to have killed myself. I remained in Convention four or five hours a day and then had to work four or five hours on that committee, and I became exhausted and had to go home, but I tell you at the rate we are going on we will be here at cotton-picking time, and I trust that everybody will decide to curtail their speeches, and let us get through and go home. I thank you, gentlemen of the Convention.

MR. JONES (Wilcox)—Mr. President, I have been requested by some of the delegates from the Black Belt, to address the Convention on the Section of the Article on Suffrage that is now under consideration. I am a member of the Suffrage Committee, and I favor the report of the majority of that Committee.

Mr. President, it will be but a short time before men of my age will have passed away. It makes but little difference to me personally whether there be a Convention or not. But, Mr. President, the young men of Alabama, the sons of the soldiers of Alabama, are to come after me, and Mr. President, I want to see them have a government of which they are proud. I want to see them continue in control. I want to see the descendants of the men who followed the banner of General Lee, and of the men who went with Bragg and Johnston and Hood into Tennessee and made the Tennessee and the Cumberland as classic as the Potomac and the Rappahannock—I want to see them enjoy good government in Alabama. Now, Mr. President, we are discussing the second sub-division of the fourth Section—whether or not the descendants of soldiers should be permitted to vote. We differed on that in the Committee. There were gentlemen, prominent lawyers, who took a different stand from the majority of the Committee, but with all their diligence, with all their perseverance, they have never been able to offer a single authority here to show that this Section is unconstitutional. Have they done it? They have come here and said what? They have said that General Morgan, our distinguished senior Senator, is opposed to it. I deny it. Not one line in his letter says that the Fifteenth Amendment would be infringed on in any way by the adoption of that sub-division. The descendant

clause, if it had been put into the permanent plan, might have been obnoxious in some way to the bill of rights. So far as the bill of rights is concerned, if the subdivision was in the permanent plan you might say it was giving a title or rather a privilege to soldiers. It does not give it in the temporary plan. It gives them only what they have. Every soldier in Alabama is entitled to vote. His descendants are entitled to vote now, and we are not giving them anything they do not already possess.

Now, Mr. President, I claim that right to address these delegates as a representative of the old Confederate soldiers, as well as my friends of the minority. I went with the State troops to Fort Morgan. I came back and went with the Confederate troops as soon as they were organized, to the front, and I stayed there until our banner was furled. I was with the distinguished gentleman, General Oates, for two or three years in Virginia. He wears a badge of honor—an empty sleeve. It is not my fault that I have not both of my sleeves empty. I was under fire as often as anybody in my command, and side by side, the Governor and I were in the hospital, he with his arm off and I with my shoulder broken by Yankee bullets, and I have as many broken bones in my body now to show my fidelity to the Confederate cause, as any man of the floor. General Oates stated that we were not treating the negro people as fairly as we ought. Haven't we treated them fairly? Didn't we feel kindly to them in the position in which they are? Are we to elevate them to equality with ourselves to show that we feel kindly towards them? To show how the colored people felt towards us and we towards them I will sell an incident that I spoke of in the Committee. At the battle of Sharpsburg, I had a boy about my own age who was given to me by my father when we were about 10 years of age. When we crossed the Potomac and were going into battle to reinforce some of our troops that were driven back, I told this boy to fill his canteen with water and to stay by an oak tree that had been left by some planter as a shade tree in his plantation, and not to leave, because if my brother, who was with me should be wounded, we were coming back to him. Mr. President, he stayed there. The line in front was driven back and one of our batteries of artillery came up near the tree and the captain ordered him to leave, thinking he was trying to desert. He would not go. He said: "My young master left me here, and I intend to stay if I lose my life." Horses and men were killed within fifty steps of where he stood. Could I forget him? I never think of this occurrence without a thrill of emotion, and yet, Mr. President, I declare to you now if he were living in Alabama, I would say deprive him of the right of suffrage. He would not know what to do with it if he had it. I would just as soon give a toddling child a razor in his hand expecting him not to hurt himself, as to expect the negro to use the ballot and not use it to his injury and to ours.

Now, Mr. President, we might give them all the rights which we please, make no discrimination, have a poll tax of 50 cents—put them all in. You could not make them good citizens by that. God Almighty has made them different from the white man. You had just as well try to legislate a donkey into an Arabian courser, as to legislate a negro into a white man. You cannot do it. It is impossible to do it. The distinguished gentleman who spoke yesterday afternoon, the Chairman of the State Executive Committee, stated that we were sent here to have fair elections. That we were sent here for that purpose, and not to discriminate against anybody. In the name of God how can you have fair elections and put the negroes of Alabama in control of the ballot box. I ask that question. You cannot do it. Are we discriminating against them, and are we violating the Fifteenth Amendment? Not at all. Is it against the negro as a class? My friend, Captain White, spoke about the per centage, the large per centage of them who would be disfranchised, and said that it would be unjust, that it would be discriminating against them in that way. Mr. President, it is not the per centage. It is where you discriminate against the negroes as a class, as a race, and not as a per centage of any kind. That is not the meaning of the Fifteenth Amendment, and in adopting this subdivision we do not violate the Constitution. Some of the gentlemen say General Pettus is opposed to the Louisiana plan, that they asked him to give his opinion, and that it was against it. Does that make him opposed to this sub-division? Does it make him say that this subdivision is unconstitutional? Not at all. Read that suffrage plank of the Louisiana Constitution and you will see that it says that any man who could vote in 1867 and the descendants of any man who could vote in 1867 should be permitted to vote continuously in that State, and at that date—1867—no negro in Louisiana was entitled to vote. It was a discrimination, perhaps, against the class, although some of the ablest lawyers in the South differ with our distinguished friend, General Pettus on that, notably Mr. Semmes of New Orleans, who framed the suffrage Article of the Louisiana Convention, an honored kinsman of Judge Semmes of this State. John W. Daniel, one of the foremost orators statesmen and lawyers in the South, and Chairman of the Suffrage Committee of the Virginia Convention, has incorporated an exact copy of our majority report in the report on suffrage in Virginia. I bring his name to your attention to show you how the action of the majority is regarded by the Chairman who has charge of that Article in the Virginia Convention.

Now, Mr. President, on one occasion, when I was quite a young man in Virginia General Buckner's Inspector-General was called home. I was appointed temporarily to fill his place. I inspected amongst others some of the soldiers from Alabama in his command. I was astonished to see how many of those soldiers could not read and could not write, or at least could not sign their

names, and yet I declare to you there were no better soldiers in the Army of Northern Virginia than those Alabamians who had patriotically gone out to defend the principles of the South on the battlefields of Virginia. And, Mr. President, they came home after the war. They had the same ambition that others of us have who were more fortunate and had more of this world's goods. They wanted to educate their children. They could not do it. I have heard some of them say, "If I had just had the means to send my children to school and give them the advantages of an education, it would have been the very joy of my life, but I didn't have the means to do it, and I had to put them to work." These children are of the same stock of the soldiers of whom I have spoken, and my right arm should be palsied before I would do anything to prevent them taking part in the government of Alabama.

Captain White went on to draw a picture of what will become of us when this matter shall go before the Supreme Court of the United States. He had one of the Judges burying it, and he was thanking God that he had nothing to do with it. He was making a prediction then; I make the prediction now that there will never be a case from Alabama before the Supreme Court of the United States before this temporary plan goes out, and should a case be carried to the Supreme Court of the United States the court will say that there is not a word of it that is against the Fifteenth Amendment in any way, and Captain White will say, "I had the distinguished honor of being a member of the Suffrage Committee of the Alabama Constitutional Convention." He says another thing. He says that they are just waiting for us. That they want to get the net full and then they will draw us all ashore. Gentlemen, those of you who have read these suffrage planks of these different States will see that no two of them are alike. They may decide that one plank is wrong in one State. It would not affect Alabama. It will not affect us in any way. A case has to come up from Alabama before we are affected by it. So far as Section 19 is concerned, that there has been so much harping on in reference to our being afraid of our plan—what was it done? It was suggested because in North Carolina they put in a clause that if one part of the Constitution went under all of it would go under. We do not want it that way. This Constitution is framed so that if the Supreme Court of the United States should possibly declare any section or sub-division of a section unconstitutional, the balance of it will be left intact. It will stand just as if there had never been a decision of the United States Supreme Court. I do not know how to illustrate it better than by speaking of it as one of those Wernecke book cases you have all seen. They have so many units. It is a bookcase made up of sections or units, and you have just as many units as you want, and if you take out a unit it will be a book-case still and one that will stand and serve all the purposes you need.

Another thing, Mr. President, we in our section of the State are not circumstanced at all like the people in Randolph County. We have overwhelming numbers of negroes to contend with. When the white people there first thought of controlling the elections by what is called fraud, it was a thought they did not like to entertain for a moment, because it is against the theory of our government, but what could they do? Gentlemen, I have stood up before the Commissioners' Court that passed on accounts against the county where the Probate Judge was a Commissioner. The radical sheriff was a Commissioner, the radical clerk was a Commissioner, the clerk in the Probate office was a Commissioner, and a black negro who could neither read nor write, was a Commissioner, and made legal arguments before such court as that. Then we had, gentlemen, hordes of negroes to come down in reconstruction times, sometimes as many as 1,500 or 2,000, to the town in which I lived, and the lives of the women and children were endangered whenever they did, because if there had been a riot of any sort, they had twenty or thirty and some times 100 to one, and they were armed and the carpet-baggers had inspired them with the belief that we had wronged them; that we had kept them in slavery; that they were entitled to their rights, and that they ought to have them at any sacrifice. And there have been times more than once where we had threatened riots in my town, when I was in as much danger going out to assist in quelling them as I ever was in the front in the war between the States. And yet, gentlemen want to see us again in that condition. They talk about giving the colored man all the rights of the white people. Why, they would not be in power twenty-four hours before they would have their night meetings. They would not be in power a year before they would act just as they did in reconstruction times, and we would have it all to go through with again, and you know it and I know it.

Mr. President, some allusion were made by one of the speakers in reference to the black belt wanting these darkies kept on the registration list. I would ask the distinguished gentleman who has heard that statement made to come down when the Convention adjourns and let me entertain him and introduce him to our people. I do not know any people in Alabama who are more refined and cultured, who stand higher morally, who are better people than the people I represent, and they have been clamoring for this Convention for twenty years, and they have done it because they wanted to save the young men of the country from the necessity of participating in frauds. That is why they have done it, and when this Convention adjourns and you have made it so that we will have fair elections, I tell you there is no place in Alabama where they will have fairer elections than we will have in the black belt. Whenever some of my friends in North Alabama quit buying negro votes (I do not blame them for it. I haven't got a word to say about that) then they can say I am better than thou art, but

not until then. If I had been up there, I would, like my friend from Randolph, have run my hand in my pocket and given the campaign committee just as much as I could and said go on and get our people in control of the offices. And gentlemen of the Convention, the young men are not to blame for the conditions that are upon us. They were advised by older heads. I never was an inspector of an election. Nobody ever expected me to be one, but I thought it was right for the white people of the black belt to elect white people to office and I think now it was right, and I will think it was right the longest day the Lord may spare my life. Fraud, if you will call it so, was the only way left us to prevent the negroes and carpet-baggers from filling our offices. There was an old gentleman who illustrated it to me in this way. He said: "We have got to carry these elections. There is nothing else or we will have to move out of the country. We will have to kill them or control them. It is a case of taking the smallpox or taking the measles, and I believe I will take the measles." That is the way he regarded it, and that is way it is regarded with us. We do not like the necessity for it but we had to resort to it or else give up white civilization in South Alabama. We had to do it or leave the country, and we did not intend to do that. It was our country, and we intended to stay there as long as we pleased, and to evade if we could the fifteenth amendment in order to accomplish it, we have done it, but we are tired of it, and we beg the Convention not to do anything that will throw any impediment in the way of giving us such a suffrage plank as will insure white civilization in Alabama after we have gone and our children have come after us. That is what we want.

A good deal has been said about General Morgan's views, a great deal has been said. I am the last man on this floor who would say anything about the senior Senator from Alabama. He is my friend, Mr. President, and I honor him. I honor him not only as a friend, but I regard him as one of the most learned men in the whole country. He is the peer of any man in the United States Senate. He is the superior in information to any man with whom I am acquainted, but when you analyze what he has said you will find that he has never claimed that this section is in conflict with the fifteenth amendment. He has never said that we did not have the authority to do it—not once—and none of these gentlemen here have given us any authority to show us it would be against the fifteenth amendment. Their whole course has been to indulge in mere matters of opinion. Why they try to scare us with Mark Hanna. Captain White said something about Mark Hanna. I do not think any of you are afraid of Mark Hanna, but they talk about what Mark Hanna is going to do. What is he going to do? Let him go to the Congress of the United States and say that the State of Alabama has taken away the right of voting from some of these people, and say we are go-

ing to cut down her representation. Suppose he succeeded in doing it, what would be the result? We might, perhaps, lose two members of Congress. Now, gentlemen of the Convention, Alabama could afford to do that rather than have our own State under the control of the negroes. (Applause). Yes, I believe I would rather lose them all, as my friend from Dallas says, but we would not have to do that. If the worst should come to the worst, that is all that would be required. My friend, General Harrison, got on a big scare and thought they were going to reconstruct us. They will never reconstruct Alabama while there is a man living who is in this Convention. I make that prediction. They attempted it once in 1876 or '77, I believe it was. I know I was subpoenaed to Washington before the Senate Committee as a witness. We were detained there in Washington for a month. They had two of their ablest men who were representing the Republican Senate. We had one of our weakest men—a man from an adjoining State—who represented the Democrats. The Republicans had carpet-baggers as witnesses and our Democratic Senator had Democrats to go up there to Washington, and we were examined and if there had even been a time in the history of our State, with all the falsehoods told by the Republicans and carpetbaggers, they would have reconstructed us then. They didn't do it then and they never will do it. The Northern people at that time did not understand conditions here. There was an old man named Stroback. I do not know what ever became of him, but he was examined as a witness for the Republicans, and he spoke in broken English and told some of the most outrageous tales on the white people down here, and after the meeting adjourned three or four of us were walking along the streets with Senator Cameron, one of the Senators who represented the Republicans, and he said to us, "You are too intolerant in the South. You do not allow these men any social privileges, and you do not invite them to your homes. You do not treat them like men."

MR. REESE—Will the gentleman yield to me for the purpose of making a motion?

MR. JONES—Yes sir.

MR. REESE—I move that the time of the gentleman be extended thirty minutes.

The motion was put and carried.

MR. JONES—I thank the gentlemen of the Convention, but I will be through in a minute. I told Senator Cameron "That Strobach was a fair sample of the carpet bagger in Alabama. If he were to go to your town how often would he be at your table dining? How often would he be a guest at your home? We think we are as good as you are. We are not Senators, but we are honest, straightforward Southern people. We have our own views

and we are honorable in our dealings with our fellowmen just as much so as you could be. We have as good a lineage as you have and have as good associations as you have and with the best people on earth, the people of Alabama. We do not invite them to our homes and we do not expect that you would do it." And he would not have done it. Now there is altogether a different sentiment. The Spanish war has brought about a change. The Republican party recognize it. They have had a great deal of trouble in dealwith the Cubans and Filipinos. They know what character of men they have to deal with when they go outside of the Caucasian race. Thousands and thousands of them who were our enemies are in full sympathy with us now. And I make the prediction in answer to my friend, the distinguished gentleman from Lee that there will never be reconstruction of the State of Alabama.

MR. JONES (Montgomery)—I never spoke with a profounder sense of the responsibility which rests upon me than now. What we see in this hall illustrates what is being thought by the people all over the State, and how the people of Alabama, all moved with one patriotic purpose, differ widely as to means to that end and as to what is the wisest and best for the happiness and glory of this State. I am proud that the same blood flows in my veins that flows in the veins of the distinguished gentleman (Mr. Jones of Wilcox), who has just taken his seat. He is honest, he is patriotic, he is learned, and he is thoroughly satisfied in his mind that the plan proposed by this Committee is wise and constitutional. I hope I am as devoted to the interests of my people, as patriotic, and as loyal in my desire to serve the people of the whole State, and the people of the section from which I come, as my distinguished kinsman,—and yet we differ widely.

One significant lesson of such difference is that we should be tolerant with opposing views upon this question. We are speaking here of questions, and deciding questions, which may return to vex our children, and our children's children for an hundred years to come. We are speaking here, not merely to those in sound of our voices, but to others, "who throng in beconie partakers of the counsels of State,"—to 75,000 000 American citizens; for we are creating today an electorate which is to take part in their elections, an electorate which in a degree wields and controls in some measure the destines of this country. These millions have an interest in it, a right decision; they take an interest in it. I believe it was Solon who said that in framing a government for the Athenians, he thought, when he looked back at its progress and downfall, that he had taken more account of the prejudices of his people than he did for framing a government to inure their happiness. Let us avoid his experience.

This is a solemn juncture in the history, not only of Alabama, but of this country, Mississippi has acted, Louisiana has acted, South Carolina has acted, North Carolina has acted, Virginia is acting, Alabama is acting. The eyes of the world are upon us. It should warn us then, Mr. President, to go slowly and deliberately, to discuss conscientiously every objection which may be urged to any plan that we may propose, and to be sure that the plan which we adopt is wisest and best. There is not a man within the sound of my voice who will not answer in his own mind, if not to the world, if you ask him the question, what is your purpose in this plan of suffrage—that it is my purpose, as far as I can constitutionally, to strike down the suffrage of the black race, and uphold the suffrage of the white race. They have this purpose because they believe it the wisest and best, not only for the country, but for both races. There comes another division. Some gentlemen have said upon this floor that the Constitution of the United States, so far as they were concerned, should not shackle or bind their action; that they wished to put the defiant declaration in the Constitution that no negro should vote; that they wanted to lock horns with the 15th Amendment and trample it down forever. Now I take it that no serious minded delegate, no delegate devoted to the welfare of his country, no delegate who wishes to be guided, if he knows it, solely by the dictates of his conscience, wants to adopt any plan which deliberately wars on the supreme law, and support on which he believes is in violation of the Constitution of the United States. My words and arguments are not for those who would intentionally violate the Constitution. There is a wide difference of opinion among conservative members of this Convention whether or not the plan proposed is constitutional, whether it infringes the Constitution of the United States or not. Making the best use I can of the faculties God has given me, I have come to the opinion, from my own researches, and from the application of what I believe to be the principles of the law, that if we leave in this plan the descendant clause, we make our whole plan void, and it may embark our people in untold trouble.

Now, suppose, it is unconstitutional. If it is, let us see upon what voyage we embark the people of Alabama. First you are challenged through the courts of your own State; for the Constitution of the United States is the supreme law of the land, anything in the Constitution of any State to the contrary notwithstanding, and he judges of your State courts are bound by it. Next, you bring into play the judicial power of the United States which is invoked by appealing from the highest court of the State to the Supreme Court of the United States. Next, you bring into play the power of the House of Representatives, as the judge of the qualifications and election of its own members. Next, you may bring into play the political power of the United States, embodied in the two Houses of Congress, who by the Constitution, have the

power to enforce the 15th amendment by "appropriate legislation," if it has been violated—and they are the judges of that, and as of the political remedies to be applied.

Ought delegates to be blamed, then, if we ask this Convention to carefully consider the Fifteenth Amendment, and to hear us. I will not take up the time of the Convention in reading law books. I wish to state some principles which I think none of the distinguished lawyers on the other side will gainsay. One of them is this, you cannot do indirectly, unlawfully, what you cannot do lawfully, directly. Another is that in whatever phrases you may couch the language of a statute, its ordinary and practical results, as applied to the subject matter with which it deals, determines whether it is constitutional or not. There is no necromancy in the law by which you can put up a curtain between your words and your purposes, because your words may deny your purposes. When this section goes before the courts, it will be taken up in view of its known history, in view of facts known to all men in Alabama, known of all men in the South, all men in the United States, and the purpose underlying it, and by these tests, not by our language, and the results which must flow from its execution, will be determined whether the plan will be upheld, or whether it will go down. If the courts or Congress should be of the opinion that the purpose was unlawful and would be the practical operation, that purpose, however veiled, whether in one section or two sections, whether the conjunctive or is used or not, would be arrested and held for naught. If the practical operation is to subject black citizens to one test and white citizens to another—to put on whites, or the great bulk of them by classification—to which, being rested on white ancestry, the negro could never attain—and to "abridge" or hinder the negro by other qualifications to which the great bulk of the whites are not subjected, then these sections, they standing alone, might be valid, would be treated as part and parcel of one Constitutional utterance designed to evade the Constitution of the United States, and as mere adjuncts of one unlawful purpose, and the whole fabric would fall.

I wish to call attention, as illustrating the principle to which I have adverted, to what is known as the Chinese Queue case. The people of the Pacific slope were greatly troubled with the Chinaman. It was hard to collect fines from him, even when put in prison. They passed, or rather the supervisors of San Francisco passed, an ordinance that any prisoner confined in jail who did not pay his fine, should have his hair cropped, I think within an inch and a half of his skull. On its face, the ordinance applied to the white man and the Mongolian alike. There was no distinction whatever in the words of the ordinance, but the Chinaman has a queue, while the white man has not. The Chinaman is superstitious about it. He believes if his queue is cut off, it affects the

repose of his soul in the hereafter. A Chinaman was put in jail and failed to pay his fine. His hair was cut to within an inch and a half of his skull, and, of course, that took off his queue. He sued the supervisors in the Circuit Court of the United States, presided over by eminent Justice Field of the United States Supreme Court, Judge Sawyer and some other Judge. They delivered an opinion which has often been quoted with approval since in the courts of the country. I ask particular attention to one paragraph. I read from Kow vs. Nunan, 5th Sawyer, p. 560. Here is what Judge Field says:

"The class character of this legislation is none the less manifest because of the general terms in which it is expressed. The statements of supervisors in debate on the passage of the ordinance cannot, it is true, be resorted to for the purpose of ascertaining the general object of the legislation proposed, and the mischiefs sought to be remedied. Besides we cannot shut our eyes to matters of public notoriety and general cognizance. When we take our seats on the bench we are not struck with blindness, and forbidden to know as judges what we see as men; and where an ordinance, though general in its terms, only operates upon a special race, sect or class, it being universally understood that it is to be enforced only against that race, sect or class, we may justly conclude that it was the intention of the body adopting it that it should only have such operation, and treat it accordingly. We may take notice of the limitation, given to the general terms of an ordinance by its practical construction given to the general terms of an ordinance by its practical construction as a fact in its history, as we do in some cases that a law has practically become obsolete. If this were not so, the most important provisions of the Constitution, intended for the security of personal rights, would, by the general terms of an enactment, often be evaded and practically annulled."

Judge Fields lays down in that case the doctrine which the Supreme Court of the United States has often laid down, that it will go behind the general language, take up the operation of the statute, step to step, with its known purpose, and then, no matter how general the language is, whether it is the act of a State, in its sovereign capacity, or the acts of the officers of the State, it will test the constitutionality of that law by its practical operation. If that effects a forbidden purpose, the law is void. Here, then, is the principle we have to apply. What is it to which it is to be applied? The "right of citizens of the United States"—not the right of the white citizens, or black citizens, but the right of any citizen of the United States—to vote, shall not be denied. Does the language stop there? No. "Or abridged by the United States, or any State, on account of race, color or previous condition of servitude." You shall not only not deny it, but you shall not lessen it; shall not cut it shorter, you shall not put difficulties in the way

of it. You must not deny it, or abridge the right on account of "race, color or previous condition of servitude." When we scan this language, what do we find is its inevitable scope, as applied to the power of the State in dealing with suffrage? Its first inevitable consequence is a command to the State. You must not deal with a citizen according to the race that he belongs to, but you must deal with him man for man as an individual. Now what are "qualifications?" The Supreme Court of the United States in 5th Wallace, 319, has defined what is meant by the term. This was done in the celebrated Cummings case, where a Catholic Priest was indicted because he would not take the oath that he had not been in sympathy with the people of the South during the late war. Here is the definition of qualification: "Any natural endowment or acquirement which fits a person for a place or employment, or enables him to sustain any character with success." Now, the State, when it goes to deal with suffrage, and frames its qualifications—not classifications, but qualifications—must shut its eyes, according to the Constitution, and put forth these qualifications blindly, and they must be such that every citizen of the United States may be able to attain to them at least so far as the law stands. You cannot pick out particular classes to which other men can never belong and say that that is a "qualification" for suffrage. You cannot group men by name, or by race, and say that is a "qualification" for suffrage, and that every man who has not that "qualification" is disfranchised. You are compelled to lay down conditions which it is possible for every man with whom you are dealing to attain, and if he attains them, then to admit him to citizenship.

I am not here to say that the law demands absolute equality in the number of citizens of the different races who are admitted to citizenship on account of the "qualifications" which the State imposes as conditions for the privilege of suffrage. For instance, if you had a property qualification, it would be no legal objection that it let in more of one race than another, because the qualification applies alike to each and every man, no matter what is his race and all can attain to it, but when you go to make "qualifications that can be attained by men of each race, not classifications to which one race only can attain. Now I take it, Mr. President, that those propositions will not be seriously disputed. Then what have we in this temporary plan? We must take the conditions that exist here.

MR. SMITH (Mobile)—May I ask the gentleman a question?

MR. JONES—If it is not to be taken out of my time.

MR. SMITH—Do I understand those propositions are applicable only to the fifteenth amendment, or are they general propositions of law?

MR. JONES—I was speaking more particularly with reference to the fifteenth amendment. Without the fifteenth amendment the State could do what it pleased in the way of classifications called "qualifications." Let us see the problem we have in mind. We start out in Section 1: "Every male citizen of this State, who is a citizen of the United States, (and every man born under the jurisdiction, even a woman, so far as that is concerned, is a citizen) "every male citizen 21 years old or upwards, not laboring under any of the disabilities named in this article and possessing the qualifications required by it."

MR. FITTS—I move that the rules of this Convention be suspended and that the time of the gentleman from Montgomery be extended for thirty minutes, beyond the time allowed by the rules.

MR. HEFLIN (Chambers)—I would like to amend that motion so as to extend the time until 6 o'clock.

MR. FITTS—I accept the amendment.

The motion was carried and the rules were suspended.

MR. JONES—I thank the Convention. Now we start out with every male citizen, and say he shall vote if he possesses one of three qualifications: first, he shall have been himself a soldier in the enumerated wars. Second, the lawful descendant of some soldier in the enumerated wars; and third, a person of good character who understands the duties and obligations of citizenship under a republican form of government. These are the qualifications, and the qualifications must approximately as as a whole, bear alike upon all the citizens of this State. I do not wish to be misunderstood in this proposition. I do not say it is an objection to qualifications that they do not produce a given ratio of votes from each race, according to the number of the whole as for example, one hundred and fifty thousand white voters and only one hundred thousand black voters. I do say there must be substantially approximations, and that the results of these "qualifications" which are different and operate differently upon the voters of each race must be such that the court can discover from them a fair intent not to discriminate against any citizen, on account of race, color or previous condition.

MR. deGRAFFENREID—Can I ask the gentleman a question?

MR. JONES—Yes, sir.

MR. deGRAFFENREID—Suppose, for instance, the States of North Dakota has no negroes in it, and no one but white people live there; would it be lawful for the State of North Dakota to

adopt in its Constitution the provision contained in the temporary plan that you have just reached?

MR. JONES—I think it would be a practical abstraction, as the Court would say no negroes were there to be operated upon. It would be perfectly apparent from the natural operation of the statute that they had no intention or design by such laws to exclude people from suffrage who were not there to be affected by it, on account of race, etc. I think it depends largely upon the character of the population.

MR. deGRAFFENREID—The State of North Dakota then can do things, if it has no negroes, that Alabama cannot do?

MR. JONES—Exactly, because it depends upon the state of facts existing, whether laws are designed to unlawfully strike down a race and whether your laws will operate fairly to disfranchise people of one race and enfranchise people of another. I am very glad my friend asked me the question, because it illustrates the point the Supreme Court of the United States has made repeatedly, that it is not the language of the statute, but it is the ordinary and natural operation, which is the test. Of course it would be an abstract question where there were no negroes. There would be nobody to be affected, and the Supreme Court would say it is manifest that it is not directed at any race, because there is only one race there, and upon that one it bears fairly on all—on each citizen of the United States.

MR. WALKER—I would like to ask the gentleman a question? I will ask if he would regard a provision in the Constitution of California prohibiting natives of China from voting as unconstitutional?

MR. JONES—They are not citizens of the United States.

MR. WALKER—They may be naturalized though.

MR. JONES—If they were naturalized, I would say they fell under the fifteenth amendment.

MR. OATES—But the laws now do not allow them to be naturalized.

MR. JONES—I understand that.

MR. WALKER—It is not a Chinaman, not a Mongolian, but a native of China, white, black, or any other color?

MR. JONES—If he is a citizen of the United States, if he is naturalized, he cannot be disfranchised on account of his race. A Mongolian cannot become a citizen of the United States under our laws.

MR. WALKER—That is on account of his race, something over which he has no control.

MR. JONES—It makes no difference, if he is a citizen of the United States. This provision is against the abridging of rights of citizens of the United States, and until a man gets in that status the fifteenth amendment cannot apply to him.

Now, let us see what we have, I think we have fifty-five per cent of white and forty-five per cent of black voters. Owing to a great evil, the sovereign people say that we want to change that suffrage; we want to disfranchise some of our voters, and the Constitution of the United States steps in and says you may do that just as much as you want to provided you do not do it on account of race, color or previous condition of servitude. Now bear that in mind. Then we have in Alabama about 55 per cent. of white voters and forty-five per cent. of black voters. What do we do, when we translate it into English? Not in the learned tongue of the committee, but when we translate it into cold facts. We take from eighty-five to ninety-five per cent of the whites, and by means, not of fixing any qualifications, fixing conditions to which if any citizen attain they can enjoy the right of suffrage, but by arbitrary classification we say owing to accidental circumstances, all of whom were of the white race, we will not subject you, this ninety-five per cent. of whites, to the test that is required of other people, and all of the other races, except the few who have been soldiers. Don't we do that? Is not that the practical effect of what we are doing, are not we running square in the teeth of the prohibition in a practical way? The Supreme Court of the United States has often said, and in its later cases, too, that the 15th amendment intended, so far as political rights were secured on an absolute equality with the white man in the assertion of those political rights. Now one of those political rights of a man who is a citizen by law of the State and of the United States, is not to be discriminated against in the test by which it will be determined whether he is to remain longer a citizen of the State. That cannot be denied. Then, what else do you do? We say here are some soldiers, nearly all of whom come from white parentage, because the negro at that time was not a soldier. He never got to be a soldier until 1863 or 4, when the Federals armed him.

MR. SANFORD (Montgomery)—I desire to correct an error in your history.

MR. JONES (Montgomery)—Mr. President, my history is correct. There were a few soldiers in the Revolutionary War who were negroes, just like the negroes mention by the gentleman from Wilcox, and the gentleman from Montgomery, and others of us, but the negro as a race was not a soldier in this country until 1862 or 3, when he was enlisted in the Federal army. Now we

have a few descendants of these soldiers. That is all we have done with that race up to that time as soldiers.

MR. OATES (Montgomery)—I do not want to interrupt my colleague, but it was after the emancipation went into effect, January 1st, 1863, that they were enlisted.

MR. JONES (Montgomery)—Yes, sir, and after that time the Confederate States passed an act enlisting them, too, but the negro up to that time had never been a soldier in the Civil War. Now you take the few negroes and their descendants, and let them go under the descendant clause, and take the bulk of the white people and put them into the suffrage without subjecting them to the other qualification, while you subject the bulk of the negroes to a different test. Now is not that subjecting the bulk of the white people to one test, that is easy, or rather is not a test at all, and subjecting the bulk of black people to another and different, and it may be a harder test, and that, too, for the purpose of enfranchising one race and disfranchising the other? If I did not believe that was the purpose, and did not believe that was the result, and that thereby this plan of suffrage becomes unconstitutional, I would not stand here and raise my voice against this part of the report of this committee, although I differ so strongly with them about this and other features. I submit, Mr. President, that this plan as now framed, is unconstitutional, because the natural, ordinary result from its operation is that one test is applied to a majority of the white people, and another test is applied to the majority of the black people; and that too in view of our known history, our platform and our intention to enfranchise the one and disfranchise the other! But it is said that these are distinctive clauses, that it is soldiers, or descendants, or persons of good character, and that if you wipe out one, that the other will remain and be upheld. Well, there are cases where they may be done; but whenever the court comes to the conclusion that the unconstitutional provision is put in there as an addition or to compensate for some other, and that they are all designed and intended as part of one harmonious whole to effect an unlawful purpose, then when you strike down one, you strike down all. Under this plan the descendants of soldiers become permanently vested with the right of suffrage, and pass from the temporary registration into the permanent registration. They are not required to register any more except when they change their residence. They are made citizens irrevocable, and that, too, by a test which the other race, in the nature of things, can never come up to because they cannot be white men or the descendants of white men. How is it possible for this act to be constitutional, in view of these inevitable results?

It is a pleasing thing, and it does a man's heart good to let it pulsate fully with the passions and pride of his race; but a man who is trusted by his people, owes no higher duty, if his conscience

gives him an opinion different from them, to stand up and maintain those opinions, when deliberating upon laws for them, though he be trampled down in the dust.

I remember coming into this hall, in 1861, when a mere lad, William M. Brooks was where the chairman now is, and William L. Yancey had thrilled this hall, as no other living man had ever thrilled it by his eloquence. The pulses of the people were hot; revolution was in the air. Yet, there were gentlemen, grave men, "wise in their day and generation," who, when the people begged them to pause and wait, when they were told that Virginia was trying to call a convention of the States, and asked to delay that other States might lose, answered triumpantly and confidently that they would "drink all the blood that was shed in the war." It was not ninety days after that when the gun boomed out at Sumter, and two nations rose on this continent, and the most terrible war known to modern times devasted our dear land, and we were prostate in the dust. To this day we have not fully recovered from some of its effects, because we are here discussing the aftermath of that great war, in the conditions which confront us today, which constitute the chief motive and reason which called this Convention. Gentlemen on the other side are as confident now as they were that no harm would come to the Republic then.

There is not a man, I think, in this Convention who loves the Confederate soldier more than I. When I was a lad I became one, and when they stacked arms at Appomatox I took my parole there; but with all my love for them, I do not believe we should, even if it were not unconstitutional, introduce into the jurisprudence of our country the doctrine that a man's son ought to vote because his father made a good soldier. I have many reasons for that opinion. I fear, Mr. President, when we do that, we put it in the power of Congress to say that we do not have a republican form of government; and they are the judges, and the sole judges, of the evil and the remedy. What it may bring forth in the future, I will not prophecy.

MR. ROBINSON—Would not the same rule apply to the soldiers as it does to the descendants, and would not that be unconstitutional also?

MR. JONES (Montgomery)—If the intent and purpose of the plan, taken as a whole, as shown by inevitable results, had that effect, then it would be. You can put in some descendants, you might put in some soldiers; but if the natural and proximate result of the plan, in its actual operation, was such that it was only a device to test one class of citizens by one rule, and another class by another—and let in the favored, and obstruct the disfavored, then it is my opinion that the Fifteenth Amendment would make it unconstitutional. I believe, Mr. President, that the courts and

Congress in reference to the opinions of civilized mankind, would uphold a provision in this Constitution that the soldiers themselves, when we include all soldiers, Federal, Confederate and negroes, might be created electors without submitting them to the same tests as other citizens, and that although there might be a disparity in the numbers of each race thus admitted, it would not violate the whole statute if the other provisions were so framed as to operate justly on the great majority of citizens of the different races—not subjecting them to difficult tests, because of race, etc. I am unwell, and can not well stand any longer. I will not detain the Convention. I thank you very much for your attention.

MR. CUNNINGHAM—I move that this Convention do now adjourn.

There were expressions of dissent.

MR. JONES (Montgomery)—If I may be permitted to make a suggestion to the Convention, I understand that the gentleman from Calhoun will speak next, and it will chop up his speech very much to have him start and speak for fifteen minutes, and then adjourn, and I think it will save time and be more agreeable to him to speak in the morning.

MR. PILLANS—Before the gentleman from Montgomery finally takes his seat, I desire, in the interest of historical accuracy, to ask him a question in regard to the matter of negro troops in the Federal army. Did I understand the gentleman as assuming, or admitting on the suggestion of the other gentleman from Montgomery, that there were no negro soldiers enlisted in the Federal army until after January, 1865?

MR. JONES (Montgomery)—I think I said 1863.

MR. PILLANS—I thought you did, but I also thought you assumed the correctness of the suggestion of the other gentleman from Montgomery, and only desired to call your attention to the fact that the exchange of prisoners ceased as the result of a conflict between the Confederate and Federal authorities growing out of the refusal of the Confederate authorities to recognize the negro as a soldier during the war, and that was at a much earlier period than 1865.

MR. JONES (Montgomery)—I think I said 1863. I know I fought against negro soldiers in 1864.

Thereupon the Convention adjourned.

CORRECTION.

In proceedings of fifty-third day, in sixth column first page, change "invalid" to "valid" in following sentence: "I know it can be said that while we lay down these general rules, that a particular conception would be invalid."

FIFTY-FIFTH DAY

MONTGOMERY, ALA.,
Friday, July 26, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by the Rev. Dr. A. L. Andrews, as follows:

O Lord, our Heavenly Father, we thank Thee that through another night Thou hast watched and cared for us, and that in health and strength we see the duties and face the responsibilities of another day. We realize, our Father, how little we can do in ourselves. Our own weakness is constantly proven to us. We also realize that while in ourselves we can do nothing, yet in Thy strength we can accomplish a great deal. We therefore pause before we begin this day's proceedings, and pray the help that Thou alone canst give. O give Thy presence, our Father; give us Thy help; give us Thy counsel; and O help us that we may be guided by Thy wisdom and that we may be qualified for the duties of this day, by the baptism of the Holy Ghost, and by the gracious presence of our Lord and Father. We ask Thy presence upon this Convention, upon its work today. Help Thy servants in all that they may say, and in all that they may do. May wisdom, temperance and truth prevail in all that is said and done. May it be a day of good fellowship and perfect harmony, and may a desire be evinced upon the part of every delegate to do that which it is right to do, that which will be well-pleasing in the sight of God, and which will be acceptable to their people. To that end, our Father, we beseech Thee that each of them may be prepared for this day, that God may help them, and bless them, and lead them all in the performance of their duties. We pray Thee to bless our State. We thank Thee for the prosperity which has attended us in the past. O Lord, may this year be a year of great financial prosperity; may it be a year of great spiritual power, and may the people look unto God, from whence cometh all their help, and may they in their lives and in their conversations honor and glorify Him that hath created them for His own glory. And may the Lord bless the youngmanhood of our State; grant that the work of this Convention may set before them an example that shall be an inspiration to them to ever do that which is right, to be just and honest and true in all that they do and say; and may the Lord grant that our people may be a noble, upright people, and a people whose God is the Lord. We pray, our Father, for all for whom we should pray. Bless our land and country. Continue to give us peace—peace at home and peace abroad. May the Lord God Almighty hold us in His loving care, and keep us under the shadow

of His wing. We pray for all the loved ones at home—those whom the Convention feel an interest in—and may the Lord watch over and take care of them. And, O Lord, may this work that is done here continue to be guided of Thee; may all of our days be ordered of Thee, and may we live our allotted time in Thy fear and Thy service, and may the Lord so help and guide us as that when we come to the last river we may have no misdeeds to haunt us in that last hour, but that our last moments may be moments of happiness and peace, and that we may sink out of earth into the everlasting arms of the Son of God, and be everlastingly received into the house of many mansions, and there, Father, Son and Holy Spirit; we will give to Thee everlasting praise, through Christ, our Redeemer. Amen.

Mr. Graham of Talladega took the chair.

Upon the call of the roll 119 delegates responded to their names.

Leaves of absence were granted as follows:

To Mr. Jenkins of Wilcox for today; to Mr. Graham of Montgomery for today; to Mr. Kirkland for tomorrow; to Mr. Mulkey for tomorrow; to Mr. Carmichael of Colbert for today; to Mr. Lomax of Montgomery for today.

The report of the Committee on the Journal was read, stating that the Journal for the fifty-fourth day had been examined and found correct, and the same was adopted.

The roll was called for the introduction of resolutions, ordinances, etc.

MR. MURPHREE—I will ask the Secretary to read the following petitions, the body of the petitions, not the names.

The Secretary read the petitions as follows:

To the Constitutional Convention, Montgomery, Ala.:

We, the undersigned citizens of Pike county, Ala., do petition the Constitutional Convention, now in session at Montgomery, to incorporate in the proposed Constitution a provision abolishing forever the Tag Tax on fertilizers in this State.

Name, with occupation or employer:

W. R. White, Judge of Probate; R. B. Parks, County Commissioner, Second District; S. A. Williams, County Commissioner, First District; J. A. Anderson, County Commissioner, Third District; W. T. Green, County Commissioner, Fourth District; W. L. Fleming, farmer and ex-member of General Assembly; V. A. Gibson, T. C. P. C.; R. N. McLure, farmer and Justice of the Peace;

Dr. L. M. Turvelemn, J. H. Lawson, Justice of the Peace; W. H. Bolker, Marshal; M. Lightfoot, Fox Forleich; F. C. Bass, E. A. Butler, undertaker; B. H. Lightfoot, Alex Griffin; C. W. Helms, J. L. Reynolds, W. T. Shaw, Rolph McGehee; W. E. Fleming, R. C. Dickinson; W. T. Owens, merchant; J. F. Flowers; J. Wood, merchant and farmer; L. A. Monery, farmer; J. R. Boone, Justice of the Peace; C. B. Douglas; J. K. Harris, salesman; A. M. Copeland, dentist; Josh Copeland, bookkeeper; J. B. Young, telegraph operator; J. D. Carter, farmer; John O. Brown, broker; J. L. Carwell, salesman R. J. Flinn, merchant; T. E. Murphree, D. A. Pevell, salesman; J. G. King, stock dealer; Key Murphree, bookkeeper; O. B. Douglas, Jr., salesman; J. D. Murphree, Jr., John Reddock; D. S. Carrall, C. G. Casdell; John A. Park, R. J. Miller, merchant; M. F. Johnson; J. M. Connor, Andy J. Callor, Jr.; W. J. Parrish, R. L. Grantham; A. S. Parrish, J. W. Oliver; W. H. Connell, R. K. Kirkland; A. S. Dickinson, J. E. French; F. A. Waters, L. L. Locke; M. A. Hever, J. J. Kendrick; G. H. Kimbell, F. M. Logan; T. J. Allen, Dr. H. Foreman; J. M. Logan, A. W. Brazel; John Gamble, W. A. Smith; W. W. Logan, J. L. Logan; J. J. W. Flowers, Tom Smith; B. W. Wood, J. E. Laverette; Dug Flowers, G. B. Fryer; J. P. Dozier, W. I. Rotton; Fred Phenix, S. W. Bowden; J. F. Miles, J. S. Carroll.

THE PRESIDENT PRO TEM—The petition will be referred to the Committee on Taxation.

To the Constitutional Convention, Montgomery, Ala.:

We, the undersigned citizens of the State of Alabama, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution, some effective, self-operative provision to that end.

Troy and Brundidge, July 23, 1901.

Troy—J. H. Lawson, Mayor; W. H. Bulger, Marshal; M. Lightfoot, merchant; F. C. Bass, banker; B. H. Lightfoot, merchant; C. W. Helms, salesman; H. W. Catgen, farmer; W. T. Shaw, farmer; H. P. Griffin, merchant; W. L. Fleming, ex-Representative; B. H. Pryor, farmer; L. M. Fleming, farmer; W. E. Fleming, farmer; J. F. Flowers, farmer; J. C. Johnson, merchant; J. M. Cannon, merchant; John A. Park, bookkeeper; R. J. Miller, merchant; John Bryan, salesman; W. T. Owens, merchant; H. W. Wambles, farmer; L. G. Wambles, farmer; A. S. Parish, farmer; W. I. Parish, farmer, R. L. Grantham, farmer; M. J. Johnson, merchant; Fox French, merchant; A. L. Johnson, merchant; E. A.

Butler, merchant; Alex. Griffin, merchant; A. S. Dickinson, merchant; J. L. Reynolds, merchant; Ralph McGhee, farmer; E. R. Jordan, farmer; E. A. Waters, merchant; M. A. Mall, farmer.

Brundidge—G. H. Kimbell, W. W. Logan, farmer; J. M. Logan, merchant; J. I. Flowers, farmer; B. W. Wood, farmer; D. G. Dozier; Fred Phenix, farmer; J. F. Miles, farmer; J. J. Kendrick, farmer; F. M. Logan, farmer; L. L. Locks, farmer; J. E. French, salesman; Dr. H. Foreman; A. W. Brazil, merchant; W. A. Smith, farmer; J. L. Logan, farmer; Tom Smith, farmer; A. G. Colans, farmer; J. E. Levereth, farmer; G. B. Fryer, farmer; W. D. Rotton, farmer; Andy J. Collier, Jr., Marshal; S. W. Bowden, farmer; W. H. Connell, J. M. Oliver, J. W. Wood, merchant and farmer; J. S. Copeland,, merchant and farmer; F. A. DuBose farmer; L. A. Money, farmer; J. R. Boone, Justice of the Peace; C. B. Douglas, J. K. Harris, Josh Copeland, bookkeeper; J. B. Young, telegraph operator; J. D. Carter, farmer; John O'Brien, broker; R. J. Flinn, merchant; D. W. Peacock, salesman; J. L. Carroll, salesman; Key Murphree, bookeeper; T. E. Murphree, bookkeeper; J. G. King, stock dealer; C. B. Douglas, Jr., salesman; J. D. Murphree, Jr., cashier; D. S. Carroll, teller; Charles S. Carroll, merchant; A. H. Rainer, merchant; W. B. Rainer.

THE PRESIDENT PRO TEM—The petition will be referred to the Committee on Corporations.

On the call of the standing committees, the following report was offered:

MR. HARRISON (Lee)—I desire to submit a report for the Committee on Corporations, to be read the first time.

The Secretary read the report as follows:

Mr. President, the Committee on Corporations, to which was referred Article 14 of the Constitution of 1875, except that part under the heading of "Banks and Banking," and various ordinances, resolutions and petitions, have had the same under consideration and after due consideration of the said article, ordinances, resolutions and petitions (all of which are herewith returned), instruct me to report the ordinance hereto attached. The following indicates the changes made:

Section 1 has been so amended as to deprive the Legislature of the right of creating corporations, and to provide laws general in their character for the formation of such corporations as may be necessary or desired. Also to require the Legislature to pass laws by which charters obtained under the general laws may be altered or amended.

Section 2 is amended so as to allow corporations which have not completed their organization twelve months within which to do so.

Section 3 is practically unchanged from the old Constitution, except in verbiage in order to meet the views of some members of the Committee and of the Convention.

Section 4 is changed to require foreign corporations to file their articles of incorporation and the law under which they are incorporated with the Secretary of State in order that any citizen of the State of Alabama in making investigations as to the character and standing of such corporations may do so by applying to the Secretary of State; and also to require foreign corporations to pay the same franchise tax as is required of domestic corporations. it provides further that strictly benevolent and religious corporations shall not pay such a franchise tax.

Section 5 is changed so as to make clear the rights of corporations. In the Constitution as it now is the word charter is used. In the new section the words "declaration or application" are submitted in its place. In other words it is intended that the corporation shall only have those rights which are set out in its declaration or application.

Section 6 is unchanged.

Section 7 of the old Constitution is so amended as to add after the word "compensation" in the third line the following "to be ascertained as may be provided by law"; and also by adding after the word "otherwise" in the 9th line, the following: "But such appeal shall not deprive the person who has obtained a judgment or condemnation from a right of entry, provided he shall have given bond with good and sufficient sureties to pay such damages as the property owners may sustain."

Sections 8 and 9 are unchanged.

Section 10 is changed so as to simplify the action as it is now set out in the present Constitution, and also to make it conform to the amendment to Section 1.

Section 11 is amended by adding "telephones."

Sections 12 and 13 are unchanged.

Section 14 is old Section 21 renumbered, and is unchanged.

Section 15 is practically the same as Section 22 of the present Constitution, but it is enlarged in order to be more comprehensive and effective in its purposes and intentions.

Section 16 corresponds to old Section 23 in the present Constitution, and is so amended as to prescribe a penalty for its violation and defining the persons to whom free transportation shall not be granted.

Section 17 is a new section and is inserted for the purpose of preventing railroads and others engaged in the common carriage of freight and passengers from giving rebates.

Section 18 is substituted in lieu of Section 24 of the Constitution of 1875 and is enlarged so as to include all public utilities; in other words, to prevent anyone using the streets of the city for any purpose without the consent of the local authorities.

Section 19 is old Section 25 renumbered and is unchanged.

Geo. P. Harrison, Chairman.

MINORITY REPORT.

Mr. President

We the undersigned members of the Committee on Corporations feel impelled from a sense of duty to offer a minority report to the majority report of the Committee on Corporations, for the following reason

Under the present law, building and loan associations are authorized to collect a much greater rate of interest than is granted to individuals or any other corporation.

We think this is a special privilege, which is wrong in principle, and should be prohibited.

We therefore offer the following as an additional section to be known as Section 13 1-2 and recommend its adoption.

Section 13 1-2. After the ratification of the Constitution, 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, 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 the State upon the loan or forbearance of money, goods or things in action; and all such sums of money paid such corporation, society, organization or association in excess of the legal interest provided for by the law, by whatever name called, shall be credited on the principal of the loan made by said corporation, society, organization or association, and every such loan made in Alabama shall be governed by the laws of this State.

Respectfully submitted,

John F. Proctor,

W. T. L. Cofer,

J. Lee Long.

An ordinance to provide for the organization and regulation of corporations in the State of Alabama.

Be it ordained by the people of Alabama in Convention assembled, That Article XIV of the Constitution of 1875, except that portion thereof under the head of "Banks and Banking," be stricken out and the following be inserted in lieu thereof:

Section 1. The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal at the will of the Legislature; and shall pass general laws under which charters heretofore granted may be altered or amended. The Legislature shall, by general law, provide for the payment to the State of Alabama of a franchise tax by corporations organized under the laws of this State, which shall be in proportion to the amount of capital stock.

Sec. 2. All existing charters or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith, within twelve months from the time of the ratification of this Constitution, shall thereafter have no validity.

Sec. 3. The Legislature shall not remit the forfeiture of the charter of any corporation now existing, nor alter or amend the same, nor pass any general or special law for the benefit of such corporation, other than in execution of a trust created by law or by contract, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution; and every amendment of any charter 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 building of any branch road.

Sec. 4. No foreign corporation shall do any business in this State without having at least one known place of business and an authorized agent or agents therein, and without filing with the Secretary of State a certified copy of its articles of incorporation or association, and of the law and authority under which it is incorporated. Such corporation may be sued in any county where it does business, by service of process upon an agent anywhere in the State. The Legislature shall, by general law, provide for the payment to the State of Alabama of a franchise tax by such corporation, which shall be the same as that required of domestic corporations and in proportion to the amount of its capital stock.

but strictly benevolent or religious corporations shall not be required to pay such a tax.

Sec. 5. No corporation shall engage in any business other than that expressly specified in its declaration or application.

Sec. 6. No corporation shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general laws, nor without the consent of the persons holding the larger amount in value of stock, first obtained at a meeting to be held after thirty days notice given in pursuance of law.

Sec. 7. Municipal and other corporations and individuals invested with the privilege of taking private property for public use, shall make just compensation, to be ascertained as may be provided by law, for the property taken, injured or destroyed by the construction or enlargement of its works, highways or improvements, which compensation shall be paid before such taking, injury or destruction. The Legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise, but such appeal shall not deprive the person who has obtained the judgment or condemnation from a right of entry, provided he shall have given bond with good and sufficient sureties to pay such damages as the property owner may sustain; and the amount of such damages in all cases of appeal shall be determined by a jury according to law.

Sec. 8. Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her.

Sec. 9. No corporation shall issue preferred stock without the consent of the owners of two-thirds of the stock of said corporation.

Sec. 10. The Legislature shall have the power to revoke any charter of incorporation now existing any revocable at the ratification of this Constitution, or any that may be hereafter created, whenever, in their opinion, it may be injurious to the citizens of this State; in such manner, however, that no injustice shall be done to the stock holders.

Sec. 11.—Any association or corporation organized for the purpose or any individual shall have the right to construct and maintain lines of telegraph and telephone within this State, and connect the same with other lines, and the Legislature shall, by general law of uniform operation, provide reasonable regulations

to give full effect to this section. No telegraph or telephone company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph or telephone company owning a competing line, or acquire, by purchase or otherwise, any other competing line of telegraph or telephone.

Sec. 12.—All corporations shall have the right to sue, and shall be subject to be sued, in all courts in like cases as natural persons.

Sec. 13.—The term "corporation," as used in this article, shall be construed to include all joint stock companies, or any associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.

Railroads and Canals.

Sec. 14.—All railroads and canals shall be public highways, and all railroad and canal companies shall be common carriers. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points in this State, and connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport, each, the others freight, passengers and cars, loaded or empty, without delay or discrimination.

Sec. 15.—The power and authority of regulating railroad freights and passenger tariffs, the location and building of passenger and freight depots, correcting abuses and preventing unjust discriminations and extortion, and requiring reasonable and just rates of freight and passenger trains, are hereby conferred upon the Legislature, whose duty it shall be to pass laws from time to time regulating freight and passenger tariffs to prohibit unjust discriminations on the various railroads, canals and rivers of this State, and prohibit charging other than just and reasonable rates and enforce the same by adequate penalties.

Sec. 16.—No railroad or other transportation company or corporation 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 Legislature, or to any officer exercising judicial functions under the laws of this State, and any such member of officer receiving such pass or ticket for himself or procuring the same for another, shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding $500, and at the discretion of the court trying the case in addition to such fine may be imprisoned for a term not exceeding six months; and upon conviction shall be subject to impeachment, and removal from office. The courts having jurisdiction shall give this law specially in charge to the Grand Juries, and when the evidence is sufficient to authorize an indictment the Grand Jury must present a true bill.

Any county into or through which such member or officer is transported by the use of such prohibited pass or ticket, shall have jurisdiction of the case, provided only one prosecution shall be had for the same offense; and provided further that the trial and judgment for an offense shall not bar a prosecution for another offense when the same pass or ticket is used, and provided further that nothing herein shall prevent a member of the Legislature who is a bona fide employe of a railroad or other transportation company or corporation at the time of his election from accepting or procuring for himself or another, not a member of the Legislature or officer exercising judicial functions, a free pass over the railroad and other transportation company or corporation by which he is employed.

Sec. 17.—No railroad company shall give or pay any rebate, or a 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. 18.—Rights, privileges and easements for public utilities over, along and under the streets of incorporated cities and towns shall not be granted, except by the proper legal authorities of such incorporated cities and towns.

Sec. 19.—No railroad, canal or other transportation company in existence at the time of the ratification of this Constitution, shall have the benefit of any future legislation, by general or special laws, other than in execution of a trust created by law or by contract, except on the condition of complete acceptance of all provisions of this article.

THE PRESIDENT PRO TEM—Under the rules 300 copies of this report will be printed, and lie on the table until it comes up in the regular order for consideration.

MR. SAMFORD (Pike)—I understood there was a minority report.

THE PRESIDENT PRO TEM—It has already been read.

MR. OATES—At the time the Committee on Legislative Department was called my attention was otherwise engaged. I wish to make two or three reports from that Committee. Before they are read I have one ordinance here, referred to that Committee, No. 470, and the Committee find that it was not properly referred, but that it ought to go to the Committee on Amending the Constitution and Miscellaneous Provisions, and I am therefore instructed to return it and ask a reference to that Committee. The ordinance is in regard to the method of amending the Constitution, and ought to go to that Committee.

The reference was so made.

The report of the Committee upon the following ordinances was then read as follows:

Mr. President, your Committee on Legislative Department, to whom was referred Resolution No. 194, to require the next Legislature to reduce the tax on fertilizers to 10 cents per ton and to provide for support of the Agricultural Schools out of the general fund of the State, having carefully considered the same, instruct me to report with the recommendation that the same be adopted by the convention.

Respectfully submitted,
Wm. C. Oates, Chairman.

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.

Mr. Prseident, the Committee on Legislative Department, to whom were referred ordinances Nos. 405, 411, 420, 422, 432, and resolutions Nos. 223 and 269, have carefully considered the same, and instruct me to report back said ordinances and resolutions with the recommendation that the same do not pass. Said ordinances and resolutions are herewith respectfully returned.

Respectfully submitted,
Wm. C. Oates, Chairman.

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 thereof, shall receive or accept a pass, or other free transportation, from any railroad company doing business within this State. That the newspaper, in the event that it or its representatives receives, accepts, and uses such free pass or 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, issue such pass, free pass, or transportation, shall be fined a like sum for each violation of this section.

Ordinance No. 4111, by Mr. Reese:

Be it ordained by the people of Alabama in Convention assembled:

Article IV:

Sec. .... The Legislature shall enact penal statutes to suppress the evil habit of using obscene and profane language in the hearing of children.

Ordinance No. 420, by Mr. Burns:

An ordinance. The General Assembly or Legislature shall enact laws for the purpose of effectually enforcing the lien of agricultural, mechanical and railroad employees upon the product of their manual labor.

Ordinance No. 422, by Mr. deGraffenreid:

An ordinance to repeal sections 8 and 9 of the article heretofore adopted by this Convention on the subject of Banks and Banking:

Be it ordained by the people of Alabama, in Convention assembled, that sections 8 and 9 of the article heretofore adopted by this Convention on the subject of Banks and Banking be and the same are hereby repealed.

Ordinance No. 432, by Mr. J. W. A. Sanford:

An ordinance to empower the Legislature to construct a canal from the city of Birmingham to the Warrior river, by the employment of convicts on such work.

Be it ordained by the people of Alabama in Convention assembled, that the Legislature shall have power to authorize the construction of a canal from the city of Birmingham to the Warrior River by the employment of persons convicted of crime, on such work, and to provide for the collection of tolls on freight and fares from passengers, for the benefit of the State.

Resolution No. 223, by Mr. Mac. A. Smith, of Autauga:

Resolved that the people of Alabama in Convention assembled, that it is the sense of this Convention that the General Assembly should, as early as practicable, so amend the laws of said State as to more certainly punish the offense of vagrancy which is becoming such a common and alarming evil in many sections of Alabama.

Resolution No. 269, by Mr. O'Neil of Jefferson:

Be it resolved by the people of Alabama, in convention assembled, that the Legislature may provide that the general election

immediately preceding the expiration of a term of United States Senator from this State, and electors may by ballot express their preference for some person for the office of United States Senator. The votes cast for such candidates shall be canvassed and returned in the same manner as for State officers.

THE PRESIDENT PRO TEM—Rule 47 is the only rule the chair can find which relates to this matter, and that provides the reports of committees shall be reported and lie on the table until they come up in regular order.

MR. OATES—There is no provision in the rule that I am aware of, making provisions for adverse reports.

THE PRESIDENT PRO TEM—The chair does not see it in the index.

MR. OATES—I move that the report and ordinances be laid upon the table, where the authors or others dissenting from the action of the Committee can move to take them from the table. I think that would be the proper disposition of them.

THE PRESIDENT PRO TEM.—It is moved that these resolutions and ordinances which have been adversely reported by the Committee, shall lie upon the table until it may be the pleasure of the Convention to take them therefrom for consideration.

Upon a vote being taken, the motion prevailed.

THE PRESIDENT PRO TEM.—The special order is the continuing order of the report of the Committee on Suffrage and Elections, Section 4, and the minority report thereto.

MR. OATES—I rise for the purpose of correcting a statement I made on yesterday when my colleague from Montgomery (Gov. Jones) was addressing the Convention. He seemed to be at a loss for the time at which the Federal government began the enlistment of negroes as soldiers, and I rose and stated it was after President Lincoln's proclamation of emancipation went into operation, the first day of January, 1863, but by a slip of the tongue I said 1865, or was so understood. I desire to further state that when that went into operation the enlistment began, but it was not at all consummated in Alabama until the fall of Mobile, which went into the hands of the Federal authorities late in the spring of 1865. I merely wanted to correct the statement of the historic fact.

The chair recognized the gentleman from Calhoun (Mr. Knox.)

MR. SAMFORD (Pike)—I have observed, Mr. President, that in extending the time of speakers on this question so far, that we have had to interrupt them in the midst of their argument,

and I therefore move that the rules be suspended, before the argument begins, and that the gentleman's time be extended until he can complete his remarks.

Upon a vote being taken the motion was carried.

Mr. President and Gentlemen of the Convention:

The sudden enfranchisement of a large mass of ignorant voters, just emerged from slavery, by the adoption of the fifteenth amendment, has been recognized almost everywhere as the mistake of the nineteenth century. The consequent evils that we have suffered, in common with other States, need not be dwelt upon. They go to make the history of reconstruction in the South, and represent the darkest days through which our people have ever, and I trust will ever be called upon to pass.

The practical question, Mr. President, is what can we do, within the limits imposed by the Federal Constitution, to ameliorate and remove the unfortunate conditions which the creation of an ignorant, vicious and incompetent electorate has brought upon us.

The distinguished gentleman from Montgomery (Mr. Jones) who spoke in opposition to the majority report of the Committee laid down some principles which he said were fundamental, and upon which he assumed there would be no dispute among the lawyers in the Convention. He read from the cast of Au Kow vs. Noonan. He said he thought there would be no dispute among the lawyers in the Convention as to the principles which would govern in the case.

I grant the proposition so far as the Chinese queue case cited by him is concerned. The distinguished gentleman admitted upon this floor that the fourteenth amendment had no effect upon the right of suffrage, and if the case stood upon the fourteenth amendment that the State would have the absolute right to disfranchise the negro. In the light of this admission, there need be no dispute between us. The Au Kow case arose under the fourteenth amendment. The personal right which was invaded there was protected by the terms of the fourteenth amendment, but this does not involve or affect the right of suffrage.

Another proposition which the gentleman laid down, and upon which he said there would be no dispute, was that the State had no right to impose a condition upon suffrage which would not apply alike to all citizens—that is to say, to quote him more accurately—that the State had no right to impose a condition on suffrage to which all citizens could not attain, or which was not within the reach of all citizens. This, I understand, Mr. President, to be the proposition asserted in the minority report where they say: "We submit that the test required is not a rule or condition to which all citizens similarily situated, may conform. This, we un-

derstand, from the decision of the United States Supreme Court, is necessary to make it valid." I would inquire of the distinguished gentleman from Jefferson, who discussed this question if that is the proposition of the minority, and if I am correct in my interpretation of that clause in the report?

MR. WHITE—I suppose the gentleman can get quite as good an answer from the majority report, because they assert the same proposition.

MR. KNOX—Where?

MR. WHITE—On the first page of the report they say this: "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."

MR. KNOX—Oh. The proposition asserted by the majority of the Committee is that the qualifications which they prescribe are applicable to all alike, because every man who is a soldier is included, and this is a provision which applies to all citizens alike. Every man who is a soldier, or the descendant of a soldier whether white or black, comes within the provision, and the privilege granted by the report of the majority Committee. Every man who is a man of good character, comes within the provision of the report of the majority Committee, but the proposition which the minority here assert, and which the distinguished gentleman from Montgomery argued yesterday, is that the State is without the power to set apart a class of citizens because they were soldiers, and set apart another class because they are the children of soldiers, because all citizens could not attain or reach that qualification, and the qualification must be such as that all citizens might attain. Does the distinguished gentleman from Jefferson deny that proposition?

MR. WHITE—I think that is right.

MR. KNOX—You think that is right. That is the point I wanted to come to, because I wanted to understand the minority report.

Now, then, I deny that proposition, and I submit to this Convention that the whole argument upon it is built upon a false premises. The only two authorities which the gentleman from Montgomery has cited is this Chinese queue case, which arose under the fourteenth amendment, and the Catholic Priest case, which arose under the declaration of rights. What has the declaration of rights to do with the power of a State to regulate the right of

suffrage: "That no State can pass an ex-post facto law." That is the Chinese queue case, and the proposition of the decision of the court is asserted in this head note, "an ex-post facto law," is one which imposes punishment for an act which was not punishable at the time it was committed. Here a Catholic Priest was being proceeded against under the provisions of the constitution that were retroactive, that operated retrospectively, "or imposes additional punishment to that then prescribed, or changes the rule of evidence, by which less or different evidence would be sufficient to convict than was then required."

The proposition here asserted rests upon a false premises, for it is not true that the State cannot, in the exercise of its sovereign powers, prescribe a condition to suffrage which is not within the reach of every class of her citizens. Every State in the Union almost, Mr. President, confines the right to vote to male citizens, and yet women are just as much citizens within the meaning and protection of the Constitution as are men. And yet, constitutional provisions which limit the right to vote to males and exclude females are not unconstitutional. This was directly decided in the case of Minor vs. Happersett, (21 Wall. 162), where the opinion of the court is thus stated in the head-note.

"The Constitution of the United States does not confer the right of suffrage upon any one and the Constitution and laws of the several States which commit that important trust to men alone, are not necessarily void."

Upon the same principle, I contend that a sovereign State has a right to say that any class of citizens, that those who have fought the battles of the State, those who have risked their lives in the defense of the State, may be admitted to the right of suffrage, and the same power which will enable the State to confer this right upon the soldier will enable the State to confer the right upon the son of the soldier. It is not a discrimination on account of race, color or previous condition of servitude, but a recognition, on the part of the State, of services rendered in its behalf.

What are the powers of the State in this matter of Constitutional reform? A great many seems to go upon the principle that the State has no power in this matter except what it secures by grace of the Federal Government. Mr. President, this opinion is founded upon a misconception of our Government. The State is not the creature of the Federal Government, but the Federal Government is the creature of the States. The Federal Government is a government of limited powers. It possesses no power except such as has been granted by the States. The right of suffrage is not given by the Federal law or Constitution. It comes alone from the State. Save in the matter of discrimination against the voter on account of his race, color or previous condition of servitude,

which is a limitation not imposed by the Federal Government, but which the States, by the adoption of the Fifteenth Amendment, imposed upon themselves the State may impose any condition upon the exercise of the right of suffrage which it chooses, and the validity of these conditions, in my judgment, are not controlled by the circumstances as to whether they are reasonable or unreasonable. The State is sovereign. Sovereigns may, if they choose, be capricious. They may be unjust. They may be unreasonable. Mr. Jameson, in his work on Constitutional Conventions, says:

"Which, then, is the true theory of suffrage? Is its exercise that of a natural right, or is it merely the performance of a duty resting simply upon positive law? . . . Suffrage considered as a natural right, would be universal suffrage; and universal suffrage is an utter impracticability. For, admitting the force of the argument which attributed, by the law of nature, an equal right to vote to every citizen, nevertheless, when the statesman comes practically to establish the right, insuperable difficulties arise. Some are too weak, or too young, to exercise it at all, or with the requisite intelligence. A line must be somewhere drawn. Where it shall be drawn is a question of expediency to be determined by the existing government, like any other measure involving mixed questions of justice and of policy. The principle of exclusion being once established, whether it shall be confined to consideration of age, or to be extended to those of sex or social conditions, is a matter of practical detail, to be settled by the political power. . . . Thus viewed, it is evident that in the present condition of mankind, in which, for the public good, the principle of exclusion must be exercised, there is no such thing as right of suffrage. Suffrage is not a right at all; it is a duty, a trust, enjoined upon, or committed to, some citizens and not to others." Jameson on Constitutional Conventions, page 329 et seq.

The Fourteenth Amendment does not confer the right to vote, nor is the right conferred by the Fifteenth Amendment. The Fifteenth Amendment operates only as a limitation upon the right of the State to discriminate upon the specified grounds of "race, color or previous condition of servitude." It was so held by the Supreme Court of the United States in the case of Minor vs. Happersett (21 Wall. 178) and United States against Reese et al. (92 U. S. 214). This is made exceedingly clear in the case of the United States vs. Cruikshank, (92 U. S. 555). In this case, the court, speaking by Mr. Chief Justice Waite, says:

"In Minor vs. Happersett (21 Wall. 178) we decided that the Constitution of the United States has not conferred the right of suffrage upon any one, and that the United States have no voters of their own creation in the States. In the United States vs. Reese et al. (92 U. S. 214), we held that the Fifteenth Amendment has invested the citizens of the United States with a new constitutional

right, which is, exemption from discrimination in the exercise of the elective franchise on account of race, color or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship; but that exemption from discrimination in the exercise of that right on account of race, etc., is. The right to vote in the United States comes from the States; but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been."

It seems clear to me, both upon principle and authority, that while the State cannot discriminate against the voter on account of his race, color or previous condition of servitude, it may discriminate against him on any other ground, and it is not material whether the discrimination made is reasonable or unreasonable. It is competent for the State, in the exercise of its sovereignty, to say that only those who fought in the Federal or Confederate armies shall be entitled to vote. It is competent for the State to say that only those who fought in the Federal and Confederate armies and their lineal descendants shall be entitled to vote. It would be competent, in my judgment, for the State to say that only married men should vote. As remarked by Mr. Jameson, "A line must be somewhere drawn. Where it shall be drawn is a question of expediency, to be determined by the existing government, like any other measure involving mixed questions of justice and policy. The principle of exclusion being once established whether it shall be confined to consideration of age, or be extended to those of sex or social conditions is a matter of practical detail, to be settled by the political power." Jameson on Constitutional Conventions, page 329 et seq.

When the State has acted and promulgated its Constitution, the motives of the legislators, except so far as they appear from the Constitution itself, cannot be inquired into. It is the province of the courts to declare the effect and operation of the law, but it is not their province to investigate the ulterior motives of those who framed the law. This principle is declared and enforced by the Supreme Court of the United States in the case of Soon Hing vs. Crowley (113 U. S. 759). In that case, the court, speaking by Mr. Justice Field, says:

"The rule is general with reference to the enactment of all legislative bodies that courts cannot inquire into the motives of the legislators in passing them, except as they may be disclosed on the face of the acts, or inferrable from their operation, considered with reference to the condition of the country and existing legislation. The motives of the legislators, considered as the purposes they had in view, will always be pursued to be to accomp-

lish that which follows as the natural and reasonable effects of their enactments. Their motives, considered as the moral inducements for their votes, will vary with the different members of the legislative body. The diverse character of all such motives, and the impossibility of penetrating into the hearts of men and ascertaining the truth, precludes all such inquiries as impracticable and futile."

Our purpose is to establish the supremacy of virtue and intelligence in this State and to eliminate from the electorate the ignorant and the vicious. In this we are not alone. It has been the aim and end of every government based upon popular suffrage since the world began. Why does Massachusetts have an educational qualification for the voter? It is a mere expedient to purify and elevate and electorate. Why does Rhode Island have a property qualification for the voter? It is a mere expedient to elevate the standard and confine the right of suffrage to those to whom it may be safely entrusted. And so, in speaking of the plan adopted in the State of Mississippi, the Supreme Court of the United States, in the Williams case (170 U. S., 111) says that the Convention in that State swept the field of expedients to accomplish the disfranchisement of the negro, but adds that the expedient adopted was a permissible one, in that the provision made was not limited by its terms or effect to any one race.

Mr. President, it is much easier to find objections to any plan than it is to furnish a better. It is impossible to understand the difficulties which stand in the way of a solution of this question until you undertake it, and the closer you come to it, the more difficult it will appear. Taking the plan recommended by our Committee on Suffrage and Elections, it seems to me it is better than any that has been adopted by any of the State which have dealt with this subject, and it is better than any one plan which has been recommended, because it combines the best features of all the plans.

The conditions in this State are exceptional, being composed, in one part, of what we term white counties and in the other of what we term Black Belt counties. One plan might operate admirably in one part of the State, while it would not at all meet the demands of another. Hence, the Committee has been compelled to deal with the subject in a comprehensive manner, with a view of meeting the needs and demands of our people in every section of the State.

The most strenuous opposition offered to the report of the Committee is directed against that part of the plan commonly known as "the grandfather clause." This part of the plan has been criticised and attacked from unexpected sources, and with an amount of intemperance which seems to me wholly unwarranted.

This is a great question with which we are dealing. It is one which affects the very life of the State; and I do submit that those who have been charged with the responsibility, and who have labored so faithfully to discharge the duty, had a right to expect sympathy from some sources where, instead, they have received opposition and antagonism.

Much has been said in this debate as to the attitude of our senior Senator, Hon. Joe. T. Morgan on this question, and while it seems that the distinguished Senator is opposed to the hereditary right of the soldier and his descendants to vote, he is in favor of the hereditary right of the white race to hold office.

MR. WHITE—May I ask the gentleman a question?

THE PRESIDENT PRO TEM.—Does the gentleman yield?

MR. KNOX—Certainly.

MR. WHITE—I would be glad if you would make more plain wherein Senator Morgan has ever insisted upon the hereditary right to hold office?

MR. KNOX—He asserted it in the plan which he submitted to this Convention for its consideration, that the right to hold office, if I recollect it correctly, should be confined to white citizens and their descendants.

MR. OATES—I will ask leave to propound a question.

THE PRESIDENT PRO TEM—Does the gentleman consent to the interruption?

MR. KNOX—Certainly.

MR. OATES—Is it not a fact that Senator Morgan puts that on the ground that the Fifteenth Amendment does not contain any declaration of the right to hold office, but only to vote as to the negro, and maintains, therefore, that the State may deny to him the right to hold office?

MR. KNOX—That is true, but Senator Morgan is not objecting to our platform upon constitutional grounds, but upon the great right that was fought for by our revolutionary fathers, in opposition to the English system of hereditary rights. (Applause.)

MR. OATES—Except in this. That is true so far, but the delegate will remember that I read from a letter which I received from him, dated the 2nd day of July, in which he said he entirely concurred in the minority report and in the views of the minority committee.

MR. KNOX—Yes, he did.

MR. OATES—And that included the unconstitutionality of the measure.

MR. KNOX—Yes, that is true, and I was greatly surprised. I was profoundly astonished when the gentleman read that letter, because I remember when the Flying Squadron was organized to conduct the campaign of the distinguished gentleman for Senator in this State the reason for its organization was assigned to be that the duties of the Senator required him to remain in Washington, and among the important duties which engaged his attention, and made it necessary for him to remain there, was to make an argument in the Senate of the United States against the Pitchard resolution, and I want to read you that resolution. It was introduced by Senator Pritchard for the purpose of thwarting a similar movement to that which we now have on hand, in the State of North Carolina, and his resolution reads as follows:

"Resolved, That an enactment, by Constitution or otherwise, by any State, which confers the right to vote upon any of its citizens because of their descent from certain persons or classes of persons, and excludes other citizens because they are not descended from such persons or classes of persons having all other qualifications prescribed by law, in the opinion of the Senate is in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States and of a fundamental principle of our republican form of government."

He could not come to Alabama to conduct his canvass for the Senate because he had to remain in Washington and combat that proposition.

MR. WHITE—Will the gentleman allow a question?

MR. KNOX—Certainly.

MR. WHITE — Have you anything from Senator Morgan saying that was the reason that kept him there?

MR. KNOX—I have. (Applause.)

MR. WHITE—On the contrary, I understand he was there trying if possible to obtain the construction of the Nicaraguan Canal.

MR. KNOX—I have it from a member of the "Flying Squadron" who went to Washington to induce him to come to Alabama and engage in the canvass, and he there stated to him that he could not leave, that among other important duties he must stay there to combat the Pritchard resolution and at the same time read to that member of the Flying Squadron the able address which I hold in my hands and a part of which I propose to read to delegates. (Applause.)

Now, upon the constitutionality of the much abused grandfather clause, and as to which the distinguished gentleman from Montgomery (Mr. Oates) says that Senator Morgan in a letter to him concurred in the minority report, in the Senate in a much more deliberate statement of his position than he could make from Warm Springs, he said (referring to the Pritchard resolution):

"The substituted resolution I have just read is not true in point of law. It is not a discrimination on account of race, color or previous condition of slavery, unless the act excludes them by its terms, or by necessary intendment from its terms, for such causes. The exclusion of certain persons or classes or persons or their descendants can be lawfully made in many cases and for many reasons that have no relation to race or color or previous condition of servitude."

Again, in speaking especially with reference to the suffrage plan adopted in Louisiana, he says:

"It must also be such a discrimination as appears on the fact of the law that is complained of, and must relate alone to race, color or previous condition of servitude. It is not enough to invoke the interference of Congress that such discrimination is possible, or even probable, under the administration of the law. It must be found in the legal construction of the law and in its legal effect. In this view of the law that governs in these matters the decision in the Mississippi case is conclusive to show that the text of the Louisiana Constitution is not a discrimination against the negro on account of his race, color or his previous condition of servitude, and the act is valid against the power of Congress to interfere with it."

MR. OATES—I desire to read from the letter just that paragraph so you may see the exact language that Senator Morgan used.

MR. KNOX—I remember the letter very well. You read it on yesterday and Mr. White read one from him.

MR. HOOD (Etowah)—Did not the Senator, in his letter to Mr. White, the gentleman from Jefferson, make the statement that the Fifteenth Amendment had no more to do with this descendant proposition than any other clause or section in the Federal Constitution?

MR. KNOX—I do not remember that statement. I was simply discussing the question of his——

MR. WHITE—I will answer the question if the gentleman will permit me. He certainly made that statement, yes, and he meant to say that it was vicious as against every proposition in the Constitution.

MR. KNOX—Well, I will state further, that in this speech of his—he certainly did oppose in that letter the policy of transferring the right to vote from father to son——

MR. COLEMAN (Greene)—Will you allow a question?

MR. KNOX—Certainly.

MR. COLEMAN (Greene)—Did he not say also in that letter that his main objection to it was that it let in too many negroes and excluded too many whites?

MR. KNOX—I think the gentleman is correct.

Now in discussing this North Carolina plan, which allowed not only the whites and their descendants to vote, but free born negroes and their descendants who were also entitled to vote under the Constitution as framed in North Carolina, he says:

"If such a qualification could then be applied to free negroes who fought for the United States in aid of the Revolution that succeeded in that struggle, without creating a discrimination as to race, color or previous condition of slavery, it would equally apply to the class of negroes who aided in putting down the revolution of 1861-65. There is no more reason under the Constitution for refusing to extend these privileges to the children of negroes who were soldiers in either war than there would be for refusing to extend their pensions to their descendants."

In view of the position which he then deliberately assumed, and ably defended, it is surprising to find that he now contends that the adoption of a similar plan in his own State would be followed with such disastrous consequences. How can he expect us, or the people of this State, with his able argument in the Senate before us, to accept the conclusion which he emphasizes in his letter to the delegate from Jefferson, Mr. White, where he says:

"The transmission of the electoral power by the blood of inheritance from father to son would destroy all distinction between regal government and democracy, and would throw the door wide open for a return to the system that the American Revolution abolished. The steps would be few, and would be rapidly taken to the complete restoration of monarchy, so soon as we give to any class of voters the power to qualify their sons as voters by inheritance. In this case, it is the first step that tells with fatal and irrevocable effect."

It is surprising that the distinguished Senator would indulge in expressions like this when he must know that, in large part, the effect of the descendant clause, as applied in our suffrage plan, is to save from disfranchisement the sons of those brave and patriotic men who sacrificed their lives and their fortunes in defending the

cause of the Southern Confederacy. No one has been found who questions the right of the State to confer the right of suffrage upon those who have fought the battles of the State: and if it is within the power of the State to single out a class of patriotic citizens and confer upon them special privileges, it is impossible for me to understand how it can be denied that the State has the same power to extend the privilege to their children and to their children's children. In dealing with the powers of a sovereign State, we must distinguish between the propriety of doing a thing and the power and authority of the State to do it. While some may question the propriety of conferring this privilege upon the soldier —as many do question the propriety of the State's making provision, by pension or otherwise, even for the support of the soldier—it seems clear to me that when you concede the power to confer the right upon the soldier himself, it follows that the sovereign may, if it chooses extend the right to his children, and, if you please, to his children's children.

The distinguished gentleman from Montgomery (Mr. Oates) who signed the minority report, seems to think it would be something awful should we adopt a suffrage plank which would exclude practically all the negroes. Mr. President, no plan which has been suggested has contemplated the exclusion of all the negroes. The end and object of the plan which is reported by the majority of the Committee does not contemplate the exclusion of all the negroes, but the elimination from the electorate of the ignorant, incompetent and vicious negroes who, so long as they remain voters, stand as an everlasting menace to good government and to the peace and prosperity of our State.

Mr. President, I listened to the eloquent protest which the distinguished gentleman from Montgomery made against the disfranchisement of the negro, and as he spoke, I could not fail to ask myself, what has he done in this Convention, or what does he propose to do, to prevent this. The report of the Committee on Suffrage is unanimous, with the single exception of the proposition supported by four members to strike out the clause giving to the descendants of soldiers the right to vote. Suppose the supporters of the minority report are successful in striking out this provision. In what respect are the negroes benefited? This clause protects a right to vote in the hands of those who now possess it, and includes the negro, and it is impossible for me to understand how he expects to benefit the negro by striking it out of the Constitution.

Mr. President, I have been surprised, in the interesting review which the gentleman has given us of his dramatic experience in the military service, to note that the only heroic conduct which seems to have impressed him was on the part of a negro body-

servant, while one of his own race is described as climbing saplings in his mighty strides to escape the bullets of the enemy. I deem it unjust to the white man, Mr. President, when a comparison of the races is being made, to select an exceptional instance of depravity as the white man's exemplar, to be set over against an exceptional case of valor on the part of the negro. In contrast to the conduct of the miserable creature of whom he speaks, I beg to refer you to the conduct of Poke Miller, a green country lad, who enlisted from that portion of the State which I have the honor, in part, to represent. He was wholly without education, and when he signed the roll, he signed it with his mark. In the thickest of the fight, the standard-bearer of his company, fell mortally wounded, and even the veterans around him seemed to hesitate to take his place when this mere lad seized the colors, and, waving them aloft, advanced upon the enemy. His comrades shouted, "Bring the colors back to the men," and the answer came back, "Bring the men to the colors," and they did, and as a consequence the ramparts were taken and the enemy completely routed.

MR. OATES—Will the gentleman allow me to interrupt him just there?

MR. KNOX—When I get through, General.

MR. BEDDOW—I rise to a point of order. A number of people are on the floor of the Convention through courtesy, and they are continually applauding in violation of the rules of this House.

THE PRESIDENT PRO TEM.—The Chair will state to the gentleman from Jefferson that it is against the rules of the House to applaud, and the Chair will again request all gentlemen in the House to be seated, and remain quiet, so that the gentleman can proceed with the argument.

MR. KNOX—When the gentleman from Jefferson (Mr. Beddow) was speaking of his union labor resolution, and there was applause, I heard no objection raised by him. (Prolonged applause.)

MR. BEDDOW—Mr. President———

MR. KNOX—I think I have the floor, Mr. President—

THE PRESIDENT PRO TEM.—The gentleman from Calhoun has the floor. The gentleman from Jefferson will be seated.

Mr. Hinson sought recognition.

MR. KNOX—I hope my argument will not be interrupted—

MR. HINSON—I want to have the rules suspended and that applause be allowed.

THE PRESIDENT PRO TEM.—It seems to the Chair that the applause will take care of itself.

Another picture, Mr. President. A beardless Southern boy lay dying upon one of the battlefields of Virginia. His comrades leaned low to catch the last words from his lips, to know if there was any message which they might take to his mother and sisters at home. "Yes," he said, "tell them that when I fell, I fell with my face to the foe." He was not climbing saplings.

I now consent to the interruption at this point.

THE PRESIDENT PRO TEM.—The gentleman yields to the gentleman from Montgomery if he desires to ask a question.

MR. OATES—The purpose for which I rose was to ask the speaker if he thought it was a fair illustration of my argument to pick out, or to claim that it was a discourse and a presentation to this Convention of my career in the Confederate Army, because I saw proper to relate one or two incidents? My friend, as gallant as I know he is, would have been there, if he had been as old as I was, and if he had been where I was and all along through the scenes that I went through, he would know that these were only two small incidents in the many which occurred while I was in that army. Now I was making the argument, as a principle in favor of individualism, and not as a comparison between the two races at all, but as a mark of individualism, wherein I showed that in a particular instance a negro had displayed so much more gallantry and patriotism than a white man. That was only to illustrate my point of individualism that every tub should stand upon its own bottom in the matter of political rights rather than any contention of an equality of the races. I never presumed to say anything of that kind.

MR. KNOX—I am sure that the gentleman did not intend anything of the kind, but it seemed to me and many other delegates that he did, in the argument which he submitted, in his efforts to magnify the importance of the negro, and of his rights as a citizen, and in his anxiety, that he should not be deprived of his right to vote, he did seem to forget, to some extent, the other race, so far as his illustration was concerned.

The principle of inherited capacity for citizenship is recognized by Senator Shelby M. Cullom, a distinguished Republican, Chairman of the Hawaiian Commission, in his report on the Hawaiian Islands on pages 2 and 3 of Senate Document No. 16, third session Fifty-fifth Congress, where he used this language:

"An important subject of our investigation was that of the adaptability of the several races of the people who inhabit the islands for American citizenship, and their ability to sustain the ob-

ligations which attach to the right of suffrage. The American idea of universal suffrage presupposes that the body of citizens who are to exercise it in a free and independent manner have, by inheritance or education, such knowledge and appreciation of the responsibilities of free suffrage, and of a full participation in the sovereignty of the country as to be able to maintain a republican government."

That the Southern man is sceptical as to the ability of the negro to become a good citizen, and to exercise the responsible duties of citizenship in a manner which would justify their extension to him, is scarcely to be wondered at when we remember that Mr. Lincoln, the negro's greatest and truest friend, held similar views himself. In his speech at Charlestown, Ill., on September 18, 1858, Mr. Lincoln said:

"I will say that I am not, and never have been, in favor of bringing about in any way the social and political equality of the white and black races—that I am not, nor ever have been, in favor of making voters or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say, in addition to this, that there is a physical difference between the white and black races which I believe will forever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they remain together there must be the position of superior and inferior and I, as much as any other man, am in favor of having the superior position assigned to the white race." (1 Complete Works, 369.)

While we regret, Mr. President, that in the suffrage plan we have not the support of either of our Senators, we remember that those who battled with these difficulties in Louisiana and North Carolina were in a like condition. They, too, had the opposition of both of their Senators, but they were not deterred on that account from establishing constitutional reform, and saving the State from the domination of the ignorant and vicious element. But no great reform movement like this has ever been accomplished except by beating down obstacles which confront it on every hand. If we are right, as I believe we are, let us stand by our guns, no matter how virile the criticism or how prominent the objectors. If our position is founded, as I believe it is, upon the bedrock of truth, and meets the wishes and needs of our people, it will be accepted, and, despite all opposition, whether from within or without, it will stand like the granite promontory in the deep. The high billows may roll around it, and the mad waves may beat upon it, only to fall harmless foam at its base.

The distinguished gentleman from Jefferson (Mr. White) in the course of his remarks on yesterday, made a touching allusion to the disaster which he predicted would befall the report of the

majority when it encountered the decision of the Supreme Court of the United States, when he described the final obsequies of the off-spring of the Committee, at which he said he might appear, merely as a friend of the family, but in no way connected with the deceased.

Mr. President, when the people are heard from—the people about whom the gentleman from Jefferson has had so much to say during the deliberations of this Convention—and the old soldiers and the sons of the old soldiers come to pass judgment on the course which the gentleman has taken with reference to this suffrage plan, there may be another funeral in which the distinguished gentleman will appear—not as a friend of the family, merely, but as the principal in the case, when some new Byron may be inspired to sing:

Unhappy White, when life was in its spring,
And thy young hope waved aloft its wing,
'Twas thine own hand that struck the fatal blow,
And helped to plant the wound that laid thee low.
Like the struck eagle stretched upon the plain,
No more the rolling cloud to soar again
Viewed his own pinion on the fatal dart,
And winged the shaft that quivered in his heart.
Keen were his pangs, but keener far to feel,
'Twas his own pinion that impelled the steel
While the same plumage that had warmed his nest,
Drank the last life-drop from his bleeding breast.

Now, a word with reference to the good character provision of the plan and the criticisms which have been made upon the powers vested in the registrars.

No intelligent suffrage scheme has yet been devised which does not make careful provision for the registration of the voter. It is the only means whereby a check can be obtained against manipulation and frauds in elections; and if it is said that this system confers great power upon the registrar, the answer to it is that, without constitution of some authority which is invested with some discretion in the premises, unless you grant universal manhood suffrage, there is no means known whereby the State may purge the electorate and separate the fit from the unfit.

So far as the exclusion of the negro race is concerned, any scheme which could be devised for the purpose of separating the competent from the incompetent voter would exclude largely more negroes that white men for the reason that the negro is so unfortunate as to be wanting in those qualities which go to make a good citizen. If you select the test of education, if you select the test of ownership of property, if you select the test of patriotism, if you

select the test of freedom from the commission of crime—every such test, when properly applied, will exclude largely more of one race than the other. The plan which requires the payment of a poll-tax as a condition to the right to vote will exclude more negroes than white men. The plan which requires the voter to be a person of good character and understanding will exclude more negroes than white men. The plan which requires the voter to have served in the armies of the State will exclude more negroes than white men, but such a plan, in my judgment, cannot, on that account, be said to be unconstitutional.

If a plan is unconstitutional because it operates to exclude more of one race than another, then it is impossible to frame a plan of restricted suffrage which would be constitutional.

An alleged prominent citizen, who omits to disclose his identity, in attacking the plan of registration recommended by the Committee, in one of our leading papers, seems to assume that the appointment of registrars and the plan recommended by the Committee presupposes that they will abuse the trust and use the power corruptly.

Mr. President, I believe that it was Tallyrand that said that "every man had his price."

MR. SANFORD (Montgomery)—Walpole.

MR. KNOX—The gentleman suggests that it was Walpole. I thank him for the suggestion, because I have always received such valuable information, and this Convention has, too, from the distinguished gentleman from Montgomery. His facts and his information have been of great benefit to us. Walpole, then, it was, who said that "every man has his price" which led Macauley to remark "that only proved that Walpole had his."

The gentleman from Jefferson (Mr. Lowe) seems to be very much alarmed. I pass from the prominent citizen to take up the argument of the gentleman from Jefferson.

Some plan of registration, Mr. President, has been found in all the States to be absolutely essential for the prevention of fraud. The gentleman from Jefferson, Mr. Lowe, who spoke yesterday against the Committee's plan seemed especially indignant that it should be proposed that the registrars should be appointed by the Governor, the Auditor and the Commissioner of Agriculture. He seems to think that there is some deep-laid scheme on the part of the committee in omitting to select the State officers consecutively, whereas, the fact is, Mr. President, that these particular State officers were selected to discharge the duties of appointing the registrars under the temporary plan recommended by the Committee because, geographically, they happened to represent

different parts of the State. The Governor resides in Barbour County, in the eastern part of the State; the Commissioner of Agriculture resides in Marengo County, which is in the southwestern part of the State; while the Auditor resides in Walker County, which is in the northern part of the State; and so, in these three officers, every part of the State is represented, as near as may be. Under the law now in force the county registrars are appointed by the Governor, and I can see no occasion for alarm because it is now proposed to confer the right upon the Governor, the Auditor and the Commissioner of Agriculture.

The Governor of this State is empowered to appoint Justices of the Supreme Court, Circuit Judges and Chancellors. He is empowered to appoint United States Senators, and to fill numerous other places of less importance, and certainly, in view of this, the Governor, assisted by the Auditor and Commissioner of Agriculture, might be safely entrusted with the appointment of registrars. In a republican form of government the people cannot act collectively, but must act through agents. They must confer power upon someone; and I deny that there is any warrant for the assertion that this power cannot be safely left with the Commissioners whom the Committee has recommended.

Designing and evil-disposed persons, Mr. President, before this Convention was called, suggested that the people could not safely trust the delegates to this Convention to discharge the duties for which they were appointed, but I believe the sequel will prove that in so doing, they did well.

The gentleman from Jefferson, in his argument against the grandfather clause, as showing the uselessness of that clause, argues that a person who would be unable to register under the good character clause will be so unfit and incompetent as that he ought not to be allowed to register under any, and yet, with singular inconsistency, proceeded to argue that the liberties of the people would not be safe if left to be administered by the registrars under the good character clause, because they could abuse their power and use it to defeat the ends for which it was created.

I was surprised, too, Mr. President, to hear it insinuated, if not asserted, by the gentleman from Jefferson, that there is danger that this power might be used by the registrars under the good character clause to register all the negroes whether fit or unfit to exercise the right of suffrage. The main objections urged to plans of this kind heretofore, Mr. President, have been that they tended to disfranchise the negro, but the gentleman from Jefferson, in his startling originality, springs upon us the suggestion that he fears the power will be used to protect the negro in his right to vote. If that is the deep-laid scheme which the Committee has in view, the immense amount of sympathy which has been expended in

the negro's behalf has been wasted. But, Mr. President, I hold it to be absolutely preposterous, in the light of the fact that representatives from the counties to which the gentleman refers, have labored so long and so earnestly to be rid of the menace of this ignorant and vicious element, that they should come here and seek to fasten these chains more permanently upon them. If they wanted the ignorant and vicious negro to continue to vote, why did they come here at all. In contemplation of law, he is now a voter, and as the gentleman from Jefferson testified as a willing witness to the point that they were able to control his vote very much as they please, why then should they have worked so hard and contributed so materially to the calling of this Convention for the accomplishment of that which, so far as they were concerned, needed no improvement.

The only reason why the committee recommends a plan of registration at all is to save an extra session of the Legislature. The plan of registration recommended by them is temporary merely, and is enforced up to and until the next session of the Legislature; and the justification for the committees recommending a plan of registration rests in the fact that it saves to the State the cost of an extra session of the Legislature, which it is estimated would be not less than fifty thousand dollars.

But the gentleman from Jefferson (Mr. White) would have us believe that the maintenance of good government is in no danger under conditions now prevailing in this State. Mr. President, if our own insight will not enable us to see this danger, we have an object lesson in our sister State of North Carolina. They, too, thought that after overthrowing the carpet-bag government and establishing white supremacy they were safe; and they were able to maintani good government for something like twenty years. But when the white men divided, a large mass of ignorant and vicious voters found their opportunity, and the people of that State were subjected to such humiliation as I sincerely trust our people may be forever spared.

Time will not allow me to dwell upon the conditions which prevailed in that State, but I will quote a paragraph from the testimony of Hon. John D. Bellamy, member of Congress from that State, given in the contest election case of Dockery vs. Bellamy, which will give you some idea of the conditions which prevailed in Wilmington, the principal city in the State, where the negro was in full political control. He says:

"And the result of it was that a horrible state of misgovernment had been brought about; that night after night burglaries and robberies took place in town, without any detection; that within about eight hundred feet of the city hall six burglaries had been committeed in ten days without a detection; that one burglar had been arrested in a lady's residence, a negro burglar, was captured

and held by the ladies until a police officer arrived; and that, although the offense was punishable by death and not bailable, he was taken to the city hall, and there let off on his own recognizance, or a straw bond, I have forgotten now which, and the negro escaped."

Again he says: "I recollect especially an incident of my own experience, where I prosecuted for Mr. Hamme, a very gallant and reputable citizen, a hat merchant of this city, who was assaulted in his store in broad daylight by Richard Holmes, a negro policeman, and struck between the eyes with a pair of brass knuckles, and felled senseless to the floor; and that on three trials, although the defendant himself, Holmes, did not take the stand and the evidence was uncontradicted, the jury failed to agree a single one of the three times, standing the first time nine whites for conviction and three negroes for acquittal; the second trial taking place at the next term of court all the white men on the jury stood for conviction and the negroes on the jury for acquittal; on the third trial, which took place at a subsequent term, it likewise stook eight or nine—I have forgotten the number—whites for conviction, and three or four negroes for acquittal, according to the number of negroes on the jury; and finally the Fusion Solicitor, although I myself was associated in the prosecution, nol prossed the case without even consulting me."

I will pause, too, to cite to you the editorial written by a negro editor of a negro paper published about this time in Wilmington, which he was emboldened to write because of his reliance on the protection he supposed the existing government would furnish, and the publication of which resulted in a riot causing the loss of many citizens:

"Poor white men are careless in the matter of protecting their women, especially on farms. They are careless of their conduct toward them, and our experience among poor white people in the country teaches us that the women of that race are not any more particular in the matter of clandestine meetings with colored men than are the white men with colored women. Meetings of this kind go on for some time, until the woman's infatuation or the man's boldness bring attention to them, and the man is lynched for rape. Every negro lynched is called a 'big, burley, black brute,' when in fact many of those who have been thus dealt with had white men for their fathers, and were not only not 'black' and 'burley' but were sufficiently attractive for white girls of culture and refinement to fall in love with them, as is well known to all." The publication of this letter in connection with other acts of aggression on the part of the negroes, led to the Wilmington riot which resulted in the loss of many lives.

The conditions which prevailed in the city of Wilmington were such that eight thousand of her best citizens were forced, for more than ten days, to suspend business and patrol the streets with Winchesters.

Mr. President, the negroes in Alabama greatly exceed in numbers those in North Carolina, and he who would believe that there is no danger to us in leaving the ignorant and vicious element of this race in this State possessed of political power, would be of a very innocent and confiding nature indeed!

The great work of this Convention should be to establish the supremacy of virtue and intelligence in this State — to imbed it deep in the Constitution, so that future generations, when they come to view the work that you have wrought, will revere and bless the memory of those who framed it. Thomas Jefferson, the great commoner, who was twice President of the United States, and honored as it falls to the lot of few men to be, when he came to die, turned his back to all this pomp and glory, and counted as the greatest achievements of his life what he had done to benefit his fellow men. "Let it be written," he said, "upon my tomb, 'Here lies Thomas Jefferson, author of the Statute of Religious Liberty in Virginia, the Founder of the University of Virginia and the Author of the Declaration of Independence.'"

THE PRESIDENT PRO TEM.—The Chair recognizes the gentleman from Jefferson, Mr. Ferguson.

MR. REESE—I rise to offer a short resolution to provide for the printing of the speech that has just been delivered by the gentleman from Calhoun. I will ask the gentleman to yield.

THE PRESIDENT PRO TEM.—Will the gentleman yield?

MR. FERGUSON—Yes, sir.

The resolution was read as follows:

Resolution No. 270, by Mr. Reese:

Resolved, That five thousand copies of the remarks of Hon. Jno. B. Knox be printed in pamphlet form.

MR. REESE—I move the suspension of the rules that the resolution may be put upon its passage.

MR. OATES—Mr. President—

MR. REESE—The motion to suspend the rules is not debatable.

MR. OATES—I supposed you wanted to shut me off—I have no doubt about that.

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

MR. FERGUSON—Mr. President and gentlemen of the Convention, I feel very much in the position of Sergeant S. Prentiss when in one of the great campaigns between the Whigs and Democratic parties before the war, he made a great speech in the city of New Orleans. In response to the clamorous calls of the multitude that were there to hear Mr. Clay speak, there were various futile efforts to get him to speak, finally he appeared on the gallery of the St. Charles Hotel and said to the multitude in front of him: "When eagles are in the air, it is time for the lesser birds of the feathered tribes to go to their roosts," and retired to his room. I hardly know, Mr. President and gentlemen, whether to consider it a compliment or not, to follow the distinguished President of this Convention, one of the ablest lawyers and debaters in the State of Alabama. The Committee designated this time for me to speak, but I do not know or did it out of compliment to me or did it for the purpose of making a contrast and saying here is the Hyperian to the Satyr, a Royal Bengal tiger to a singed cat, or the towering peaks of the Maeterhorn to the foot hills beneath it. I am unable to say, but being of a charitable disposition, I am willing to assume that this Committee, in assigning me this position, meant to compliment me.

Now, like Flannigan of Texas, "Gentlemen, for what purpose are we here?" It is, as outlined in the enabling act of calling this Convention, to amend and revise the Constitution of the State of Alabama. They had to put it that way in order to make it constitutional under the Constitution of the State, but gentlemen, we know the purpose for which it was called. There is not a man upon this floor but what knows the great supreme purpose for which this Convention was called, and that it was to reform the suffrage of the State, and to reform it in such a way that the white people might remain supreme in the control of its affairs, and to prevent the possibility, even though at remote times, of negro domination in this State. Let me in the beginning say that I am in full sympathy with the movement. I am glad, however, that this Committee in its wisdom put a plank in its ordinance by which negroes of good character in this State should be recognized and given the right to vote, and I am glad that embodied within the provisions of this able instrument, that these able gentlemen have furnished for our consideration, are measures which will prevent the vicious of that race or any other race in the State of Alabama from casting ballots at our election.

Gentlemen, I dislike to appear in opposition to the article reported by this Committee, which as has been said upon this floor, is one of the ablest State papers that was ever drawn up. It is in my judgment, an able document with one exception, and that is,

what is known and called "The Grandfather Clause." In the magnificent peroration made by the gentleman in closing his speech, as to the inscription on the tombstone of Thomas Jefferson, he might well have added, "Who struck down the law of primogeniture in the United States of America, making it impossible to ever have any class or hereditary distinctions." That is the meat in this provision.

Fellow delegates, the Committee and its champions say that this provision is constitutional. Some of the opposition say that it unconstitutional. I believe that it is so doubtful it ought not to be embodied in the organic law of the State of Alabama, because we cannot tell, gentlemen, what a hostile court may do or a hostile Congress will do even though it be constitutional in one aspect of the case. If we should have a close presidential election, the result of which depended upon the vote of the State of Alabama, with a court unfriendly to us, but friendly to the views of our opponents, they would find the means of saying that it was unconstitutional. Governor Jones and Captain White have ably argued to you that the courts will not necessarily look at the face of the instrument itself for the purpose of determining whether it is constitutional or not. They will look at the purposes which actuated the Convention that passed it. They will look at it to see whether it is a scheme devised for the purpose of depriving citizens of the United States of the right to vote on account of race, color or previous condition of servitude. Do not forget, gentlemen, that in the history of past decisions, and past congressional enactments in this country growing out of reconstruction, that they will put the X-rays upon it. They will use Roetgen rays to discover an infirmity in the body of the enactment. Being somewhat of a reader, if not a student of history, I have taken occasion to look into the question to ascertain for what purposes the fourteenth and fifteenth amendments were enacted. I knew that there must have been some purpose in view in enacting those amendments. The war had closed, and the thirteenth amendment had been passed emancipating the slaves of the South. Two or three years later the fourteenth amendment followed and the fifteenth amendment followed shortly afterward. I have looked into the question and students of history upon this floor will bear me out, in the statement of the reason for the legislation. Mr. Blaine, whom they say was an unfriendly historian, in his book, gives a reason. Samuel S. Cox, a friendly one, gives identically the same reason, and they say that it was on account of the antagonistic, and as some of them classed it, diabolical legislation of the Southern States, towards the negro, as a freed man. In discussing the question, Mr. Blaine lay particular stress upon the character of the legislation that was levelled at the negro in a state of freedom by the legislature of Alabama, which had not yet been abolished by reconstruction enactments. I have here the penal code of 1866, passed

by that legislature, and in it I find the acts that Mr. Blaine and Mr. Cox refer to in their histories of that period, and it is so encumbered by enactments for the purpose of keeping the negro in a species of slavery, that the sentiment of the North was outraged. They felt that the four years of deadly struggle had accomplished nothing; that the legislature would override what they had done, and they immediately got together and as soon as possible passed the fourteenth amendment, that forbade any State to deprive any citizen of the United States of his rights or to abridge his privileges or immunities, to deprive them of the equal protection of the law. The enactments that had been passed by the legislatures of the Southern States immediately fell to the ground, and the negro had all the rights of citizenship before the law that the white man had. Thereafter they passed the fifteenth amendment to prevent these unfriendly legislatures from depriving the negro of the right to vote on account of race, color or previous condition of servitude.

Now, you may ask what bearing that has upon the question at issue here today. It shows that if they consider that this strikes at the general government, and its powers, they will look at the purpose that animated this Convention, as much so as they did at the legislatures in passing those laws that sought to override the will of the Northern people. We should proceed with great care in this matter, so as not to give them the opportunity to declare unconstitutional what we shall enact here. The champion of this Committee say that it is not unconstitutional. Why? What reasons do they give?

They say because there were negro soldiers in the army of the United States which fought against the Southern States. They say that there are 5,000 negro pensioners in the State of Alabama today. It is true that the negro was enlisted in the forces of the North. That is the evidence upon which they rely to make this a constitutional enactment. Well, perhaps it may do so, but as a vote-getter, I tell you, when it is argued throughout this country, it is not going to gain the Constitution many votes. For what purpose, may I ask, is this grandfather clause placed in the Constitution, and why the necessity of it? Is not the prime purpose of it to get votes for the Constitution? Gentlemen argue here that the people in the hills want it. Well, so far as I know, gentlemen, there was no discussion of it on the stump. It never became a live question until the Convention met; and yet, gentlemen get up here and say that they know that the people want it. Well speaking for the greatest white electorate in the State of Alabama, I have tried to find out what their views were on the subject. My county has in the neighborhood of 23,000 voters, the biggest county in the State, and, strange to say, the largest negro county in the State of Alabama, as shown by the reports of the last census;

but I tell you, gentlemen, I never saw such an overwhelming sentiment against a proposition in my life, as there is in the county of Jefferson, against this grandfather clause. Now they say, though, that this is not a hereditary distinction. One gentleman quoted to me the other day a Latin maxim, which I have forgotten, but the English of it is that there can be no heir to the living; that is, that the descendants of those living now won't get in, but he would get a heritage from his dead father, or grandfather, or great-grandfather, or some other ancestor that fought in any of these wars. Now, that is hereditary, and as has been said on this floor, that is inconsistent with the provision of the Bill of Rights. The gentlemen lay a great deal of stress upon that, but I say it is dangerous, for a people under a republican form of Government, to establish within it a class of voters to which other voters may not attain and cannot attain. Whether there are many white people within the State of Alabama that cannot attain to the position here that you seek to establish, it creates a distinction in the State, and will have the effect of creating classes. We know what comradeship will bring about. We see it every day in life. If a man serves in the Legislature with another, he feels it to be his bounden duty to vote for him, should he ever run for office again. Men in this Constitutional Convention, all things being equal, will vote for each other hereafter for any position they may aspire to, simply upon the ground that there is a comradeship established. They served together in the Constitutional Convention, and, therefore, they will support him. This feeling grows stronger in the army. As we already see, the Spanish-American war veterans that have been established for more than two and one-half years. We have the Mexican war veterans organized in some places; Confederate veterans and the Grand Army of the Republic. The Grand Army in its incipiency was organized for a noble purpose; they met together and discussed the scenes of the war, and the dangers they had gone through, but politicians discovering the strength of their numbers, began to use them. They discovered the power of the soldier vote, which is a controlling factor in every State north of the Ohio and west of the Mississippi. The pension list calls for $140,000,000, more than it takes to support the army and navy of the United States, and more than it takes to support the great Imperial Army of Germany of more than 2,000,000 of men. Here is where the danger comes about these class distinctions. You have a provision in here under Section 7, that at primary elections these qualifications must be possessed by the voters. Well, what is more natural than that this class should get together to nominate officers from their particular class. We pay our old Confederate veterans a pension—I am glad of it; I wish we were able to pay them more; but I would regret to see the day when their sons or their descendants should ask for a pension from the State of Alabama for services that their fathers had performed in the defense

of their country, and yet, if you establish a class, there is great danger in the cohesive power of its members. There is danger, gentlemen, that they may try to secure laws for the purpose of getting pension legislation passed in their favor. Because there have been numerous negro soldiers in the Federal army that lived within the State of Alabama, does that commend this plan; does that give it any strength before the people? Will that give it any strength when it is argued upon the stump? Something was said about arguing this thing in caucus, so the people would not get hold of it. I was in favor of the argument seeing the light of day, because I know that there are men on the other side who will be in opposition to the Constitution who are smart enough and able enough to get up arguments themselves, and who will spring arguments against the work of this Constitutional Convention that have been presented here, and some that have never been thought of, so we might as well speak our sentiments and let the people know that we were not afraid to discuss it in open Convention. There are able men in the Republican party, one of my friends in Montgomery found that out.

Now, as to this good character clause, I want to ask gentlemen who have practiced law, and many of you are lawyers, what is easier to establish anywhere than good character? If a man has got good character everybody in his community knows it, and it need not be by positive evidence, either, but the most of it is proved negatively; that is, if he ever did anything that was wrong, I never heard of it. There is nothing so susceptible of proof as good character. Then, what machinery do you provide in this instrument for proof of the fact that an ancestor has served in one of the wars of the country? What do you propose along that line? Are you going to ask so and so about it, or are you going to allow a man to walk up and take the oath that his father fought at Gettysburg, or fell at Chicamauga, or his great-grandfather was with Washington at Valley Forge? Are you merely going to allow him to say so, and put him in the list of hereditary life-time voters, or list of peers. In the Parliament of England they have hereditary peers and another class called life peers, but in America we have no hereditary distinctions, and cannot have any, unless this instrument passes and becomes ratified. If it does, then in the State of Alabama, a sovereign State of the American Union, we will have a class of life-time voters, men who can vote the balance of their life, segregated out of the mass of their fellow citizens.

MR. OPP—The gentleman's time will soon expire. I move it be extended half an hour.

A vote being taken, the motion to extend the time was adopted.

MR. FERGUSON—I thank you, gentlemen, very much for extending the time, but I had well nigh gotten through anyhow. However, with your indulgence, I will make a few more remarks upon the subject. I want to know what good purpose can be subserved by placing this provision in the Constitution. I want to know if every man who comes in under this grandfather clause could not as well come in under the character clause. If not, why not? The fact that he was the son of a Confederate soldier ought to be a presumption in his favor that he was a man of good character. That was the tendency of every argument made upon this floor. Good character is so easily proved. Now there is no machinery whatever for establishing the fact that a man had an ancester that served in some of the wars of the country. Addressing myself a little further to that proposition. The distinguished Chairman of the Committee knows the difficulty of convicting for perjury even in ordinary cases. The burden would be upon the State, as in every other case. The defendant would not have to open his mouth, they would charge him with having sworn falsely before one of these registrars, that he had an ancestor in some one of the wars of the country. They would read the indictment to the jury and he would sit there and not say a word. Would it not be hearsay evidence in ninety-nine cases out of 100? His own evidence would be hearsay in claiming to be the descendant of a soldier. I have been reading the papers about the good ladies of the land desiring to join the Daughters of the American Revolution. The Atlanta Constitution and The Montgomery Advertiser are full of all sorts of inquiries and answers as to who John Smith was, and Bill Jones, and whether he fought in any war or not. Then somebody else will come back and say in some history of North Carolina they say Bill Jones was in a North Carolina Regiment, and in some instances upon that they predicate descent from a revolutionary soldier, and maybe join the Daughters of the American Revolution.

MR. WHITE—We are going to have Sons of the Revolution under this Section.

MR. FERGUSON—Sons of the American Revolution, hereditary voters in a class to themselves, that other citizens will not and cannot attain. I never heard of a negro being in the war of the revolution, and when the Supreme Court of the United States, that is liable to be hostle and antagonistic, especially if the Northern heart is fired, look at it, they will put their X rays on it and say, this is a palpable scheme upon the face of it for the purpose of disfranchising citizens of the United States, because they must know history as we do; they must have known, as we do, that there were no negroes of the Revolutionary War, and that there were no negroes in the war of 1812 with Jackson and Coffee and others. They will say, though, that there were negroes in the

Federal army in the war between the States, because they know it and we know it. But there is many a man in the hills that you think is going to break his neck to vote for this grand-daddy clause who will say, "I will never vote to enfranchise one of those fellows, never in this world."

I have been struck by this clause distinction. I was struck when we first came down here, with the disposition of men to swell up and be proud on account of certain things. We have in this Convention 100 delegates nominated from the counties. We have fifty-five delegates nominated from the State at large, the Congressional districts and the Senatorial districts. I could observe a superior air about the fellow who was nominated from the State-at-large—the House of Lords, or the Upper House of this Convention. They would sort of rear back and look down upon us fellows who stood right next to the people, and were nominated by the people. (Laughter.) It is so easy to establish class distinctions, gentlemen. But they soon discovered that the fellows who had the ear of the people and who were nominated by the people were in the majority and that they would not submit to subordination.

I want to say, gentleman, that Senator Morgan wasn't so far wrong after all. It is true, they have introduced the record against him here, and have shown somewhat inconsistent statements, but there is this distinction between his position to admit the white race to hold all offices and setting aside a particular class of voters whose fathers did certain things.

MR. OATES—I want to suggest to my friend that Senator Morgan is able to handle any side or any question.

A DELEGATE—Or both sides.

MR. FERGUSON—Well, I think so myself.

Well, now, gentlemen, a few more words and I will have concluded. If we can get all these voters in under the third division, if they are of good character, I ask you in all common sense and reason, what is the use of weighting down the Constitution with a provision that may be declared unconstitutional and that may carry down with it all the other provisions on the suffrage question?

But the answer will be, and the argument has been, that this is a temporary class; that it only lasts until January 1, 1903, and that the Supreme Court of the United States could not act upon it within that time. That has been the argument, but in the meantime, a class would have been established by the Registrars. They will have made this hereditary class of voters. But mind you, a Presidential election comes on in 1904, another one in 1908 and every four years thereafter, and there are Congressional elections

every two years. If there should come a close Presidential contest will not Congress be apt to say that by reason of this fraudulent enactment you have made this particular class that other citizens could not aspire to, and you have destroyed the republican form of government in Alabama," and they will overthrow it or they will throw out the vote of Alabama in the House of Representatives. Now, unless we want to yield all interest in the Presidential and in the national elections of this country, in my humble judgment, it would be unsafe to put this provision in the organic law.

I want to say that there is no man on this floor who has more veneration, respect, love and regard for the Confederate soldier than I have, and none who loves his descendants more.

A DELEGATE—Their daughters?

MR. FERGUSON—Yes. I have loved their daughters and may perhaps do so again. Mr. President, I never see an old grey jacket that it does not raise emotions in my breast. I am not so old as to take a retrospective view of life and to indulge in memories of the past, but I am old enough to remember when these same soldiers went forth to war in bright glittering uniforms, golden stripes and with fife and drum gaily playing and banners fluttering in the breeze, as they marched up to the train to go off to Virginia. It was a glorious sight and it thrilled my boyish heart with pride to see the soldiers as they were going out to do battle for their country. But gentlemen, Linden saw another sight, when four years later they came back, not banded together in companies and regiments, but singly and in little squads, dirty and bedraggled, ragged and torn by the misfortunes of war, and it was a sad sight, gentlemen. My every sympathy goes out to them. I love them for the deeds of valor that they did upon many glorious fields of strife during the war. I have no objection to saying that they shall vote because they did that, but I am opposed to making a class distinction in the organic law of the State of Alabama, because I see no necessity for it. Under the good character provision and the other restrictions and means provided therein. I think the ballot will be safe in the hands of the best people of Alabama, the white people of Alabama, who love the State and want to see good government within her borders. This is a great plan, a great instrument, and with that single exception, I would be glad to see it adopted, but I am afraid of the ultimate consequences. I thank you, gentlemen, for the attention you have given me.

MR. HOWELL (Cleburne)—I had intended at the opening of this discussion not to open my mouth, pro nor con, but to study the question through discussions of the various gentlemen who have so ably argued it, and would therefore by my best judgment,

and by my conscientious duty, make up my mind and vote, but I feel, sir, that it is a duty that I owe to myself and to my constituents to give a few reasons which shall govern my vote on this question. I regret very much that I am not in accord with the report of the majority of the committee on the suffrage question. I would be very grateful and very glad if I could be in accord with them, but to be honest with myself, and to be led by my honest convictions of duty, I must dissent from Section 4 of that report. There are two reasons which bring about this dissent. The first is that, although not a lawyer, I think I have some capacity to interpret and understand my mother tongue. I believe it is in violation of the Fifteenth Amendment to the Federal Constitution. You remember, sir, and we all remember, that in the organization of this Convention on the 21st of May last, every man of us, of our own accord, stood up in this historic hall, and with uncovered head and uplifted hands and with bated breath, deliberately took an oath to support the Constitution of the United States, and in my judgment, we are undertaking to do a thing indirectly that we cannot do directly, and it is a great principle in law, in morals and in religion, and everything that is high and right, that it is wrong to do a thing indirectly that we cannot do directly. I must confess, sir, that ever since these States have taken this step, while it was done by Democrats and by white men, in spite of myself, it has lowered them in my estimation as a great, honorable, high-toned class of men. I allow no man to excel me in my loyalty to the Democratic party. For forty long years I have never scratched a name from the Democratic ticket. I allow no man to excel me in my admiration and esteem of the Confederate soldier, because no man that lived through the war left more blood upon the field of battle than I did. Yet, when I am confronted with this solemn oath, not only registers here in the archives of this State, but registered by the recording angel on high, and which you and I must meet at the end, I am not prepared to join here in doing a thing indirectly which I have sworn not to do directly. I cannot vote with the majority, on conscientious scruples.

I cannot vote with them for another reason. I believe the grandfather clause is wrong in principle. As I have said, no man would accord to a Confederate soldier, or to any other soldier, and his descendants, down through all the coming years, more than I would. I have five sons who are voters, and some grandsons who are voters and while they may be proud, possibly, of the record of their father and their grandfather, as a Confederate soldier, I risk nothing in saying that they would not appreciate in any degree the privilege of going side by side with their neighbor to the polls, and being allowed to vote because they were sons of a Confederate soldier, and their neighbor who was not in that condition, be required to come up to other qualifications. These, Mr. President, are the reasons for my dissent from the majority report, and I re-

gret it, because I esteem its members very highly. The Committee is composed of men of distinguished ability, men whose honesty, integrity and patriotism I have no reason to question, but these are questions, my friends, which every one must decide for himself. I will not detain the Convention longer. These are briefly some of my reasons, and the main ones, why I dissent from the report of Section 4 of that Article.

MR. KYLE (Etowah)—It is only fifteen minutes before adjournment, and as I have not occupied the time of the Convention for a moment during these fifty-odd days, I desire to make a few remarks, and state the reasons why I cannot support the pending question. As I understand it, we were sent here to amend the Constitution, so as to have a franchise clause which would allow every white man in the State to vote, and at the same time not to violate any provision of the Constitution. Now, sir, I desire to speak on this question from a business standpoint, and the point of public policy. I shall not attempt, not being a lawyer, to go into the question of the constitutionality to any degree. I will leave that to the able gentlemen who have discussed the question on both sides. I will say, however, that if I were sitting here as a juror, and the question had been presented as this has been presented, I should certainly be one of the jury that would bring in a mistrial. When we go before the people, sir, for the ratification of this Constitution (and all of our work here amounts to nothing unless it is ratified), what is the condition that confronts us? As able men as there are in the State, men learner as lawyers, and as constitutional lawyers, tell us sir, that the adoption of this grandfather clause will probably bring about difficulties in the future that will arrest the progress of the State, and her grand development which is now in progress. Capitalists, not only of this State, but of other States, are looking to us in relation to the fundamental law we are about to establish, and they will say the question is so doubtful in Alabama, as to the result of this grandfather clause, I would rather not invest my money there until the question is settled by the Supreme Court of the United States. It will thereby intimidate capitalists from investment. When we look upon it from this standpoint, it does seem to me, sir, if we could allow every white man to vote in the State under the third clause of this section which we are now discussing, it would be impolitic to engraft upon the Constitution a provision that would bring up these untold difficulties which the learned gentlemen of the minority report have told us about. Now, sir, it is only on that point that I want to draw the attention of the Convention. Shall we weight it down with a clause that imperils not only the liberties of the people of Alabama by a re-construction measure, by the appointment of a provisional Governor and all those untold horrors we have had in the past, when we can carry out our pledges, and ful-

fill every obligation that we have entered into with the people who sent us here, by the third section of this article? It occurs to me, sir, it would be unwise to do it. As I view the question, sir, the body politic of the State of Alabama has a festering sore, and we have been sent here to relieve the State of that difficulty. We have called in the doctors; they have diagnosed the case; about one-half of the learned gentlemen on each side have differed in their opinions. One has said that you must use the knife; another has said you must have a milder remedy. The people say we do not want to take any risk of losing the patient; we will adopt a milder method, or we will not have the case treated at all. Now, if we can cure this difficulty without the use of the knife, without putting upon us this grandfather clause, which might disturb the commercial relations of the State, and bring about distrust and anxiety on the part of capital, why should we do it? No man is more averse to disfranchising any white man than I am, but I am fearful, if we engraft this clause upon the Constitution, capitalists will be intimidated, and a large influence that would otherwise be for the ratification of the Constitution would vote against it. Therefore, sir, I have thought it proper to submit my views from a business standpoint without regard to the legality of the question, leaving that feature for the other gentlemen who have discussed it. If we accomplish anything it will be by the ratification of the Constitution. If the enemies of the ratification are enabled, by the arguments that have been made by the gentlemen here, to show to the people of the State at large that they take a great risk in doing it, will not the people be timid and refuse to ratify the Constitution? These are questions I think should be considered, and these are the reasons why I oppose the grandfather clause in the fourth Section.

MR. GREER (Calhoun)—I will state that I will not detain the Convention beyond the hour of adjournment. It had not been my purpose, Mr. President, up to five minutes ago, to open my mouth on this question. To my mind the question has been discussed as ably as any question during the session of this Convention, and I would not even now submit any remarks whatever, but for the fact that my distinguished friend, the delegate from Cleburne, one of the counties I have the honor to represent, has taken a stand which was very much of a surprise to me, knowing as I do the desire of his constituents and of mine, in the county which he has the honor to represent. I will say, Mr. President, that I have made a canvass of that county and in that canvass I made a pledge to those people that I would defend just such a measure, and I want to say, before the Convention was called, I talked with a large number of people of that county, and I know, after making a personal canvass of the county, and talking personally with the people of that county, that they are overwhelmingly

in favor of the grandfather clause as reported by the majority of the Committee.

MR. HOWELL—May I ask a question?

MR. GREER (Calhoun)—I yield. I have but a few minutes, Mr. President, but I consent.

MR. HOWELL—How long has it been since you were in Cleburne County?

MR. GREER (Calhoun) — I was in Cleburne last Tuesday and talked to a number of the gentlemen from Cleburne during last Tuesday.

MR. HOWELL—I will say further, Mr. President, that I was in Cleburne County a number of days since this Convention began, and never heard a single man in favor of the grandfather clause in Cleburne County.

MR. GREER (Calhoun)—I will ask the gentleman if he made a canvass of the county before the Convention was called?

MR. HOWELL—I did in part.

MR. GREER—I will state, Mr. President, I made a canvass of the county, and was in part responsible for the gentleman having no opposition for the seat he now holds. I made pledges for myself, and made pledges for him, that he would support this very clause that would allow the sons of the old Confederate soldiers of Cleburne County to register and vote under such a clause. I want to say, Mr. President, that I never will, by my vote, go back on the pledge that I made his people for myself, and I want to say, further, Mr. President, I believe, and I know, after a canvass of that county, that the people of Cleburne County will applaud my action when I vote in favor of the report of the majority of this Committee. There is no use to go into a discussion of the question; it is not my purpose to do so; it has been discussed ably, and you have been told that when the fathers were at the front in the battles of the country, the boys were at home working to support their mother and the smaller children there, and after the war, the privileges in country districts for education were limited indeed, and they did not have the opportunity of receiving an education; and to deprive them of the means of an education, and then to deprive them of the right of suffrage would, in my mind, be an unpardonable sin, if committed by this Convention, in view of the pledges made to the people of Alabama.

MR. HOWELL—Do you understand because a man opposes this grandfather clause, that he is in favor of disfranchising a single white man?

MR. GREER—I understand when a man opposes this grand father clause he is certainly opposing a measure that will allow the sons of Confederate soldiers in Alabama to qualify and vote under the provisions of this report; and it was a very strange thing that I heard a few moments ago, that because Alabama proposes to, and will adopt white supremacy in the State of Alabama, that capital would become timid and refuse to come here for investment. It seems to me the very fact that Alabama proposes to put her affairs in the hands of white men of Alabama and forever place it out of the possibility of its going elsewhere, should be an invitation for capital to come to Alabama because capital wants virtue and intelligence to rule, and they will applaud the actions of the people of Alabama in placing her in line with other States, in eliminating the vicious, and—I started to say, Mr. President, and will say—largely the criminal element of the State.

Now, I have said more than I expected to say. I feel very much like the gentleman who was elected to the Legislature in Georgia once, a farmer, like myself, and not an orator. Some gentleman made a telling speech on the floor one day and he got up and said, "Mr. Chairman, I am no spokesman, but I think just what that 'ar man thinks." Now, I am no orator, and no lawyer, but I want to say, in conclusion, I think just what the distinguished gentleman from Calhoun, the President of this Convention, has expressed on this floor today.

MR. FITTS—Mr. President, I move that a vote upon the pending question be made the special order for Monday at 12 o'clock, and that a vote be taken at that time. I make that motion because tomorrow is Saturday, and I have every reason to believe we will have the usual thin house of Saturday here.

THE PRESIDENT PRO TEM.—That would require a motion to suspend the rules, and the motion to suspend the rules is not debatable.

MR. deGRAFFENREID—I move to lay the motion on the table.

Upon a vote being taken, a division was called for, and by a vote of 24 ayes and 31 nays, the motion to table was lost.

MR. GREER (Calhoun)—I rise to a point of order; there is not a quorum voting.

THE PRESIDENT PRO TEM—The Chair thinks he could count a quorum if he had time.

MR. FITTS—Now, I move that the rules be suspended, and that a vote on this question be made the special order for 12 o'clock on Monday.

MR. O'NEAL—I move to postpone that question until the evening session.

MR. PROCTOR—I make the point of order that 1 o'clock has arrived and that this Convention now stands adjourned.

THE PRESIDENT PRO TEM.—The point of order is well taken.

Thereupon the Convention adjourned.

AFTERNOON SESSION.

The Convention was called to order by the President, and the roll being called showed the presence of 136 delegates.

Leaves of absence were granted as follows: To Mr. Sorrell for tomorrow and Saturday; to Mr. McMillan for Saturday, Monday and Tuesday; to Mr. Foshee for this afternoon and tomorrow; to Mr. Kyle for tomorrow and Monday; to Mr. Fitts for tomorrow; to Mr. Davis (DeKalb) for tomorrow, Monday, Tuesday and Wednesday; to Mr. Eyster for tomorrow and Monday; to Mr. McMillan for tomorrow and Monday; to Mr. Craig for Saturday, Monday and Tuesday; to Mr. Burnett for tomorrow and Monday; to Mr. Graham (Talladega) for tomorrow and Monday; to Mr. Leigh for tomorrow, and Monday; to Mr. Banks for tomorrow afternoon; to Mr. Sloan for tomorrow and Monday.

THE PRESIDENT—The special order for this afternoon is the consideration of the report of the Committee on Suffrage and Elections.

MR. PROCTOR—In the forenoon there was a motion made that a vote should be taken on this matter at 12 o'clock Monday. I move that that be amended so as to read 5:30 this afternoon.

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

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

MR. deGRAFFENREID—The motion of the gentleman cannot be made without a suspension of the rules for that purpose.

THE PRESIDENT—The Chair is advised that the rules were suspended.

MR. GRAHAM (Talladega)—The pending motion was to suspend the rules. The rules had not been suspended.

MR. HEFLIN (Chambers)—I move for a suspension of the rules.

MR. PROCTOR—I will ask the Secretary to read the journal of this forenoon. I think the rules were suspended.

MR. deGRAFFENREID—There was a motion to table, and a refusal to table the motion.

THE PRESIDENT—The Chair understands there was a motion to table, and the Convention voted it down, and the question would recur on the motion to suspend the rules.

MR. HOWZE—I rise to a point of inquiry. Is it necessary to suspend the rules to fix the hour to vote upon a measure that is pending? There are no rules that I know of requiring a suspension of the rules to fix the time of voting and I will ask if that is necessary?

THE PRESIDENT—The Chair will consider the question and amendment under the rule. It seems to the Chair that the Convention might, pending consideration of the question before the Convention, decide on a certain hour when the previous question should be considered on this order, without a suspension of the rules.

MR. PROCTOR—Then I have a motion, Mr. President, that the vote be taken not later than 5:30 o'clock this afternoon.

MR. HARRISON—I move to amend that by making it five o'clock.

MR. PROCTOR—I accept the amendment.

THE PRESIDENT—It is moved that at 5 o'clock this afternoon the previous question shall be considered as ordered on the pending question.

MR. deGRAFFENREID—Is that motion debatable?

THE PRESIDENT—The Chair will be glad to hear suggestions from the gentleman from Hale.

MR. deGRAFFENREID—I simply rise to oppose the motion for one reason, Mr. President, that when we took us this matter for discussion——

MR. PROCTOR—I make the point of order a motion for the previous question is not debatable.

MR. LOWE (Jefferson)—I move to suspend the rules to allow the gentleman to continue his remarks.

MR. deGRAFFENREID—A point of inquiry, Mr. President.

THE PRESIDENT—It would seem that the motion of the gentleman from Jackson would be equivalent to a motion that the

previous question be ordered, which would not be debatable, but the Chair was glad to hear a suggestion from the gentleman from Hale, which don't go to the extent of the debate.

MR. deGRAFFENREID—I wanted to get the ruling of the Chair. My recollection is that the Committee on Rules—

MR. COBB—If the gentleman will allow me a moment?

MR. deGRAFFENREID—I am addressing my remarks to the Chairman a moment on a question of inquiry. My recollection is that the Committee on Rules reported a rule for this Convention at the time the suffrage matter was taken up, and that this Convention, so far as the suffrage matter was concerned, adopted a rule which was in conflict with the general rule of the Convention, namely, that the rules of the Convention should be suspended pending this discussion, and that every delegate should be allowed to address himself to the subject, and that he should be allowed thirty minutes within which to do so. That is my recollection of the resolution that was reported and adopted by the Convention.

THE PRESIDENT—The Chair is ready to rule on the point. In the opinion of the Chair a majority of this Convention can close debate whenever they choose to do so, and the rule reported had no other effect than that to change the time of the debate from ten minutes to thirty minutes, and the question is for the Convention to decide. If the Convention wish to close the debate, it is within the province of the Convention to do so. I will submit the question on the motion of the gentleman from Jackson.

MR. SOLLIE—I rise to a question of inquiry.

THE PRESIDENT—The Chair is of the opinion that this question cannot be debated in the form of an inquiry. Does your inquiry relate to this question?

MR. SOLLIE—Yes, sir, to this question, and the motion itself, as to whether or not the motion is in order.

THE PRESIDENT—The question is in order.

MR. SAMFORD (Montgomery)—It seems to me a hard case. There are gentlemen here desiring to speak, to be cut off from speaking, when it was understood when the matter began that they should have thirty minutes. It is too important a matter, Mr. President. The committee has had ample time to discuss it and nobody else has. It seems to me that other gentlemen here should be heard who are desirous of speaking, they ought to be given an opportunity.

MR. LOWE (Jefferson)—The motion now as I understand it is to take a vote at a certain hour.

THE PRESIDENT—at five o'clock.

MR. LOWE—And that does not require a suspension of the rules?

THE PRESIDENT—The Chair thinks that it would not.

MR. LOWE—Then I ask the Chair, I will inquire would another motion for a different hour have a precedence as a motion to adjourn?

THE PRESIDENT—It seems to the Chair that any member can move to amend.

MR. LOWE—If I may be pardoned a moment, perhaps I am trespassing, but this is the most important matter before the Convention, and there are others who desire to be heard, and I think if we can have a vote on the question at noon on Monday we could consider the question in a better spirit than we could do this afternoon. Therefore, Mr. President, I move that 12:30 o'clock Monday as the time to take first vote on this question.

MR. COBB—Make it Tuesday.

MR. LOWE—I will be perfectly willing to accept the gentleman's suggestion for Tuesday.

THE PRESIDENT—The motion is to strike out five o'clock this afternoon and insert 12:30 o'clock Monday.

MR. GRAHAM (Talladega)—I move to lay the motion on the table.

MR. SANFORD (Montgomery)—I move an amendment by saying Tuesday because members will not be here in time on Monday having gone home, many of them.

THE PRESIDENT—The Chair will state for the information of the gentleman from Montgomery that before he submitted his suggestion for Tuesday the gentleman from Talladega moved to lay the amendment on the table, and the pending question is the motion to table. It is not debatable.

MR. COBB—Well, now, some things are debatable which are not debatable. Now I want just about two minutes to say why we should not be in any haste about this matter. If you will give me just two minutes?

THE PRESIDENT—The gentleman from Macon asks unanimous consent for two minutes.

MR. LOWE (Jefferson)—I move that the rules be suspended and the gentleman from Macon be accorded five minutes.

A vote being taken the rules were suspended, and on a further vote the motion to extend the time was adopted.

MR. COBB—Now there seems to be some feeling ejected into this matter. We have under consideration the most important matter that is before this Convention by long odds. We all recognize that and while every one of us believe that this Convention is ready to vote, I don't suppose there will be many changes made, but I do believe that every man upon the floor of this Convention who wants to be heard upon this question for a reasonable length of time, ought to be heard. That is my view about it, and whether we change anybody or not, let us have our say, and let it go to the country, let the people see where we stand and what we think and what we believe ought to be done. Now a day or two, what does it amount to on this great question?

MR. GRAHAM (Talladega)—I would like to ask the gentleman if he does not think that the speeches would sound just as well made in the campaign as being made now?

MR. COBB—No, sir; I believe that the record that is being made here will go to the country, and have more influence upon the people who are to vote upon this question than the speeches we will make in the campaign. That is my view about it, and whether it be for or against let these delegates be heard and let it go to their consitutents and let the people of Alabama see where we stand upon this question. I believe the people of Alabama will have made up their minds upon this question, even before the campaign opens—those who are reached by the proceedings here. I think it indecent haste to cut off debate and bring this question to an issue immediately. I am ready to vote, perhaps all the balance of us are ready to vote, but our people do not know anything about what we are thinking about, they don't know anything about the situation as we see it, and why be in such haste to save a day or two. We have saved enough on the pages of this Convention to have paid for that. Let it go to our constituents. I don't care what view we take of it, it will do good. I don't care to make a speech, I have a speech and perhaps I could make a good one, I don't want to praise myself, I am a modest man, and I would rather sit here and listen to these sage counsellors, these gentlemen who know all about constitutional law. I would rather hear them than speak myself. I am willing to sit here and listen. Who was not entertained and enlightened by the able and forcible speech of our President, we would not have liked to cut him off, but there are others, Mr. President. You are a very great man, and all that, but there are others! (Laughter.) Now let us hear from these others. Let us make haste slowly on this matter. We have plenty of thunder here to be let off, I tell you this air around us can be made lurid yet by eloquence that you are not dreaming of, if you will but give the members time to let it off. Let us make haste

slowly, tomorrow is Saturday and then comes Monday, two days more.

A VOICE—Yes, I want to go home tomorrow, but I am not going home pending this matter. I am going to vote on it.

MR. WEATHERLY—May I ask the gentleman a question?

THE PRESIDENT—Will the gentleman yield to the gentleman from Jefferson?

MR. WEATHERLY—Will you say how you are going to vote?

MR. COBB—I am going to vote for the majority of this Committee, and if you will give me ten minutes—

MR. HEFLIN—I move that he have ten minutes.

MR. COBB—Not now, but if you will give me ten minutes at the proper time, I will show all these dissenting brethren that they ought to vote for the majority report of this Committee. I hope we will put it off until 12 o'clock Tuesday.

THE PRESIDENT—As the gentleman from Macon seems to have been addressing his remarks to the Chair, the Chair would state that he did not make a motion, but will submit it to the Convention.

MR. COBB—To be sure, to be sure. I have observed that the Chair generally submits his motions to the Convention. That is all right. I want this Convention to be patient in this matter. Now that you have heard from the siege guns—

THE PRESIDENT—If the Chair would be allowed to express his wish he would hope that nobody would be cut off.

MR. COBB—We have heard from the siege guns, but in modern artillery these rapid-firing fellows have a good deal of effect in the ultimate result.

MR. REESE—I have a motion to make, that all the motions before this Convention, except the one made by the distinguished gentleman from Macon be tabled.

MR. LOWE (Jefferson)—The gentleman who is so often making points of order will, perhaps, recognize the propriety of the suggestion that his motion is out of order.

MR. GRAHAM (Talladega)—I make a point of order that the gentleman from Dallas cannot make a motion to table a motion to lie on the table.

THE PRESIDENT—The gentleman from Jefferson made the same point of order and the Chair will sustain it.

MR. deGRAFFENREID—Can you amend a motion to table?

THE PRESIDENT—No, sir.

MR. deGRAFFENREID—I want to amend it by tabling both of them.

THE PRESIDENT—The Secretary will read to the Convention the record as it appears on the journal.

The Secretary read as follows: "Mr. Proctor moved to stay in session and take a vote by 5 o'clock. Mr. Lowe (Jefferson) moved to make it 12:30 Monday instead of 5 o'clock this afternoon.

THE PRESIDENT—Thereupon the gentleman from Talladega made a motion to lay on the table.

MR. LOWE—I understand the gentleman from Macon to amendment by inserting Tuesday, and I accepted the amendment.

THE PRESIDENT—Yes, the question will be on the amendment of the gentleman from Macon.

MR. GRAHAM (Talladega)—My motion was made before the motion of the gentleman from Macon.

THE PRESIDENT—I think the gentleman is mistaken.

MR. LOWE—I think the matter is the other way, but in order to bring it to an issue I will offer to accept the amendment of the gentleman from Macon.

MR. GRAHAM—Then I withdraw my motion, and make one to table that.

THE PRESIDENT—The gentleman from Jefferson asks to withdraw his motion, and accepts that of the gentleman from Macon. Thereupon the gentleman from Talladega moved to lay that motion on the table. The question is on the amendment of the gentleman from Macon, to which there is a motion to table.

A vote being taken, the motion to table was lost by a vote of 32 ayes and 69 noes.

MR. LOWE—I move the adoption of the amendment offered by the gentleman from Macon, and on that I demand the previous question.

A DELEGATE—No.

The call for the previous question was withdrawn.

Upon a vote being taken the motion was carried.

MR. GRAHAM (Talledega)—I have an amendment.

The Secretary read the amendment as follows: "Amend so that the entire Article on Suffrage shall be concluded at 12 o'clock Tuesday."

THE PRESIDENT—The question is on the amendment of the gentleman from Talladega to the amendment of the gentleman from Macon, so that the vote on the entire Article shall be made Tuesday.

MR. deGRAFFENREID—I move to lay the amendment of the gentleman from Talladega on the table.

A vote being taken, the motion to table was carried.

THE PRESIDENT—The question will recur upon the motion as amended.

MR. BURNETT—I ask that it be read.

THE PRESIDENT—It is not in writing. It is that the previous question will be considered as ordered on Tuesday at 12 o'clock.

A vote being taken the resolution was adopted.

MR. COBB—I ask leave of absence for tomorrow.

There were loud cries of "No."

THE PRESIDENT—The Chair hears no objection and the leave of absence is granted. (Laughter.)

MR. GRAHAM (Talladega)—I have been requested to ask leave of absence for all the gentleman who do not desire to speak until Tuesday at noon.

THE PRESIDENT—The special order for this afternoon is the Section of the Committee on Suffrage.

MR. DAVIS (DeKalb)—I ask leave of absence for tomorrow, Monday, Tuesday and Wednesday. Leave granted.

Leave of absence asked for Mr. Eyster for tomorrow and Monday. Leave granted.

Leave of absence asked for Mr. McMillan for tomorrow and Monday. Leave granted.

Leave of absence asked for Mr. Burnett for tomorrow and Monday. Leave granted.

Leave of absence was asked for Mr. Graham (Talladega) for tomorrow and Monday. Leave granted.

MR. SAMFORD (Pike)—As it seems they all want to go home for tomorrow and Monday, I move we adjourn to meet on Tuesday at 9:30 o'clock.

MR. PILLANS—That is pretty hard on us who do not travel on free passes. I hope the gentleman will withdraw that. I don't want the Convention to leave me.

THE PRESIDENT—The question is to adjourn until 9 o'clock Tuesday.

MR. HEFLIN (Chambers)—I wish to amend by making it 11 o'clock Monday.

A vote being taken there were 60 noes and 33 ayes and the amendment was lost.

Mr. Smith (Mobile) was recognized.

MR. PETTUS—In order that the gentleman from Mobile may not be interrupted, I move that his time be extended thirty minutes beyond the regular time.

A DELEGATE—I move an amendment that he be allowed to finish his remarks.

MR. PETTUS—I accept that amendment.

A vote being taken the motion was adopted.

MR. SMITH (Mobile)—While not in entire accord with the view of the remainder of the Committee, as to the necessity either for the soldier or descendant clause, in order to accomplish the purpose of the Committee and of this Convention, I am heartily and thoroughly in accord with them as to the constitutionality and validity of each and every clause in the report of that Committee, and if it be deemed by the majority of this Convention that the descendant clause is necessary, or that it is in the interest and welfare of the party, or that it will advance the interest of such Constitution as this Convention may recommend, then I shall not only vote for a Constitution embodying that clause, but I feel that I am willing and ready and able to go before the people and, not only justify each and every clause in it, but to contend that under the circumstances it was the wisest and best thing that this Convention could do. I was requested by the Chairman of the Committee to make an argument at this time, and in the meantime to take notes of the various arguments that were advanced against the validity and constitutionality of this clause, and answer them and during the debate I have carefully taken note of every argument that seemed to be worthy of it, and I thought I was prepared this morning not only to answer many of those arguments satisfactorily to myself, but also to do justice to the Convention, but as I sat here and heard our able and learned President proceed with the discussion of these various questions, I saw one after another of the arguments that had been made, rapidly disappearing before his skill and ability, until before he took his seat I thought that, so far as that portion of the world assigned me was concerned,

I was like Othello without further occupation. In this State, circumstances have thrown together two separate and distinct races, as different as races could be made. The African race was placed in the incipiency of its history in one of the richest and most productive continents of the world. It lived and abided there, a race of barbarians, without making the slightest progress, to material welfare and without the dawn of civilization ever breaking upon it, even in the rudest form. From that dark continent the ancestors of those who are now with us were brought in slavery; they came to this country and were tutored in the arts of servitude, and in the duties of obedience, but the arts of free government, the principles of liberty and freedom have never been instilled into them and they are today, after a period of thirty years of freedom, almost as ignorant of the use of those arts as they were when they were brought from their own native land. These people have been forced in almost equal number upon the other race that occupies with them this State. The Anglo-Saxon race was planted in a much less productive country than that which was occupied by the African. As far back as we can trace, the Anglo-Saxon race had some rude form of free government; from its very incipiency it has been upon a steady march to progress, until it has reached a civilization as high as the world has ever known, and has formed the greatest republican government that is known to mankind. These people were as it were, made equal partners in this fair land of ours, each with an equal right to rule, and a struggle necessarily ensued; a struggle that was sharp, short and decisive. The Anglo-Saxon race, by force of character, obtained the control of the government which it was created and fitted to manage and control, and it has held that control from that day to this, and will hold it for all eternity.

The question is not whether the Anglo-Saxon race will maintain its supremacy over the African race. The question is whether the State of Alabama will confer upon it by fair and proper laws the legal right to maintain that supremacy. To maintain it, as it has been, has cast a shadow over the name of one of the fairest countries that ever lay beneath the sky, and we have assembled to pass a law not to give to our people that which they are entitled to by inheritance, but to give to them the right to deal lawfully with that they have owned and possessed for all time—that which they have bought and paid for, and that which was only wrested from them for a brief period by a superior force and power. You, gentlemen, have selected a committee for the purpose of suggesting a proper Article upon Suffrage and elections. That Committee was composed of as good men as we had in the Convention, though no better. It has labored diligently, carefully, and honestly not for the purpose, as has been said, by some of the members of the Convention, of depriving all negroes of the right of suffrage, not

to avoid depriving any white man of it, but to frame such an Article as will place the ballot, as was said by our President, in the hands of those who are competent to wield it, and take it from the ignorant and the vicious. It so happens that the great majority of the negro race belonged to the latter class, and it so happens, therefore, that any provision that we may formulate that would properly accomplish the lawful ends that we seek, would necessarily take that ballot from a very much larger portion of the negroes than of the whites, and this particular Article will so operate. The grandfather clause has been attacked as unconstitutional. So far as I am concerned, I think the good character clause is broad enough, and sufficient, to admit every man that will be admitted either under the soldier clause, or the descendant of soldiers clause. I believe that the number of soldiers that do not bear a good character and do not understand the obligations and duties of citizens under a republican form of government is not appreciably large; that it is so small that it can hardly be taken into account, even under the pledge that the Democratic party has made not to exclude any white man from the ballot. I believe, too, that the descendants of soldiers—practically all of them—would be admitted to the electorate under the general clause and I believe, therefore, that the addition of the descendants clause is not necessary for the accomplishment of our purpose. So far as the soldier clause is concerned—though I believe that, too, is unnecessary. I would not, even if the majority of the Convention was with me, strike down that clause, because I believe that it is fitting, now that the people of Alabama have assembled in their sovereign capacity for the first time after those who have defended her liberties have, to a great extent, passed from active scenes, some memorial of the State's gratitude for those who have laid their lives at the foot of the alter of patriotism on behalf of their State and their country, should be written in the very Constitution of our State.

The particular county that I represent is and has been opposed to the descendants clause, not solely upon the grounds that I have mentioned, but because they have been taught that the descendants clause is unconstitutional and void and that the adoption of that descendants clause will throw down and overturn the entire work of this Convention. That teaching, gentlemen of the Convention, was by those who have ventured upon this subject, without any study or consideration of it. They have seen this particular clause in various Constitutions. They have heard of the attack that is being made upon one of them in Washington now, and of the attack that has commenced in Louisiana on another and they have jumped to the conclusion that they are unconstitutional. But I believe that if the majority of this Convention adopts the soldiers clause and the descendants clause, as I believe they will, and those of us who represent my county go back and say to those people "not only have we considered the constitutionality of that clause,

but 155 of the leading men of the State of Alabama have had it under deliberate consideration and have come to the conclusion almost, though not quite, unanimously that it is constitutional," and if we say to them further that the mere fact that you do not need the aid of that clause is no reason why you should object to it; that there are other portions of the State that want and demand it; that you have obtained in the third clause of the fourth paragraph everything that is necessary to protect you and keep your ballot pure, and that the balance of the State is entitled to these other clauses if they believe them to their interest—then, I doubt not for one moment that no further controversy will be made over it, and I am satisfied, that properly explained, my people will adopt whatever Constitution this Convention recommends. (Applause.)

Mr. President, the attack that has been made upon the constitutionality of this provision seems to me to have been utterly demolished by the presentation this morning made by the President of this Convention, and I would not feel that it is necessary for me to add one word to that clear and masterly explanation of the subject that was made by him except for the fact that our respective counties and the people we are personally acquainted with and personally deal with—the people who have sent us here to represent them, look in some measure, at least, to the views of their own representatives in the consideration of these matters and in coming to a conclusion upon them, and for that reason I think it proper that I should go on record in a clear and definite statement that I have not the slightest doubt in the world as to the constitutionality of either of these provisions. (Applause.)

MR. WHITE—Will the gentleman allow me to ask him a question?

MR. SMITH—Yes, sir.

MR. WHITE—Are you of the opinion that the grandfather clause in the Louisiana plan is constitutional?

MR. SMITH—I am not. I am not enough of a politician to know whether it is proper or not proper, but, as the gentleman knows, I was probably the first man in this Convention to speak out on that subject. He probably knows that I was appointed on a committee with two of the most learned men, not only in this Convention, but in this State, for the purpose of suggesting what might and what might not be lawfully done in the way of reforming this article. He knows that, with all the respect that I had for the learning and ability of those gentlemen, I took issue with them upon that question and made that fight in the incipiency of the Convention before I knew whether there was a man in the Convention who agreed with me or not. But, gentlemen, the mere fact that I believed and said, and now believe and say that in my opinion what is known as the sixty-seven grandfather clause

is the slightest degree against the opinion that I here expressed that the clause which admits soldiers and the descendant of soldiers is absolutely constitutional. The line that divides the two is as clear and distinct as any line that marks on the one side a decidedly fraudulent scheme and on the other a scheme based upon proper principles, well established law and honesty, good faith and integrity. Take the provision of 1867, and what does it do? It provides that every man who could vote in 1867 and his descendants shall have the right to vote under the existing Constitution. It is usually associated with a clause that prescribes qualifications so high that nobody can reach them, and what have you got? You have a provision that says, when viewed in the light of the history of this country, that every white man can vote and no negro can vote. You simply take a period when every Constitution in the United States with but one or two exceptions said male white citizens might vote, and no other persons. You then say that everybody who could vote at that time, that is, all male white citizens of the United States, and all of their descendants can vote, and nobody else can vote. When you say that, whether you say "negro" or "white man" or not, you say in plain language you will permit all white men to vote and thereby denied and abridged the right of suffrage "on account of race, color and previous condition of servitude," and not for any other cause. Take, on the other hand, the scheme this committee has presented, and what do you say? You say that very man of good character who understands the duties and obligations of citizenship under a republican form of government may vote whether he be a negro or a white man, and, when you have said that, you have said that every negro who has the proper qualifications for the exercise of the elective franchise, every negro who is capable of participating in free government may vote, and when you have permitted every negro who is capable of properly exercising the franchise to vote, you have deprived no negro of the right of suffrage, nor have you abridged that right, because of his "race, color and previous condition of servitude." Now, if your soldier clause and your descendant clause simply admitted a number of white men without admitting a single, solitary negro, you would not have deprived any negro of the right to vote, nor would you have abridged his right, because of "race, color or previous condition of servitude." Suppose under such a condition as that, a negro was to apply for registration, and was asked whether or not he was a man of good character. No, I am not. Do you understand the duties and obligations of citizenship under a republican form of government? No, I do not. Then you are not permitted to vote. Why am I not permitted to vote? Not because of your race or color but because you are not a man of good character. Could he do as a man has attempted to do in the State of Louisiana, go into the courts and say, "It is true, they ought not to have let me vote,

it is true I was not fit to vote, it is true I was a man of bad character and would have been a stench in the electorate, but still they did not exclude me for that reason. They excluded me because I was a negro. How do you know it? I know it because I am a negro. The soldier and descendant clause does not simply admit white people. All of my friends on the other side of this controversy admit the character clause is constitutional. All of them admit if you wipe out the soldier and descendent clauses, this plan would be free from attack on that account. Every one of them admit that every negro who is entitled under the Constitution of the United States to the right of suffrage would have the right of suffrage under that clause. If that is so, what does the adding of the soldier clause do? As the President of the Convention told you this morning, you have the right to fix any qualification upon voting you see fit, provided only, that there is no exclusion on account of "race, color or previous condition of servitude." What, now, does the soldier clause do? Does it exclude a single solitary negro? Is there a negro than can complain that he is not admitted to the suffrage when he confesses that he is not qualified to exercise it? If it does not exclude a single negro, from the electorate, then it does not deprive him of his right of suffrage nor does it abridge that right; far from depriving him of it, it absolutely adds to the number of negroes that can vote under what the gentleman admit would be an entirely lawful plan. How, then, can it be said that a provision that grants to a race a right of suffrage that they would not possess except for that provision, denies either the race or the individual the right of suffrage or abridges it in the remotest degree? My friend from Montgomery, Governor Jones, announced a principle that the President of this Convention showed to be entirely untenable. I had supposed that the gentleman knew what there were only five or six decisions bearing directly upon this question, and that all of the earlier decisions to which he and others have referred were confined exclusively to the treatment and discussion of the fourteenth amendment and that the question of inequality was one applicable only to the provisions of the fourteenth amendment which is to the effect that the equal protection of the law shall not be denied to any person within the jurisdiction of the United States. It is not a provision that is confined to the male citizen of the United States. It is not a provision that is intended to protect the negro or the Chinaman or any other particular class. It is not a provision that relates in the remotest degree to race, color or former condition of servitude. It is true that the danger of inequality between the two races actuated Congress in adopting it, but when adopted, it was so not to be confined to the negro race but to cover every person, white or black, male or female, citizen or foreigner within the jurisdiction of these United States. It did not protect them in their political right. It related solely and exclusively to civil rights, to the rights of liberty and

property; rights that inherently belonged to all men, not rights of suffrage which are necessarily under the law, gifts of the several States. The President has called your attention to the fact, that in one case absolute equality is demanded and in the other the only restriction is that one particular exception can not be made against one particular class of people. Now, the most extreme decisions that there are upon this subject are the Kruickshanks case and the Reese case, which are based upon the case of Minor against Happersett. Those are the decisions that define and limits the rights of the State towards this race, and the furtherest they have ever gone is to say that wherever a white man having named qualification is permitted to vote, a negro having the same qualifications shall also be permitted to vote. What those qualifications may be, outside of the question of race, has been left entirely and absolutely to the arbitrary will of the State. My friend over here from Jefferson (Mr. White) instanced as a qualification all persons with flat noses, and, Mr. President, while it is true that if you simply pass a law that no man with a flat nose shall vote, and that everybody else shall vote, that law, taken in connection with the characteristics of the negro, might be construed as intended, or as another way of saying that, all white men may vote, and all negroes may not vote, regardless of every other circumstance, and if it was so construed and so operated, the Supreme Court might say, as was said by my friend from Barbour, that we will act upon the operation of the statute and assume that you intended the natural result of your action and that you intended to pass a law which did deprive the negro of the right to vote on account of "race, color and previous condition of servitude." But, if, as this Committee has done in this article of this report, you were to pass a law giving the right of suffrage to every negro in the State of Alabama who was properly qualified as a voter and fit to exercise that privilege and were to then say that no other man having a flat nose should vote that law, in spite of its absurdity, would be absolutely constitutional in my opinion.

So, too, with the gentleman's curly head illustration. If it stood alone so as to draw a dividing line between the white man and the black man, so as to operate to exclude from the electorate every negro, and admit every white man, it would be held unconstitutional. But, as I said a moment ago, in regard to noses, if every negro who was properly qualified for suffrage was permitted to vote, and then it was said that no other curly headed man or no other negro, for that matter, would be allowed to vote, it would be perfectly constitutional. The fact that you exclude even by race every negro who was not fit to exercise the right of suffrage, would not render that law unconstitutional. My friend from Jefferson told us a pig story and asked if you put a sow and pigs in a pen, as we put the black and the white in the character clause of this article, and then left a crack big enough to allow the

pigs to get out, wouldn't that be a discrimination in favor of the pigs and against the sow? another gentleman from Jefferson replied, yes, but not because she was a hog. Now, if that old sow happened to be black and happened to have one black pig and nine white ones, and you made that crack so that the black pig could get out as well as the white ones, then it would not be a discrimination against the sow because of her race or color, she would not be denied her liberty because she was black.

MR. WHITE—I will ask you now if the grandfather plan you have adopted does not operate to let one crowd in and keep the other crowd out when the law says you shall not do it?

MR. SMITH—It operates to let one crowd in and keep the other crowd out, but the law does not say you shall not do it. One crowd is a crowd of white and negro soldiers, and the other crowd are not either white or negro soldiers, and it lets in the white and negro soldiers and descendants of white and negro soldiers and keeps out those who were not soldiers.

MR. WHITE—You admit that if there were no descendants or negro soldiers that would be bad?

MR. SMITH—I do not.

MR. WHITE—Then I misunderstood you.

MR. SMITH—The gentleman seems to imagine when he asks a question, that it is not sufficient to answer the question, but I must go further and presume that he asked an intelligent question also. (Laughter.)

Therefore, gentlemen, I am perfectly satisfied with the constitutionality and validity of both of these clauses. I believe that the people have been taught that they are necessary by the enemies of this Constitution. I believe there have been insidiously whispher into the ears of the people throughout the country that there is a sinister motive beneath the desires of portions of the people of this State, and that it matters not what sort of clause they get up, there will be some fraudulent scheme to rob the white men of their right of suffrage. I believe that many people have been made to believe it, and therefore they are demanding this descendant clause, not because it is necessary, but because they fear this unknown something that has been whispered about. They are demanding these soldiers and descendants clauses, because they know the registrars cannot say their fathers were not soldiers and that they are not the sons of their fathers, and I believe that is the sole necessity for it, and as I said in the beginning, while no such necessity exists in my portion of the State, still if you gentlemen knowing the people of your portions of the State say it is necessary, put it in, for it is certain that there will be no harm

done to the validity of the Constitution, and I fear no court's decision upon the subject.

As to the proceeding in Louisiana, if you have had an opportunity to examine the petition, you know that they must have been instituted for your especial benefit. You know, further, that in taking that proceeding for your benefit, they have failed to observe that a large proportion of the membership of this Convention are lawyers, because from a legal standpoint they have filed a ridiculous petition. The petition is this: They took a full-blooded negro, 45 years of age that came from Tennessee in 1860, and had him apply for registration. In reply to the question that were asked him he said that he could not read, nor could not write, that he had no property of any kind, and paid no taxes; that he was not a soldier nor the descendant of a soldier, and that he had not one single qualification required by the laws under which he offered to register. The registrar declined to admit him to register because he had none of the qualifications, but he contended in his petition that the entire law providing for franchise in Louisiana is unconstitutional and void, and he therefore prays a mandamus to compel them to register him under the law that he says is an absolute nullity. In other words, he claims that no legal registration can be had by any man and still he is in court with proceedings seeking to have himself registered. I care not what may be the merits of his controversy as to the legality of the suffrage clause, the proceedings he has taken must necessarily fail. If the law be held to be valid, then he admits that he has not a single, solitary qualification named in that law. If it be void, then it is absolutely impossible for them to register him, for there is absolutely no law to register anybody, and the petition that the gentleman spoke of as having been filed in Louisiana was therefore necessarily filed to enable the gentleman of the views of the minority of the Committee to threaten this, and the Virginia Constitutional Convention, with the action on the part of the negroes to amend the Constitution. I had intended to say something in regard to the position that General Morgan and General Pettus have taken. As far as General Pettus is concerned, I have discussed this matter with him. He and I have talked over the "sixty-seven" clause from one end of it to the other; talked over the very authorities that I have called your attention to. We were in thorough accord upon the subject. Not upon any such idea as was presented by the ex-Governor, the gentleman from Montgomery, not because he imagined for one moment that the decisions applicable to the Fourteenth Amendment, were applicable to the Fifteenth Amendment, but because, as I have said in the outset, the "sixty-seven" clause is used to circumvent the Fifteenth Amendment. His views, so far as I have heard them, have not touched in any degree upon the validity of the clause admitting soldiers and their descendants

to suffrage in this State. Certainly, he expressed no opinion that would justify the inference that he believed that these clauses in connection with the good character clause we have introduced, violated any provision of the Constitution.

So far as the senior Senator is concerned, for my part, I will only say this: That as learned as he is, (and I believe he is next to the most learned man that I ever knew), as able as he is, if he had never made but one declaration and that declaration had been adverse to this provision and had been made after thorough study and consideration of the authorities, with great deference to him, I would nevertheless say that he was absolutely and entirely mistaken about the law. I will not criticise him. I think our President in the discussion this morning said all that ought to be said. I think he called attention to enough of the remarks of the senior Senator to show that the senior Senator's objection to this clause does not arise from any well settled or grounded opinion that it is unconstitutional. As to the hereditary part of it, it seems to me that the President of this Convention disposed of the Senator's discussion of that. As to the claim of the other gentlemen that it is hereditary, I beg to say that in my opinion, it is based on as firm a foundation as it the argument that they made against the Constitutionality of the provision, and upon a foundation which is no firmer or broader.

That which is inherited must necessarily belong to the ancestor during life and pass by inheritance after death. The mere fact that the law points out a class of people and grants to them the same rights as another class, passes and designates the classes by their relation of parents and children, or by any other relation, is not granting a right on inheritance, but is merely giving, as is said in the books, a right by purchase—that is, it is granted to them in their own right and they are simply designated as a certain class. How? Not by name, not by color, but as the children of a certain class—the descendants, be it child or grandchild, of soldiers, not to the descendants for all time, but simply to those descendants who are now twenty-one years of age, or who will be twenty-one years of age before the first day of January, 1903.

MR. FERGUSON—May I be permitted to ask the gentleman a question?

MR. SMITH—Yes, sir.

MR. FERGUSON—Why not confer this privilege upon the early settlers of the State of Alabama?

MR. SMITH (Mobile)—Because I think it would be ridiculous.

MR. FERGUSON—Why is one more ridiculous than the other? I will ask the gentleman to answer that question.

MR. SMITH—I know of no more difficult task that any gentleman could assign to me than to say why is one thing he does more ridiculous than another ridiculous thing that he does, but really I know the gentleman wants a little information, and I will give it to him. The only reason that I see for not giving it to the early settlers is because those who, like the gentleman, are opposed to this Constitution, or the provisions that we are framing, have not gone over the country and induced the people to believe that it is absolutely necessary to give it to the descendants of the first settlers to keep somebody from defrauding them, and therefore, it is not necessary to make any such class to meet an emergency that does not exist.

As far as I am concerned, I said in the inception, that I did not believe it is necessary to accomplish our purpose that we should give the right of suffrage either to soldiers or to descendants of soldiers. I believe that every soldier and every descendant of a soldier would be admitted under the good character clause, but as the admitting of the soldier is a compliment and a tribute that is due to them as the defenders of this country, I am in favor of writing that compliment in the very Constitution of the State of Alabama (applause), and let it be known of all men, and for all time, that we are proud of and thankful to those men who have served us; as to their descendants, I believe we have a right to confer the right of suffrage upon them and I believe there is no law that stands between us and that right. These people demand it, and if a majority of them say they believe in it, then let them have it. That is why I think one proposition is ridiculous and the other is not.

Now, on that proposition of inheritance, as I was saying; it does not descend from the father to the son. No man upon whom it is conferred by this law can transmit that right to any one. It is given to a certain class of our soldier-citizens, who stand here today already possessed of that right, and to sons of soldiers who are either twenty-one years of age, or will be twenty-one years of age before the first day of January, 1903, and it never descends to another generation, and, therefore, it is not a right of inheritance. If the law said that we could give this right of suffrage to these, and if a majority of the citizens of the State of Alabama say they want it, I would give it to them, whether it was giving them an inheritable right, or was not giving them an inheritable right, although Thomas Jefferson or anybody else once may have said, under difficult conditions, that it is not proper; that would never bind me when that state of affairs has changed and the people of my State are demanding from me as their representative that or anything else that they are entitled to.

Passing now to the clause that has not been attacked, so far as its constitutionality is concerned; that one that says that only

a person of good character, who understands the duties and obligations of citizenship in a republican form of government shall have the right to qualify. In the first place, it has been whispered around, and said here in this Convention, and I believe by a lawyer, that the word "good character" is a comparative term; that a man might be of good character in China, and not a man of good character in America, and vice versa; that is an uncertain term, that no man knows the definition of it; that it was, therefore, put in here as an instrument of fraud, and will be so used. It is true gentlemen, that a man might bear a good character in America and yet not have a good character under the same circumstances in China. It might be that a man might bear a good character in China and yet not bear a good character in Alabama. What difference does that make, if he was in China and bore a good character, according to the understanding of those people? He would have the right to vote there. And if he was in Alabama and bore a good character, according to our definition and understanding, he would have the right to vote in Alabama. And, while it is a variable term, it varies according to the people who have the right of suffrage; the qualifications for suffrage varies, and ought to vary, according to the people among whom he lives. Is it a definite term; it is a term that has been used, defined and understood in our jurisprudencce since its earliest dawn; it is a question that comes up at every term of the court, and it is a question that is established at every term of court, and every lawyer and solicitor, more than anybody else, know clearly and distinctly what the term is and how it is proven. Why, I have heard the question asked: "Suppose a man did this, would the Registrars say that he was a man of bad character?" Or "suppose he did that, would they say that he was a man of bad character?" Why, every lawyer in this Convention knows that character is not made by a single act in life, that there is no act that a man can do that will necessarily stamp him with a character either good or bad. Character is the verdict of the people among whom he lives. Character is what his neighbors and friends and associates say of him as the result of a consideration of the whole life that he has lived in their midst, and as the result of that life the community characterizes one man of good character and another man as a man of bad character. It seems to me that there is no test, when considered in connection with the electorate, that ought to be adopted or treated as better than the verdict of the people among whom a man has lived, but how is it to be proven—say some. Why, it is presumed in the first place. No man has to prove that he is a man of good character; the presumption is that he is a man of good character until the contrary is shown. What is the duty and obligation of citizenship? Taken in its broadest terms, I apprehend that it is the duty to support and obey the Constitution and laws of the government under which one lives. Taken in a more restricted sense, it means

that a man should understand the duties he is under to exercise his right to participate in the government by the use of his suffrage franchise for the good and the welfare of the whole people, and not for a fraudulent or sinister purpose. It is the obligation to perform such duties as may be entrusted to him by the ties as may be entrusted to him by the benefit of the people, and not for selfish motives, and to bear his burden of taxation. Is it uncertain in any respect? If it is, then so, too, is the qualifications that have been adopted by the entire United States by which to determine the fitness of every foreigner for citizenship in the United States, for the provision of the act of Congress that has stood for years, without criticism, either as to its validity or propriety, is that he must have lived in the United States five years, and must show to the satisfaction of a Judge, by his behavior, that he is a man of good moral character, and is attached to the principles of the Constitution, and well disposed to the welfare and happiness of the same. The same character qualification is there. A man that is admitted to citizenship in the United States must have a good moral character, and the man that is given the right of suffrage under this report must have a good character; the man that is admitted to citizenship under the laws of the United States must be attached to the principles of the Constitution, and not merely attached to them, but must have shown by his conduct and behavior during the period of five years of his residence that he is attached to the principles of the Constitution. How can any man who does not understand the duties and obligations of citizenship under that Constitution so conduct himself with regard to it as to show that he is attached to the principles. So, Mr. President, this is no new scheme. This is no trick of the black belt to arrange a fraudulent scheme by which to swindle the hill counties. It is the adoption of a well known test, a test applied by all the people of these United States, to the right of citizenship, long before this race issue had arisen to plague any to annoy us. Besides that, way back in 1786, I think it was, Connecticut had substantially the same provision. At that time a man had to own a certain amount of property, and had to be of peaceable and quiet behavior, and in addition to that, had to be of civil conversation. Will my friends say that at that time there was probably a black belt in Connecticut, and that they expressly got up the expression "civil conversation" in order to get all of the negroes into the electorate and exclude and defraud the white men of the hill counties?

Why, Mr. President, nobody ever heard any criticism of this Connecticut provision. Not only was that provision in the Connecticut Constitution, but identically the same provision existed in Vermont; afterwards it was provided that a man must be of good moral character, and after he was admitted to the electorate, if he then walked scandalously, or was guilty of a scandalous offense he was thrown out of the list. That was walking scandalous-

ly, and what was being guilty of a scandalous offense? Read the books as much as you will, you will not find where any particular class of people have taken this as a subterfuge for defrauding anybody else. But you say, "your registration is all wrong." Well, that is not without example.

MR. OATES—Mr. President, I do not want to break the continuity of the discourse of the delegate. The very question of the constitutionality of this, or any similar measure under the Fifteenth Article has never been tested by the Supreme Court. Is it not left for every lawyer to draw his own conclusion?

MR. SMITH—From the discussion of the Fifteenth——

MR. OATES—But not on the point. That was my conclusion.

MR. SMITH—I believe the provision we have here embodied in the report of the majority are in their present association original and we have not yet had time for them, by any possibility, to have reached the Supreme Court of the United States, or any other court. There is not, therefore, and there could not possibly be any decision of the United States upon the questions here involved, and I frankly admit it. There has never been any provision touching any of these exceptions recently made in the Southern States, except in Mississippi and in Mississippi they simply held that the provisions in themselves, were not unconstitutional, and that it had not been shown that they had been so operated as to erclude the negroes on account of race, color, or previous condition, etc. That is the only decision upon any question that has arisen directly in any of the Southern States, but the limitations of the meaning of the term "suffrage" shall not be denied or abridged on account of race, color or previous condition of servitude, has been discussed and defined in the slaughter house case, the Kruickshanks case, the Reese case, the Williams case, and in Minor against Happersetts, and it is upon those definations, and our deductions from those definitions under well set principles of law, that I draw one set of conclusions as distinguished from another set drawn by the minority of the Committee. The gentleman from Montgomery, however, has not drawn his conclusions, so far as his argument indicates, from these decisions. He drew his from decisions upon entirely a different subject, providing entirely different things.

MR. OATES—You don't call them by name. There are so many of us.

MR. SMITH—I could not call him ex-Governor. That would not be definite. I refer to Governor Jones.

MR. FERGUSON—I want to ask another question. If the right of franchise were conferred upon the early settlers of Ala-

bama and their descendants I will ask the gentleman if he would consider that a class distinction.

MR. SMITH—If, as I have said several times, on several occasions, you admitted those descendants to vote, and admitted nobody else, then that would be saying the white man can vote, and the negro cannot, but if you do it in association with a provision like our good character provision, which says that every negro can vote who has the proper qualifications to vote, who has any business voting and who knows anything about the exercise of suffrage and then in addition to that every descendant of a first settler can vote, I think it would be constitutional. I think it would be a class distinction as strong as the distinction against the sow of the gentleman from Jefferson, but I think it would be a lawful discrimination, and not an unlawful one. To return to where I started. Is a matter left entirely to the discretion of the registrar. I know of no scheme that has ever been adopted for the purpose of registering voters, whereby a lot of machinery is arranged for a court trial, in advance, before the registrars have acted. In nearly every State it is a system of registration. In Connecticut, 'way back in 1639, here is the way they did it. "The freemen of the town—there were three towns in that State at that time—Hartford, Weatherford and I think the other was Westford —I am not sure. There were three towns. They met at the town hall, and they simply elected those who should have the right to vote. It was not a question of qualification, the people already having the right to vote, got together and said whether they would let anybody else vote, and if so, who they would let vote. Was that arbitrary? No qualification, no discrimination. What was the next step they took? They adopted as qualification a property and behavior basis. They said this man could go around among the freemen, and get them to certify that they thought he ought to vote; then he carried that certificate to the selected men, and they said he could vote, and if they said he could vote he did vote. What was the next step? It was to require every man who wanted to vote to send a certificate of good character to the legislature, and the legislature passed an act that Jones, Smith and Brown might vote, and they were thereby admitted to the electorate. What was the next step they took, and that is the final one? They held meetings of their select men, there are from three to seven of them, and applications were made to them for admission as a free man, which gave the right to vote and those select men determined who should vote and who should not vote. After a similar course, Vermont has come to the same result. Nobody has ever heard of this being a scheme which was never been declared unconstitutional or fraudulent. What are the provisions here? The provisions in the first place are not that any registrar, as said by Chancellor Kelly, can come along with a book in his

hand and register a man on the high road. The provision is that very man must be registered in the first place by the Board of Registrars—not by an individual member of that board. He must be registered either in his own precinct, or in his own county site. If they refuse him the right of registration, he can, by simply filing a petition in the Circuit Court, take an appeal and have his right to vote tried by a jury. That body of men that has been organized ever since this country existed, and long before, to pass upon the rights, the life, liberty, and property of every citizen. It is given the same right, but with less expense, than you are given when your liberty is at stake, that you are given when your property is at stake. Is this opening the doors for fraud, or is it treating it and throwing around it the safeguards that are thrown around the dearest rights of our race? If not satisfied, if the judge has fraudulently charged the jury as to what constitutes good character, or the duties and obligations of citizenship, or as to what the qualifications really are, he can take an appeal to the Supreme Court of the State, and have the correctness of the charge determined.

MR. SANFORD (Montgomery)—Won't that cost him money?

MR. SMITH—Yes, sir; beyond any question. It costs him money to preserve his life, it costs him money to preserve his liberty, it costs him money to preserve his property but this is no hardship if his franchise is as dear to him as it is claimed to be by those who are trying to carry this question to the United States Supreme Court, in order to keep the white people out of this country, out of their own. Men can pay for the determination of that right as they pay for all other justice in this world. So it seems to me that while it may be open to fraud, everything is open to fraud, and this right is guarded as fully and completely as it is possible to guard and protect a human right. A man may forge my note; a man may burglarize my house; a man can commit any class of fraud. The human mind can devise a plan to evade every safeguard that the human mind can devise, and if we sit here and discard one remedy after another until we find one that will close out all possibility of fraud we will sit here forever and forever.

Now, in conclusion, I want to say that I do not join in the belief that the people in the Black Belt intend or expect to perpetrate these frauds, that they are suspected of. You and every one of you know they have been seeking the occasion that has now arisen for striking the shackles from them that have heretofore bound them. You and all of you know that they were in full charge of their elections, you know that they control the vote of their country, or their section of the country, and that there is not half the danger of the negro vote controlling politics in their particular section that there is of their controlling politics where

he merely holds the balance of power. Why have these people sought this occasion for relief? Did they hope or expect that by purifying the ballot and lawfully restricting the number of negroes who can vote, that they could get a larger representation or can more completely control the negro than at present? Certainly not. If they wanted to operate through the negro so as to defraud the balance of the State, they had no occasion to call this Convention, and passing constitutional provisions such as these. Now, why do you believe that they have taken this trouble; that they have cried for this relief for years; that they are here aiding us in obtaining some method by which the vicious and illiterate negro will be excluded, if behind it all you believe it is their purpose to do just what they could do, just what they have been doing, without the convening of this Convention? I believe, and I think any thinking man will believe, that the black belt is as earnest and serious as we are in the desire to rid themselves of these frauds. I believe the measure which has been recommended to you by the Committee on suffrage will accomplish that purpose. I believe they will live up to the purpose so accomplished, and they will be thankful that they can rest assured that their children can abandon the paths of fraud and trickery, in political affairs, and live as pure and undefiled in that respect as any other part of the State. It is for their children, the purity of their children, and the honesty and integrity of their race, that they come here, and I think that we can trust any citizen of this State, whether from the southern end of the State or from the hill countries, or any other counties, and I think that in this matter we can trust the gentlemen from the Black Belt.

MR. SPEARS—Mr. President and Gentlemen of the Convention: Our fathers had to deal with the negro as a slave; we have to deal with him as a citizen of the United States. By what power, by what authority, was the negro made a citizen? By the National Government. By what power, by what authority, was the right of suffrage, or the right to vote, conferred upon the negro? By the National Government. Suppose that the State of Alabama had never given her assent to the Fifteenth Amendment. Suppose the State of Alabama had never held a Constitutional Convention. Suppose that the State of Alabama had never changed her Constitution and her laws in regard to the negro as a citizen. Could he have voted? Most assuredly he could. Then, gentlemen, you must admit that the negro got his right to vote from the National Government, and not from the State of Alabama. Can the State of Alabama undo what the National Government has done? Can the State of Alabama tear down and destroy what the National Government has built up? Can the State of Alabama take from the negro that which the National Government conferred upon him? You answer the question. Now, gentlemen of the convention, there is one fearful thought that must necessarily come up

in the mind of any sensible man when he contemplates the practical operation of the ordinance that we have under consideration. What will be the practical effect if we adopt this ordinance? It will be to disfranchise every voter in Alabama temporarily at least. It will be to deprive 375,000 citizens that are now voters of the right to vote, and turn them over to 198 registrars that may be appointed by the Governor, and all those registrars are to be Democrats. Disfranchise all the Republicans, all the Populists all the Democrats, all the white men, and all the black men, and turn them over to 198 partisan registrars, that is the proposition before the Convention. Now, Mr. President and gentlemen, while we are discussing the suffrage question, we should not forget that all the qualified voters in Alabama have taken an oath to support the Constitution of the United States. They had to take that oath before they could register as voters. The law requires it. The white people of the State through their white representatives, made the law. They made it freely and voluntarily without any constraint or coercion on the part of the Federal Government or any other power. When we first entered this hall as delegates— —

MR. deGRAFFENREID—May I ask a question?

MR. SPEARS—I do not want to be interrupted.

When we first entered this hall as delegates, the Chief Justice of the Supreme Court of the State required all of us to hold up our right hand and solemnly swear that we would support the Constitution of the United States, we had to do this before we were allowed to enter upon the discharge of our duties, before we were allowed to commence the work of framing a new Constitution. The Enabling Act required it; the General Assembly had thought it necessary. This oath, gentlemen, had been registered in heaven, where the angels will keep it and guard it until judgment day; then when all the people in all the races of humanity that have lived in all the ages shall have gathered together; when the old clock of time shall strike her last stroke; when the President of the Universe shall call that great convention to order; when the clerk shall open the great journal, and call the great long roll, you and I, Mr. President, and all of us will either have to stand up or fall down on our faces and answer how we have kept this oath. Let us hope, let us trust, let us pray, that no delegate of this Convention will have to fall down on his face. Now, Mr. President and gentlemen, since we have so solemnly bound ourselves, since our constituents, since all the qualified voters of Alabama have so solemnly bound themselves not to do anything that will in any way conflict with the Federal Constitution, it becomes our most serious duty to inquire into and acquaint ourselves with every provision and requirement of that instrument on the subject of suffrage, and all other subjects with which we may have to deal.

The first section of the Fourteenth Article of the Federal Constitution reads as follows: "All persons born, or naturalized, in the United States, and subject to the jurisdiction thereof, are citizens of the United States, are of the State wherein they reside. No such State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States. Nor shall any State deprive any person of life, nor deny to any person within its jurisdiction the equal protection of the law." That is the Fourteenth amendment. There is nothing obscure or mysterious about it. It is written in plain language of the common people. They understand it. They do not need judge, or any court, or any United States Senator to interpret for them these old familiar words of their mother tongue. In that first Section the National Government by constitutional enactment has defined and made clear to the minds of all men the terms "citizens of the United States." In that Section the National Government has declared in the most solemn manner known to men that no State in this Union shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor to deny to any citizen within its jurisdiction the equal protection of the law. Now the queries comes up, is voting a privilege? Have courts held that voting is a privilege rather than a right? Not many days ago when this Convention had under consideration the Declaration of Rights, we adopted this Section which declares that voting is a privilege. If voting is a privilege then the ordinances that we are now considering is clearly in conflict with the first Section of the Fourteenth Amendment which I have just quoted. Under the present Constitution and laws of the State of Alabama, all men, all male citizens of the United States, 21 years old and upwards, who have resided in this State one year, three months in the county, thirty days in the precinct or ward, are entitled to vote, unless they have been convicted of some infamous crime. We have never had in Alabama any poll tax, educational or property qualifications for voting. In this ordinance we have all these qualifications and many obnoxious embarrassments and restrictions thrown around the citizens to hinder and delay and in many cases prevent him from voting. A Registration Board is created for each county, to be composed of three men. They are given unlimited, arbitrary power. They may refuse to register the very best citizen with impunity. They are relieved from all legal liability. They are given a judicial character for the purpose of shielding them from prosecution in any court, civil or criminal, for any wrong or any remedy that they may see fit to perpetrate against any citizen by refusing to allow him to be registered. Now, gentlemen, will any delegate stand up and contend that the ordinance we are now considering does not abridge the privilege of voting, that the citizens have exercised and enjoyed in the State of Alabama ever since 1819. Some men say

we have nothing to fear, for a violation of the Fourteenth Amendment, except that Congress may exercise its right and cut down our representation in the Lower House of Congress and in the Electoral College. Congress may or may not exercise this power. Whether it does or does not, can have nothing to do with making valid any violation of the Federal Constitution, and if the ordinance that we have under consideration is in violation of the Fourteenth Amendment, the Supreme Court of the United States on the proper application of any citizen of Alabama, whose constitutional privilege of voting may have been abridged, will so decide. The Fourteenth Amendment was enacted for the protection of all men without regard to race or color. The Fifteenth Article of the Federal Constitution, more familiarly known in Alabama as the Fifteenth Amendment, reads as follows:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color or previous condition of servitude."

Some men say they believe that this amendment was aimed only at the Southern States. That those persons who prepared it and procured its adoption were actuated by a desire to humiliate and degrade the Southern people. With this view, gentlemen, I cannot agree. In my judgment the Fifteenth Amendment is not sectional, but national in its character. It belongs to all the States of this Union with equal force North, South, East and West. It not only prohibits the States from disfranchising them on account of race, color, or previous condition of servitude but it prevents and prohibits the United States Government of depriving them of the right to vote on account of race, color or previous condition of servitude. It prohibits the President, Congress, and the Supreme Court of the United States, they are as much bound by the Fifteenth Amendment as the State of Alabama. This Fifteenth Amendment, gentlemen, protects the naturalized Chinaman from being disfranchised by the State of California. It prohibits the State of North Carolina from disfranchising the Indians, who are citizens of the United States and living within their jurisdiction. It prohibits the State of Alabama from disfranchising a negro because he belongs to the African race, because of his color, or because he was once a slave. It will prevent the State of Massachusetts as well as the State of Mississippi from disfranchising the Filipino when he come to live in this country so I say that the Fifteenth Amendment is not sectional, but National in its character.

MR. SAMFORD—Will the gentleman permit himself to be interrupted?

MR. SPEARS—I don't want to be interrupted.

Some gentlemen say that this ordinance is not in conflict with the Fifteenth Amendment. Do they believe what they say. They seem to be in earnest and I would ask the gentlemen in all sincerity pray tell us by what process of reasoning you have been able to bring yourself to this conclusion. The common people of the State see the discrimination at a glance. The women and children know it and it is common talk everywhere that this ordinance discriminates against the negro as a race. Some gentlemen say that they hope to live long enough to see the Fifteenth Amendment repealed. I would ask them if they hope to live long enough to see the death of this Republic. We have only had fifteen amendments added to our National Constitution since it was signed by Washington and the fathers of this Republic, and in my judgment, with all due respect to every man in this Convention, the thirteenth, fourteenth and fifteenth amendments that have been pinned to the beautiful Goddess of Liberty from time to time, these three last amendments have added more to her beauty, more to her strength and more to her glory than all the others, notwithstanding they were pinned upon her beautiful form by the bloody hands of war.

Now, gentlemen, I want to take up this Board of Registration, and I hope that you will give me your attention. There has been considerable interest aroused throughout this State by reason of the publication of the letter of Senator John T. Morgan against the grandfather clause. The effort of the Senator and the gentlemen comprising the minority of the Committee, reminds me of some old ladies striking at the tail of a snake. If the Senator and the minority of the Committee want to do harm to this hideous monster, if they want to kill this serpent that is about to beguile this Convention, why do not you hit it on the head. Why do you not strike at the seat of poison, why do you not hit the Board of Registration? What a beautiful system is this Board of Registration, composed of three partisans appointed by partisan Governors on the recommendation of a partisan County Committee, and to do what. O, they say if this board don't register every man that wants to be registered he can take an appeal to the Circuit Court or courts of like jurisdiction by filing a petition in thirty days. That makes it necessary for him to employ a lawyer. He has to go to Circuit Court. He cannot appeal to a jury and have the case tried near his home, where his witnesses are necessarily bound to live. No, he must go to the Circuit Court, at the court house, it may be 25 miles from where he lives. He has got to take his witnesses with him and when he gets there all the presumptions are against him. The whole scheme is against him. The clerk of the court has informed the solicitor who represents the State and who is there to contest the citizen's right. The burden of proof is upon him. He is presumed not to be entitled to vote. He goes before the court and the jury under a cloud, has to be tried by twelve

men and he must convince all twelve of them that he is entitled to vote. Notwithstanding that eleven of the jurors may be convinced that the citizen is entitled to vote, yet if one is not so convinced he is thrown into costs and disgraced and disfranchised in his county. If you want to purge the electorate, if you want to purify the ballot, if you want to do the clean thing by the people why did you not appoint a board of three honest men and tell them to go into each county and take the list of registered voters and whenever they came to a man that was not entitled to vote to strike him from the list and give him notice and let him take an appeal to the court, and let the burden of proof be upon the State. Let him go to court with a presumption in his favor and let the burden of proof be on the State, and let the State be required to make out its case against the citizen. That is what you should do if you want to do the fair thing. Why, here you have reversed the whole machinery of the common law. You have turned back the hands on the clock of civilization a thousand years. I am astonished at you. No man will be envied by anybody after he has cast his vote for this Registration Board. When he does it, melancholia will seize him and claim him for its own. He will never occupy his seat in the United States Senate. The cruel hand of fate will write across his forehead in great big black letters "Political Failure." The hand of destiny will take him up from off the floor of this Convention and pitch him over into the pest house of Alabama politics and there he will be left on the political scrap pile. There he will remain for the balance of his days in a state of miserable political quarantine, and when the hour of dissolution shall overtake him, when the cold but welcome hand of death shall be laid upon his aching head to still and quiet his painful heart, sad and disappointed loved ones will carry him out and at the dead of night inter him in a political potters field. On his grave no flowers will bloom, about his grave no bird shall sing.

MR. FREEMAN—Will the gentleman yield for a moment?

MR. SPEERS—I don't like to be interrupted. My time is going on——

MR. FREEMAN—I want to make a motion to extend your time forty minutes in order that you may finish your argument.

MR. SPEERS—I don't know what time it is by the clock, I may finish in a few minutes.

MR. FREEMAN—It is only about two or three minutes of six o'clock.

MR. SPEERS—I would like for the Convention to give me the time. I have not bothered this Convention since I have been here and have not tried to make a speech since I have been here.

MR. FREEMAN—I move to extend the gentleman's time forty minutes in the morning.

MR. GRAHAM (Talladega)—I would like to ask the gentleman a question. I would like to ask the gentleman if he is in favor of disfranchising any white man in Alabama.

MR. SPEERS—I am not.

MR. GRAHAM (Talladega)—I will ask the gentleman if he is in favor of disfranchising any negro?

MR. SPEERS—Some of them I am, but most of them I am not.

Upon a vote being taken the motion to extend the time of the gentleman forty minutes in the morning was carried.

MR. SPEERS—I thank you, gentlemen. I have certainly tried not to trespass upon the patience of this Convention. I have a right to express myself upon the great questions before the Convention. I would not be true to myself. I would not be true to my convictions; I would not be true to the people who sent me here if I hesitated to present my clews upon these questions.

The gentleman from Talladega has seen fit to ask me a question here in a white Convention, in a white country, under a white government, if I would be in favor of disfranchising a white man. He had no right to make any such insinuation. I have my convictions in regard to the disfranchisement of the negro. I do not believe it is right to disfranchise any man simply because he is a negro, but I think it is right and proper to disfranchise any man who will sell his vote or commit any other crime. I have always stood that way and I stand that way today. I will defer my further remarks until tomorrow morning.

MR. PORTER—I move that this Convention do now adjourn.

Indefinite leave of absence was granted Mr. Freeman on account of sickness; leave of absence was granted Mr. Thompson for tomorrow and Monday; Mr. Carmichael (Coffee) for Saturday; Mr. Malone for tomorrow and Mr. Henderson of Pike for tomorrow.

The Convention thereupon adjourned.

FIFTY-SIXTH DAY

MONTGOMERY, ALA.,
Saturday, July 27, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by the Rev. Mr. J. W. Shores, as follows:

O Lord, our Heavenly Father, we recognize Thee as our great Creator, and the divine ruler of the whole universe, and we realize that we are constantly dependent upon Thee for that wisdom that will qualify us for the duties that we owe to Thee, and to each other, and we come before Thee this morning to ask Thee to be unto us as Thou hast been in the past, very merciful and very gracious. Pardon all of our unworthiness, and grant unto us the influences of Thy spirit, and the help of Thy grace, to meet the responsibilities resting upon us, whether they be individual or collective; whether they are connected with material existence or with our Spiritual interests. We would ask Thee especially to let those influences rest upon this body assembled here for the purpose of regarding, considering and conserving the interests of this great commonwealth, and may they be divinely influenced and guided, and so supported and directed that their conclusions may be productive of great good to the citizens of this commonwealth, and to Thy cause, and to Thy kingdom here upon earth. O let divine favor and blessing rest upon our whole plans, and make us grateful for material blessings that come to us, as the earth shall yield to our sustenance and comfort, and as we are furnished with these material blessings, may it be in our hearts to honor God with our substance, and always to sanctify His Holy Name in our hearts, and in our lives. Be present with us this morning; give assistance and direction to whatever may be done, and may it redound to the good of humanity, to the uplifting of the same to the promotion of the cause of humanity everywhere, and to the glory of Thy Holy Name. We ask these blessings in the name of our Lord and Savior, Jesus Christ. Amen.

Upon the call of the roll 78 delegates responded to their names.

The report of the Committee on the Journal was read, stating that the journal for the fifty-fifth day had been examined and found to be correct, and the same was adopted.

Leaves of absence were granted as follows:

To Mr. Jenkins for today and Monday; to Mr. Parker (Elmore) for today; to Mr. Oates, for today; to Mr. Spraggins for today and Monday; to Mr. Carnathan for today and Monday; to Mr. Maxwell for today; to Mr. Reese for today; to Gen. Harrison for today and Monday; to Mr. Renfroe for today; to Mr. Heflin (Chambers) for today.

MR. WHITE — I desire to have a correction made in the stenographic proceedings of yesterday. While the gentleman from Calhoun was addressing the Convention Mr. Graham (of Talladega) I believe, in the chair, the stenographic report says, speaking of Gen. Morgan, "Senator Morgan, in the Senate, in a much more deliberate statement of his position than he could make from Warm Springs." The exact language from the stenographic re-

port of the report of the remarks of the gentleman from Calhoun, that is furnished to me, is: "In the Senate, in a more deliberate statement of his position than he could have made from Hot Springs, where he may have been under treatment." I desire to have the correction made.

THE PRESIDENT—The stenographer will take note of the correction.

MR. WHITE—One more correction. While the gentleman from Calhoun was on the floor speaking of the burial, he says: "The distinguished gentleman will appear not as a friend of the family merely, but as the principal in the case." At that point the gentleman from Jefferson had this to say: "I would like to ask a question," and the gentleman from Calhoun, in reply, said: "I would prefer not to be interrupted just at this point. When I get through you may interrupt me." That is omitted in the report of the remarks, and I would like to have that included.

THE PRESIDENT — The stenographer will be directed to make note of the correction suggested by the gentleman from Jefferson.

MR. deGRAFFENREID—I desire to move a suspension of the rules for the purpose of moving to dispense with the call of the roll this morning for the introduction of ordinances, resolutions and reports, and for the purpose of dispensing with the reports of Standing Committees, in order that the House may take up the unfinished business that was before it on yesterday afternoon when it adjourned.

MR. BEDDOW—Will the gentleman withdraw that until I offer a short resolution?

The Secretary read the resolutions as follows:

Resolution No. 271, by Mr. Beddow:

Whereas, this Convention has ordered printed at the expenses of the State the speeches of the gentlemen from Greene and Calhoun, and

Whereas, both of said speeches were made by delegates favoring the majority report of the Committee on Suffrage and Elections, and

Whereas, the people should be allowed to read and study both sides of this all-important question.

Therefore, be it resolved, That 5,000 copies each of the speeches of the gentlemen from Montgomery, Oates and Jones, and of the gentlemen from Jefferson, Mr. White, be ordered printed in pamphlet form for distribution.

MR. BEDDOW—I desire to move a suspension of the rules, and that the resolution be put upon its passage.

MR. deGRAFFENREID—I withdrew my motion to dispense with the regular order, simply for the purpose of the introduction of that resolution. I insist that the gentleman is out of order.

THE PRESIDENT—In the opinion of the chair, it is in order at any time for a gentleman who secures recognition to move for the suspension of rules, and the gentleman from Jefferson was recognized by the Chair, and in the opinion of the Chair it is in order for him to move for a suspension of the rules, and it is for the Convention to decide whether they will suspend the rules. The question is upon the motion of the gentleman from Jefferson to suspend the rules in order that the Convention may take up for immediate consideration, the resolution he has offered and read in your hearing.

Upon a vote being taken, a division was called for; there were 35 ayes and 35 noes, and the motion to suspend the rules was lost.

THE PRESIDENT—The resolution will be referred to the Committee on Schedule and Printing.

MR. BAREFIELD—I ask unanimous consent to offer a short resolution.

The Secretary read the resolution as follows:

Resolved That when this Convention adjourns at 1 o'clock that it adjourns until 9:30 Monday.

MR. HOWZE—I move to amend that by making it 11 o'clock on Monday.

MR. BAREFIELD—I accept the amendment.

THE PRESIDENT—The gentleman from Monroe accepts the amendment. In the opinion of the Chair an amendment may be accepted by the mover before the proposition is submitted to the Convention. The question is upon the motion when we adjourn today we adjourn to meet at 11 o'clock on Monday.

Upon a vote being taken the motion was carried.

MR. WILLIAMS—I ask unanimous consent to introduce a resolution to be referred to the proper Committee.

The Secretary read the resolution as follows:

Resolved, That 3,000 copies of the speech of Mr. Smith of Mobile be printed for distribution.

THE PRESIDENT—The resolution is referred to the Committee on Schedule and Printing.

MR. deGRAFFENREID—I now move the suspension of the rules for the purpose I have heretofore stated.

THE PRESIDENT—It is moved that the rules be suspended and that the Convention dispense with the call of the roll of delegates for the introduction of ordinances and the call of Standing Committees for reports, and that the special order by taken up at this time.

MR. HEFLIN (Randolph)—Before that motion is put I ask unanimous consent to make a report for the Committee of Printing and Incidental Expenses.

THE PRESIDENT—The question of unanimous consent can be submitted after the motion is passed upon.

Upon a vote being taken the motion of the gentleman from Hale to suspend the rules was carried.

THE PRESIDENT — The gentleman from Randolph asks unanimous consent to send up a report of the Committee on Schedules and Printing.

The report read as follows:

THE PRESIDENT—The Committee on Schedule, Printing and Incidental Expenses have instructed me to make the following partial report, viz.:

The committee has audited the accounts hereto attached and find that the State of Alabama is indebted to the Brown Printing Co., of Montgomery, Ala., in the sum of $68.75.

We find that said State is indebted to William H. Carrigan of Montgomery, Ala., in the sum of $3.

We find that said State is indebted to Robert Hassen, doorkeeper, in the sum of $6.23.

We find that said State is indebted to Ed. C. Fowler Co. of Montgomery, Ala., in the sum of $20.

We find that said State is indebted to J. W. Terry of Montgomery, Ala., in the sum of $5 for rent of typewriter up to July 24th.

We find that said State is indebted to Ed. C. Fowler Co., of Montgomery, Ala., in the sum of $5.46.

All of the above amounts are for printing done, for articles furnished the State of Alabama, for use of Constitutional Convention, and all of the above amounts are itemized as shown by the

bills hereto attached. Total, $108.38, 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—I move that the report take its usual course.

THE PRESIDENT—The motion is that the report lie upon the table and be printed. Under the rules that will take that course. The report will lie upon the table and be printed.

The special order for this morning will be the consideration of the report of the Committee on Suffrage and Elections. The gentleman from St. Clair has the floor.

MR. SPEARS—Mr. President and gentlemen of the Convention: In reply further to the question that was propounded by the gentleman from Talladega yesterday, just before I had closed my remarks, I wish to say that in my judgment, a majority of the negroes of Alabama pay their honest debts, pay their taxes, work the public roads, and abide by the laws of the State. I wish further to state, Mr. President and gentlemen of the Convention, that of a population of 1,800,000 people, 800,000 of this population in Alabama are negroes, and I wish to state, and have it placed upon the record, that these negroes constitute at least three-fifths of the agricultural labor of this State. Now then, Mr. President and gentlemen of the Convention, the question comes up, if this negro population has to bear the burdens of citizenship, if this negro population, a majority of whom are law abiding citizens, have to perform the duties of citizenship, the question is, and I put it to every honest man, should they not be allowed to enjoy the privileges of a citizen. If these people have to obey the laws of this country, if they have to be indicted by the law, and tried by the law, and convicted by the law, and executed and punished by the law, is it not right and proper and just that they should have a voice in this election of the men who make the law, and the men who administer the law and execute the law. I am no negro man, no more than any man on this floor. I am a white man. I am proud of my race, proud of my blood, proud of my ancestors, proud of my lineage, proud of my country, proud of my State, and proud of the fact that I live in a government and under a government that is willing to do justice to all people of all races. I want to call attention to the fact that the white people of this State own all of the lands, so to speak. They own all the money, they own all the houses, they do all the business, they own all the banks, they sell all the goods, they practice all the law, they hold all the offices, from the Governor down to baliff. They have control of the militia, they have got all the guns, they have got all the telegraph

and railroads and telephones and furnaces and factories and foundries. They have got the education, they have got a thousand years advantage of the negro race in civilization. I for one am proud that I belong to the white race, I am proud to stand here today and state in my place, that I believe that God Almighty made the white man superior in the beginning, and with all of the advantages that we have over the negro, I am not afraid of the negro. I am not afraid and I will not stand up here and stultify myself and reflect upon my race and my blood, by saying that with all these advantages there is danger of negro rule. But gentlemen, we have 800,000 negroes in the State. Is it good policy, it is a part of statesmanship, thus to legislate and make a Constitution and make laws that are unfair and unjust to such a great proportion of our population? Is it good policy to make enemies of these people, is it good policy to make them feel that the hand of the law and the hand of the power of State is against them? Is that good policy? Where is your Democratic doctrine of State sovereignty, where is that principle you have always professed to believe in that the citizen should think more of his State than it does of the National Government? Do you want to pursue a course that will teach the negro to feel that the State of Alabama is his enemy. Do you want to pursue a course and a policy that will make the negro look to Washington and not to Montgmery for protection? Which is the best policy? Now I understand our distinguished President to say on yesterday that the National Government had no power except that which has given to it by the States. Why if I remember correctly, that statement is nothing more than a restatement of the proposition that was made by Calhoun long years ago in the American Senate. It is nothing but the reaffirmation of the doctrine laid down by Calhoun and which was so completely answered by Webster. It is nothing but a reaffirmation of the doctrine that was exploded by the war. I suppose when Hawaii is admitted as a State, the gentleman will say it helped to create the United States. That Florida that we bought from Spain helped to make this government, and Louisiana and all that scope of country that we acquired from Mexico, and those people helped to make this country. I do not understand it that way.

I now come to the soldier "grandfather clause" incorporated in the article reported by the majority of the Committee. I want to talk about that just a little. To my mind it is what some distinguished gentleman said when he referred to the Republican National platform some years ago, it is a miserable "makeshift." It is not a fraud because it lacks the element of premeditation, but it is a miserable makeshift. It only lasts for a little over a year. If it is a good thing, why not let it continue. If the blood that courses the veins of the soldier, whether he fought in the Union or the Confederate army, if that blood is good now it ought to be

good 100 years from now, and why stop at the first day of January, 1903? Whence the difference? It is a makeshift, but for what purpose I have not been able to understand, unless it may be that if a law suit was commenced to test the constitutionality of the article on that account it would play out of its own operation and limitation before the Supreme Court of the United States could be brought to pass upon it. Now gentlemen I claim that this grandfather clause is clearly in conflict with the Fifteenth Amendment. Now suppose we strike out of this ordinance all that speaks of the soldiers and their descendants, and suppose we put in its place the following amendment that I will suggest. Understand me, I do not offer it, but I suggest it, and it would read this way: The following persons, and none other, shall be entitled to register and vote in this State. First, all male citizens of the United States 21 years old and upwards who have resided in the State of Alabama three years, in the county one year, in the precinct or ward three months, and who have been slaves or subjected to involuntary servitude; second, all the descendants of slaves and the descendants of persons that have been subjected to involuntary servitude. I imagine that the distinguished chairman of the Committee on Suffrage and Elections would be the first man to spring to his feet and denounce it as a gross violation of the Fifteenth amendment of the United States, and it would be true, he would be right, but it would be no more in violation of the Federal Constitution than this soldier grandfather clause. The descendants of white persons who have been subjected to involuntary servitude are as many as the descendants of the negroes that have been in the army, in the war with Spain or in any other war. Now what white man, if such a proposition as that were made here, would stand up and say it is not unconstitutional? It would be unconstitutional, but it is no more so than the grandfather clause in this article. Some men talk very loudly about the decisions of the courts in regard to the Fourteenth and Fifteenth Amendments of the Federal Constitution. I have a very high regard for the decisions of all courts when they have been in the proper sphere and jurisdiction of the courts, but I would have no patience with and no respect for the decision of any court that would decide that the Fourteenth and Fifteenth Amendments do not mean exactly what they say. I remember that on another occasion a high court in this country decided that a negro had no rights in the United States that a white man was bound to respect. I remember that the greatest and the best man in the world rose up and denounced that decision, characterizing it as a covenant with the devil and a league with hell. I remember that the people of the United States soon after that decision was rendered, decided that when the liberty and inalienable right of the citizen is involved, that there is a higher power in this country than the courts. Another thing, gentlemen, that I want to call your attention to, is the fact

that the Democratic party in Alabama, when it made the Constitution in 1875, the Constitution under which we are now living, made that Constitution and wrote in it universal manhood suffrage. The white people, the Democratic party of Alabama, and other white men adopted it and ratified it, and it has been the law of this State for 25 years. If it was right then, it is right now. I stand on the Constitution of 1875, that the white people and the white Democrats made, and I stand on a firm foundation. I have planted my feet upon the rock of universal manhood suffrage, and I am not afraid. I stand today where the fathers stood in 1776. Standing here on this rock with the rising sun of the Twentieth century shining in my face, I am undismayed, I am not afraid that any evil will befall me when I stand up and defend liberty and universal suffrage, when I defend the doctrine that was handed down by Washington and Jefferson, Jackson and Lincoln, when I am inspired by such a lofty motive and such a high degree of patriotism I fear neither man, beast nor devil. I care nothing for the traitors in the State nor the hypocrites in the church. I stand where Jefferson stood when he declared in the face of kings and tyrants that all men are created equal and endowed with certain inalienable rights, that taxation without representation is oppression, that all just governments are founded in the consent of the governed. I stand where Andrew Jackson stood when he declared that the Union must and should be preserved, when he swore by the Eternal God that South Carolina nor no other State could nullify the law of the National government. I stand where Lincoln stood when when he said this is a government "of the people, for the people and by the people." Right here, Mr. President and gentlemen of the Convention, let me ask a question. Have we in this Convention a greater statesman, a greater lover of liberty, a greater publican, a greater Populist than Thomas Jefferson? If so point him out that I may go and touch the hem of his garment. Have we, gentlemen of this Convention, a greater American, a greater Democrat, than Old Hickory Jackson? If so, let him stand forth and we will stand up and shout Glory Hallelujah. Have we in our midst a greater patriot, a greater lover of justice, a greater commoner, a greater friend of humanity than the immortal Lincoln? If so, I desire to remove my shoes from my feet and bow my heat in silent reverence, because if we have with us such spirits as Jefferson and Jackson and Lincoln, then, indeed, then in truth, has this cradle of the Southern Confederacy become a holy place. I thank you, gentlemen.

THE PRESIDENT PRO TEM—The gentleman from Montgomery (Mr. Watts).

MR. O'NEAL (Lauderdale)—That the argument of the gentleman from Montgomery may not be interrupted, I move that his time be extended 30 minutes.

The motion to extend the gentleman's time was carried.

MR. WATTS—Mr. President, I favor the majority report. I believe that it is within the Constitution of the United States. I believe that added to the arguments that have been advanced by he distinguished gentlemen who have preceded me on this side of the question I can produce some other arguments which will convince a reasonable man of the perfect constitutionality of this provision. I have not the happy fortune, Mr. President, to have been like some of my colleagues upon this floor, a soldier in the war between the States, for the last tocsin of war had been sounded and the stars and bars had been furled at Appomatox before I was 12 years of age, but I had a patriotic mother and I had a father whose heart was in the cause and who taught me to have such a reverence for Mr. Davis and for those who upheld that cause, that the impression will remain with me as long as life shall last. I am one of these Black Belt Democrats, one of these men who have been spoken of upon the floor of this Convention, intimating at least, as having the intention of perpetuating frauds by means of this registration. Why, gentlemen, those who talk that way do not know what the Black Belt has suffered. As a school boy 19 years of age I helped to carry a city election in this town when we had to have a riot to do it. After I had come from school, under the leadership of Gen. James H. Clanton, whose picture hangs above us yonder, and who was one of the bravest men that ever lived in Alabama, we stood at the Courthouse in this city and drove back the black cohorts who were trying to keep the white men of Montgomery from getting to the polls. We have had that sort of thing to deal with in the Black Belt. There was bloodshed; there was riot not only in Alabama, but in the other Southern States. Then fraud was resorted to as being the less hurtful to the negro in a bodily sense, and upon the principal that evil might be done that good might come from it. The Democrats of the Black Belt have stood to their post, have been in the ballot box and counted out the negro in order to preserve the political welfare of the whole State of Alabama. But, Mr. President, the time has come when we are tired of it. We want the day of honest elections to dawn in this fair State. We don't want anyone to be able to point a finger at Alabama and say that a fair election is not held there. We men of the Blackbelt want to get down to honest methods. Can you doubt it gentlemen? Would you be sitting here in this hall today but for the Blackbelt? What section of country was it that came up en masse in favor of this measure and in favor of this Convention? Was it not the Blackbelt—Dallas, Lowndes, Montgomery, Bullock, Russell and these other counties that have stood to you since 1874, when we helped you to elect the bald eagle of the mountain as the Governor of Alabama. If we wanted to perpetuate fraud why did we want this Conven-

tion? We could have continued it, we could have continued our representation by simply going along under the law we had, but we have come here and you have increased the number of representatives to 105, and not one of the increase comes from the Blackbelt. That seems to me the greatest proof the Convention could have that the Bleckbelt has no idea and no intention of perpetuating the frauds which seem to be charged against it. I am a little surprised Mr. President that the opponents of this majority report should not at least have been on some uniform plan. We find that the gentleman from Barbour (Mr. Dent) the gentlemen from Montgomery (Mr. Oates and Mr. Jones) the gentlemen from Jefferson (Mr. White and Mr. Ferguson) and other gentlemen have gone upon the question of constitutionality. We find Mr. Speers in wandering around through the decisions has utterly misapprehended them, but we find that he and Mr. Lowe have taken a position that the form of registration is but a new kind of fraud. These men who compose the Suffrage Committee are as good men as there are in this Convention. They are men who stand well among their fellow men. They have stood well in this State up to this good day, and even the minority of that committee recommended the same registration scheme. Some of the minority have already occupied high positions in this State, others perhaps are destined to occupy high positions, yet not one single member of that Committee makes a minority report against that scheme. Is it possible gentlemen that twenty-five members of this Convention could be so foreign to all of their past character, to all right and honestly, as to come into this Convention and propose for its adoption a deliberate fraud? I say that we are bound to dismiss any such thought from our minds. What is this plan which these gentlemen have submitted? In the first place you must be a citizen of the United States and of the State of Alabama, and by the amendment must have declared your intention to become a citizen. You must have resided two years in the State, one year in the county and three months in the precinct, you must not have been convicted of any of the offenses mentioned and up to January 1st, 1903, you must have either been a soldier in one of the wars mentioned, a descendant of a soldier or must have good character and be able to understand the principles of Republican government. After 1903 any person may register who can either read or write and has been engaged for the past twelve months in some employment or who has forty acres of land upon which he lives or $300 personal or real property assessed at that value for taxation. Those who register between now and the first of January 1903 are electors for life, provided each year as it comes round they pay the poll tax which is required up to the age of 45 years and each of the others is required to pay that pall tax each year when they register under the older scheme. There are two provisions that ought to be specially noticed. One is that the Legis-

lature may, if the courts should strike down any provision of this article, supply its place. The other is that nobody who cannot vote at an election shall be allowed to vote at a primary. Now it is said in reference to the first provision by the minority that it shows a weakness on the part of the majority, that it is a confession on their part that this is not constitutional? Not so, it is simply a precaution taken by the majority in view of the fact that the Chairman of that Committee as he stated to you here the other day know that the Supreme Court of the United States is constantly changing and on these questions which deal with the negro we cannot tell what route they may take, and it is a part of wisdom therefore to put this provision in that article so that the Legislature may supply a defect if one should occur. It is said by others, it is a useless provision because they say the Legislature would have that power anyhow. Not so, because the other provisions of this article would prohibit the Legislature from making any other qualification for suffrage, and therefore it is to our interest to keep that section. The other clause I refer to in reference to primaries will be of very great effect in ratifying this Constitution. Whenever you get the white Republicans of Alabama to understand that hereafter in party councils the negro cannot participate because by the Constitution of the State nobody can participate in primaries or conventions except a qualified elector, you will have in my judgment the united support of the white Republicans of Alabama, because by that means they will be able to control the politics of the Republican party in Alabama and be rid of the negro. I want to say this in reference to the plan, however, there is one small objection that I have to it. I do not like that word "civil" before the words "between the States."

MR. COLEMAN (Greene)—It has been stricken out.

MR. WATTS—I am glad to hear that, because it was not a civil war. That was settled when Chief Justice Chase advised President Johnston that President Davis was not amenable to treason. Now in order that we may understand this matter, let us turn for a moment to the Fifteenth Amendment. Its language is that, "The right of citizens of the United States to vote shall not be denied nor abridged by the United States nor by any State. Mark you the language, the right of citizens of the United States to vote. Not the right of citizens of the State of Alabama to vote, but the right of the citizens of the United States to vote. What right then have citizens of the United States to vote. They have only such rights, as was stated here by the learned President of this Convention, as the respective States choose to give them. Let us look back a little into the history of this government. For more than one hundred years before the articles of Confederation were signed, old England and the people of the colonies which composed this Union had been treating the negro as a slave, and as

having no rights which any man was bound to respect. They brought those feelings with them to America and the early history of New England and the other colonies shows that laws were constantly enacted in those States in reference to the rights of the negro, and if you will examine them you will find a striking similarity between them and the laws which were enacted in Alabama just prior to the war and since in reference to the negro race, in reference to schools, travelling on trains, the inter-marriage or negroes and whites, etc. Now when these thirteen colonies signed the Articles of Confederation, and when they said in there that all men are created equal they were not talking about the negro. Why? Because they spoke about the liberties of the citizens. When they wrote the Declaration of Independence they were not speaking about the negro. When the Constitution of the United States was written, it is as plainly written there as though it had been set down in so many words the negro is not a citizen and we are not talking about him. Why? Because in that very Constitution it is expressly written that the colonies until 1803 should have the right to continue the slave trade and without limitation. It is written that when the slave flies from the master into another State he must be given up. In view of that history, Mr. President, it has astonished me to see men like ex-Governor Oates, Mr. White of Jefferson, Mr. Dent of Barbour and General Harrison of Lee, state their objections to this majority report because it is against the Jeffersonian doctrine of equal rights to all and special privileges to none. In the light of history Jefferson was not speaking of the negro. If you treat him as speaking of the negro in that remark you are bound to bring him down considerably in the estimation of the American people for wisdom and for truth, because with one hand he writes the Declaration of Independence and helps to frame the Constitution of the United States, and with the other, as it were, says that all men are equal—equal rights to all and special privileges to none. He was not speaking of the negro, and I am surprised. I say, to hear these gentlemen advocate the Jeffersonian doctrine as a solution of this difficulty. Mr. Speers also follows their lead. Mr. Speers took occasion to challenge a statement made by President Knox in reference to the citizenship of a State and of the United States, and said that that had been exploded by Webster long ago. If it had been exploded it is astonishing that the Supreme Court of the United States as late as 16 Wallace in the slaughter house cases still recognized the doctrine. I read from slaughter houses cases in 16 Wallace: "It is quite clear, then, that there is a citizenship of the United States, and a citizenship of the State, which are distinct from each other, and which depends upon different characteristics or circumstances in the individual." Then skipping down a little in the opinion, speaking of the fourteenth amendment: "It is a little remarkable, if this clause was intended as a protection to the citizen of a State

against the legislative power of his own State, that the word citizen of the State should be left out when it is so carefully used, and used in contradistinction to citizens of the United States, in the very sentence which precedes it: It is too clear that the change in the phraseology was adopted understandingly and with a purpose," and then, again, this Judge says in the same case, speaking of the fourteenth amendment: "The Constitutional provision there alluded to did not create those rights, which it called privileges and immunities of the citizens of this State. It threw around them in that clause no security for the citizen of the State in which they were claimed or exercises. Nor did it profess to control the power of the State government over the rights of its own citizens. Its sole purpose was to declare to the several States, that whatever those rights, as you grant or establish them to your own citizens, or as you limit or qualify, or impose restrictions on their exercise, the same, neither more nor less, shall be the measure of the rights of citizens of other States within your jurisdiction. It would be the vainest show of learning to attempt to prove by citations of authority, that up to the adoption of the recent amendments, no claim or pretense was set up that those rights depended on the Federal government for their existence or protection, beyond the very few express limitations which the Federal Constitution imposed upon the States—such, for instances, as the prohibition against expost facto laws, bills of attainder, and laws impairing the obligation of contracts. But with the exception of these and a few other restrictions, the entire domain of the privileges and immunities of citizens of the States, as above defined, lay within the constitutional and legislative power of the States, and without that of the Federal government." I shall try to answer the different arguments made. The gentleman from St. Clair says that every man came into this Convention and took a solemn oath to support the Constitution of the United States. So we did, and each of us, according to his own conscience will keep his oath. He speaks about the judgment day, and about the angel taking down the oath and bringing it up against us, but let us hope, Mr. President, that any of us who should perhaps violate that oath blindly and unintentionally may be treated like it is said Uncle Toby was when he gave utterance to an oath in attending the French soldier and it is said that as the Recording Angel wrote it down she wiped it ought with a tear. Now then talk about another thing, about the plan of our forefathers, and say let us go back to the plan of our forefathers. I have shown you what the plan of our forefathers was, to exclude the negro, to keep him from having even civil rights, much less political rights. We do not want to go back to the plan of our fathers in that respect because we do insist that he shall have his civil rights and they never have been denied him in Alabama. Now let me pursue this right to vote. This country grew from the thirteen colonies until it num-

bered thirty States in 1856. At that time the country was startled by the announcement of the very principle which I have been speaking to you about, when Chief Justice Taney decided in the Dred-Scott case that the negro was not then and never had been a citizen of the United States, and he gave for it the very reasons which I have given, that in the formation of the government the negro was not considered the white man's equal, that the white man was his superior, and that the negro was treated so by the Articles of Confederation, by the Declaration of Independence and by the Constitution of the United States, by the Acts of Congress, and by the decisions of the respective States. Why, even Massachusetts away back yonder in 5th Cushing decided that Massachusetts had a right to establish separate schools for the colored and the white races. After that decision (Dred Scott case) was rendered, came this great hue and cry about the rights of the negro. The war came on. Abraham Lincoln proclaimed the emancipation of the slaves to take effect January 1, 1863. Now my friend from St. Clair says that these amendments, the Thirteenth, Fourteenth and Fifteenth Amendments were not aimed at the South. How any man familiar with history can make such an assertion I cannot understand. Why it is recognized by every writer on the subject that the Thirteenth Amendment was adopted for the purpose of carrying out the proclamation of President Lincoln, and for making effective the freedom of the negro. When they found the freedom of the negro did not give him those rights which they anticipated, when they did not find that the Southern States were stumbling over each other to accord him the same rights as they gave to white citizens, then the Republican Party in power said we will strike them one more lick, and they enacted the Fourteenth Amendment, and that was to make the negro a citizen. They thought that that completed the job, they thought that when they said the negro was a citizen, that that would give him these rights, but lo and behold it did not. They found out that citizen did not mean a man with all of the political rights that the State gave. They thought of the fact a woman being a citizen did not give her the right to vote, therefore they adopted the Fifteenth Amendment. Can it be said that that was not aimed at the South? Where else in all this broad country did the negro predominate? New England had gotten rid of him by selling him to the South. He was here, he was interfering with our body politic, he was not interfering with their. It was to force him upon us they passed the Fifteenth Amendment. Shortly after the Fifteenth Amendment was passed some woman up in Michigan read the Fourteenth Amendment and saw that all persons born or naturalized in the United States and subject to the jurisdiction thereof were citizens of the United States and of the States in which they resided. She took it for granted that as she was a person that therefore she had a right to vote. It was refused her and she went to

the Supreme Court of the United States and that Court decided that she did not have the right to vote because she was a woman, and that the policy of this Government was to give the right of suffrage to males and not to females, and that it did not make any difference if she was a person, and if the amendment did say every person was a citizen, that there were citizens who did not have the right to vote. Now pardon me for reading you something from that decision because I want to read it for the benefit of my friend from St. Clair and such other members of this Convention who believe with him that the United States has a right to control votes in the State of Alabama. I read from the case of Minor vs. Happersett in 21st Wallace: "And still again, after the adoption of the Fourteenth Amendment, it was deemed necessary to adopt a Fifteenth as follows: 'The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude.' The Fourteenth Amendment had already provided that no State should make or enforce any law which should abridge the privileges or immunities of citizens of the United States. If suffrage was one of these privileges or immunities, why amend the Constitution to prevent its being denied on account of race, etc. Nothing is more evident than that the greater must include the less, and if all were already protected, why go through with the form of amending the Constitution to protect a part."

Again, for the benefit of my friend from St. Clair, I read from the case of Reese in 92nd U. S.: "The Fifteenth Amendment does not confer the right of suffrage upon any one. It prevents the States or the United States, however, from giving preference, in this particular, to one citizen of the United States over another, on account of race, color or previous condition of servitude. Before its adoption, this could be done. It was as much within the power of a State to exclude citizens of the United States from voting on account of race, etc., as it was on account of age, property or education. Now, it is not. If citizens of one race having certain qualifications, are permitted by law to vote, those of another having the same qualifications, must be."

Let us pause right there. There is the test: "If citizens of one race having certain qualifications are permitted to vote, those of another having the same qualifications must also be." Very well, we say the soldiers shall have the right to vote. If these qualifications apply to whites and negroes alike, all right. If they apply to whites alone, then the negro has not the qualifications which the white men have and cannot come up to it. Previous to this amendment there was no constitutional guarantee against this discrimination. Now there is. It follows that the amendment has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress.

That right is exemption from discrimination in the exercise of the elective franchise on account of race, color or previous condition of servitude. This under the express provisions of the second section of the amendment, Congress may enforce by 'appropriate legislation.'"

Now turn again to the Cruikshank case, 92nd U. S., by another Judge: "The government of the United States, is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people. No rights can be acquired under the Constitution or laws of the United States, except such as the Government of the United States has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the States."

And again: "In United States vs. Reese, just decided, we hold that the Fifteenth Amendment has invested the citizens of the United States with a new constitution in the exercise of the elective franchise on account of race, color or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship; but that exemption from discrimination in the exercise of that right on account of race, etc., is. The right to vote in the States comes from the States.

MR. HANDLEY—That's the doctrine.

MR. WATTS (continuing to read)—"but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been."

I have other authorities but I have not time to notice them, except incidentally to say that the same doctrine is held in Blacker vs. McPherson, 146 U. S., and in other cases. Now, mark you, another thing right there, the right of citizens of the United States to vote is a right which the State has given to the citizen within its borders to vote. At the adoption of the Fourteenth Amendment, and if I am not mistaken at the adoption of the Fifteenth Amendment, no Southern State had given the negro the right to vote within its borders.

Now, gentlemen, I must hurry on. My friend from Jefferson, Mr. White, says, "Could you provide a law that the people of the Black Belt should be governed by one law as to suffrage, different from that prevailing in other portions of the State? In other words, could you put a fence around them and say that they could vote under certain conditions entirely different from the balance of the State?" That seems to be his test. I answer yes. It has been expressly decided by the Supreme Court of the United States

in the case of Lewis against Missouri, 120 U. S., and in later cases, that every State has the right and that Alabama has the right now set up one set of qualifications in one Congressional District for suffrage, and to get an entirely different set of qualifications in each of the other Congressional Districts, the only thing insisted upon being that whatever qualifications you provide for each district shall apply to every voter in it. He asks could we say that all straight haired men should vote and that those who do not have straight hair shall not. Let me read you something which may perhaps answer that question, a little better than I can. I read from the case of Williams vs. the State of Mississippi, 170 U. S.: "Restrained by the Federal Constitution from discriminating against the negro race, the Convention discriminated against its characteristics, and the offenses to which its weaker members were prone, but nothing tangible can be deduced from this. 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 alleged characteristics of the negro race not the administration of the law, by the officers of the State. Besides, the operation of the Constitution and laws is not limited by their language or effects to one race. They reach weak and vicious white men as well as weak and vicious negro men, and whatever is sinister in their intentions, if anything, can be prevented by both races, by the exertion of that duty which voluntarily pays taxes and defrains from crime."

Now while I have that book before me, permit me to refer to my learned friend from Montgomery, Governor Jones. Governor Jones said that when you read the proceedings of this Convention in connection with what we adopt here, they will say that the evident purpose was to disfranchise the negro. Now what is the law on that subject? I am reading from a memorandum. I refer to the case of Blacker vs. McPherson, 146 U. S.: "The framers of the Constitution employed words in their natural sense, and where they are plain and clear, resort to collateral aids to interpret them is unnecessary and cannot be indulged in to narrow or enlarge the text." That is what the Supreme Court of the U. S. decided in reference to that. Then he says: "But the purpose is clear." Well let us see what the Supreme Court of the United States says about that in construing the Mississippi Constitution. "There is an allegation of the purpose of the Convention to disfranchise citizen of the colored race, but with this we have not concern, unless the purpose is executed by the Constitution or the laws or by those who administer them." So much for the purpose. So much for resorting to evidence aliunde to find out what our intention was. The Supreme Court say they do not care anything about the purpose. It does not make any difference about our purpose. The question is, what have we done? In that connection, I want to call your attention to two other cases in reference

to what Governor Jones said. He told you about the queue case, and his argument in accordance with its administration. He might also have cited you the case of Yick We vs. Hopkins, 118 U. S., where the City of San Francisco enacted a law that nobody should have a laundry in any except a wooden building, and they construed that to be in its operations and in its language also, unconstitutional and void. But when you come later down the line, you will find in the case of Wood vs. Brush, 140 U. S., and Jugiro vs. Brush, 140 U. S., it was decided by that same Supreme Court "That a law so administered as to exclude negroes from the jury does not make the law otherwise constitutional, invalid." So that, if we pass a law which is valid, its administration is another thing. Now, then, who have we permitted to vote. We have permitted the soldier of the war of 1812, who bore that first flag of thirteen stars, representing the Union of the States, and the thirteen stripes which represented the thirteen colonies that formed this Union. We give that right to the soldier in the Mexican War. We give it to the Union soldier in the war between the State. We give it to the gallant bearer of the Stars and Bars and of the Bonnie Blue Flag. We give it to white, to black, to Confederate, to the Union soldiers, who, to the tune of Dixie and under the waves of Old Glory, helped the United States to make Spain keep her place. Is it not right that we should do so? We give it to their descendants; but, mark you, the State said we will adopt a new plan here. We have had ignorance and incompetency performing their political rights. Every man, whether he knew anything about the duties of citizenship or not, we have permitted to vote. We will stop that, and we will say that hereafter only men of good character shall vote. With this exception, we open the big gate. We say anybody, everybody, white or black, who has a good character, and who understands the principles of republican form of government, can walk in; but we say to those old soldiers and to the sons of old soldiers, even if you have not these characteristics, we will let you in, too, because of the valor of yourselves and fathers, and the debt we owe you from this State. It must be remembereed that these are disjunctive qualifications and not conjunctive. A man is not bound to possess all of them. He is not bound to be an old soldier, the son of a soldier, and a man of good character all at the same time. Either will do. Why, they say we discriminate. Hasn't the United States Government made a discrimination when it awarded pensions to its old soldiers? Doesn't it recognize the alleged doctrine of inheritance, when it says the pension shall continue to the soldier's widow. Hasn't Alabama adopted the same thing in levying a tax each year for the pensioning of the Confederate soldier and for his widow? More than that, Mr. President, the Constitution of Massachusetts, as I have it before me, while it lays down a qualification for every citizen in this State, when it comes to end up, it says, But the soldier

shall be exempted from certain of them. Read it for yourselves; it is there. Who has attempted to declare the Constitution of Massachusetts unconstitutional, and in violation of the Fifteenth Amendment because it made that exception in favor of soldiers? Shall we do it here?

Now, one other thing, before my time runs out. Something has been said about representation—about our representation being reduced. Let me call your attention to one thing that will strike every thinking man at once, and that is this: The only authority that Congress has to reduce the representation of the South is under the second section of the Fourteenth Amendment; that says that they shall reduce the representation in proportion to the number of male citizens who are excluded from voting. How are you going to arrive at the proportion? How is Congress ever going to know how many of the male citizens of Alabama are excluded from voting, and thus apportion our representation, until a new census is taken, which new census shall show how many people there are in the State who can read and write, and who are of good character, and who are old soldiers, or who are descendants of soldiers, and who are left out by this provision? You are bound to have figures before you can get a proportion? Every school boy knows that.

MR. deGRAFFENREID—Will the gentleman suspend for the purpose of letting me make a motion? I want you to have plenty of time.

MR. WATTS—I don't want more than fifteen minutes.

MR. deGRAFFENREID—I move that the rules be suspended, and that the gentlemen be allowed twenty minutes, or as long as it is necessary for him to finish his speech.

Upon a vote being taken, the motion was carried and the time of the gentleman extended.

MR. WATTS—If you will look at the Constitution of Connecticut—you have got it in these published pamphlets here—you will see that they have made a provision here for voting, based upon education, and you will find in the early history of this country, almost every Constitution was based upon some qualification of citizenship, specially set out. My friend from St. Clair says, You go to these registrars; they are clothed with judicial power; they refuse you the right to vote, and you appeal to the Circuit Court instead of a Justice of the Peace; people are prejudiced against you, and it remains with the ipse dixit of the registrars as to whether or not you shall vote. Has he forgotten that by the naturalization laws of the United States, unless he shows that he is a man of good character, and that he understands the duties of citizenship, and if the United States puts that test upon foreigners

who come here to become a part of our body politic, how can it possibly be unconstitutional for the State of Alabama to demand of her citizens intelligence and good character? My friend, Governor Jones, erroneously says, and unintentionally, no doubt, that the Fifteenth Amendment places negroes on an equality with the whites. He is too good a lawyer, if he has read the decisions, to intentionally say that. The Supreme Court of the United States in the Cruikshank case, said that the Fourteenth Amendment was intended to prevent the arbitrary exercise by the State of the powers of government unrestricted by the established principles of private rights and public justice. The Supreme Court of the United States in Reese vs. U. S., 100 U. S., in Neal vs. Delaware, 103 U. S.; in Bush vs. Kentucky, 107 U. S.; in Plessy vs. Ferguson, 163 U. S., said that as to civil rights the negro was placed by the Fourteenth Amendment on the same level with the white man, with rights and responsibilities exactly the same, but in some of those same cases, said that the right to vote was not among the rights and privileges mentioned in the Fourteenth Amendment. And if it should come to the question as to what will be allowed under the Fourteenth Amendment, you would find that in the Kentucky tax cases, 115 U. S., and in McGoun vs. Illinois, 17 U. S., it was said that the Fourteenth Amendment only requires the same means and methods to be applied impartially to all the constituents of each class, so that the law shall operate equally and uniformly upon all persons in similar circumstances. The difference between the gentleman from Jefferson (Mr. White) and myself, in that respect is, that he put it in his minority report that all citizens cannot conform to it. That is not the rule. The rule is that it must be the same under similar circumstances, and that only applies to civil rights, but if you take his form of it, then a woman or child could never get the right to vote.

MR. deGRAFFENREID—May I interrupt the gentleman.

MR. WATTS—Yes Sir.

MR. deGRAFFENREID — In the Constitution of Pennsylvania, when it went into the United States, there was a provision that all people who paid a certain tax within ten days before the election should be permitted to vote, but there was a provision that the children of freeholders should not be required to pay the tax, was that a standard to which all citizens could attain?

MR. WATTS—Certainly not, and nobody ever questioned the constitutionality of that provision.

Now, something more about the Fourteenth Amendment. In the Kentucky and Illinois cases above cited, it is said "It may safely be said that the rule of construction of the Fourteenth Amendment — the equal protection clause of the Fourteenth Amendment—prescribes no rigid equality, and permits the discre-

tion and wisdom of the State a wide latitude as far as interferences by this Court is concerned,' and then again, in the case of Mobile vs. Kimball, 102 U. S., it is said: "This Court is not a harbor in which can be found refuge from ill-advised, unequal and oppressive legislation." And in Magoun vs. Illinois, 170 U. S., it is said: "It is hardly necessary to say that hardship, impolicy or injustice of State laws is not necessarily an objection to their constitutional validity.

Now, Mr. President, we ought to bear in mind how this law affects the people of this State. According to my information about 87 per cent. of the white people of this State can read and write. There are some old soldiers, perhaps sons of soldiers, who have not been enabled to learn to read and write. They are no doubt of good character; they may understand the duties of citizenship. It has been said that some of them are unworthy. That may be so, but whether it be so or not, do not let us exclude from voting the worthy ones of this class, or these classes, if by permitting them to vote, perchance, we may permit unworthy ones to enter also.

Now, Mr. President, I have spoken longer than I intended to speak. I will not worry this Convention by referring further to the authorities. I simply want to say to this Convention: That we of the Black Belt are in earnest when we say we want this fraud in elections stopped. Fraud in elections leads to fraud in something else. The teaching of the young men that it is right to swindle in elections is but one step from teaching them it is right to do it in other things. It has been a necessity in the past. Let it not be so in the future. I have heard men in this county—men whom I know have election after election stood at the polls and carried the election for the Democrats, raise their hand to Almighty God and swear that, come what will, they will not do it again for anybody or under any circumstances, and I want to be able to go back to them and tell them that if they adopt this Constitution, which we have made here, if they adopt it with this suffrage plank in it, that necessity will forever be gone. I want to remove from the name of this fair State, the charge of fraudulent elections. I want to improve the citizenship of this section. You could not improve it as far as everything else is concerned. You could improve it only in that one particular, because we have as good citizens in the Black Belt as can be found anywhere on God's green earth, but I beg you, gentlemen, to pass this article. Adopt this law. Send it to the people. Let them ratify our action, and by their ratification, let us of Alabama and of the Black Belt be relieved once and for all from the body of this curse. (Applause.)

MR. CUNNINGHAM (Jefferson)—Recognizing the conditions as they exist in Alabama, and believing that these conditions

are not for the best interest of this State, now and hereafter, and being sincerely desirous to bring about the best conditions for my country, I have as citizen, and as a member of the State Senate, and as President of that body, done everything in my power to bring about this Constitutional Convention. I would, therefore, be untrue to myself, and disloyal to those who have honored me by nominating me twice, and electing me once as a delegate from my Senatorial District to a Convention for the purpose of revising the Constitution of the State, if I were to refuse the present opportunity.

I must submit a few remarks to the Convention, but I am free to confess that I hardly know what to say. I might indulge in throwing a few flowers at both the majority and minority of the Committee, but inasmuch as each has promised the other a funeral procession, I thought I would wait and see which it was, and then I will furnish the flowers as a wreath for the monument of the majority report, or the tombstone of the minority report. I will wait until the people decide that question, before I make use of any flowers.

The constitutionality of this proposition has been thoroughly discussed by able jurists. They are lawyers, I believe, when they are at home, but they are jurists in this Convention. Many times I have wished in my life that I was a lawyer. This is one time I am glad that I am not. If I were a lawyer I would not only be expected to have a conscience, but I would also be expected to have an opinion, the lawyers here on the contrary only have an opinion, and leave the conscience to rest. (Laughter).

Now as I say the question as to the constitutionality of the measure has been thoroughly discussed, and I have been on both sides of it every time I have heard a speech, and I never got truly straightened out until yesterday. The gentleman from Barbour (Mr. Dent) and the distinguished gentleman from Montgomery, I mean the senior Governor in age, the junior Governor in priority (Mr. Oates) got me mixed up on the question, but the distinguished gentleman from Madison (Mr. Walker) straightened me out, and I thought I was pretty straight and content, but, after hearing the argument of my friend and colleague (Mr. White) whose patriotism is at par with any man to be found in this country, whose ability as a lawyer stands among the best, and a Democrat without alloy, I got very crooked again, and when the distinguished gentleman from Montgomery, I mean the gentleman junior in age, but senior in priority as Governor (Mr. Jones) discussed this question, I became very crooked, and when he laid down the proposition contained in that "Chinese queue" I just gave it up. (Laughter.) However, I was told by a lawyer friend of mine, very sincerely and with much fervor, that that case had no reference to the Fifteenth Amendment at all, and that it applied to the

Fourteenth Amendment, and then I got all right, or nearly so, but there was still one point as to the unconstitutional of this plan that had not been answered, and that was that any regulation that made it impossible for any class of our citizens to attain the requirements of the law, made it unconstitutional.

Now, it is impossible for negroes to participate either as grandfathers or descendants of those who fought in the Revolutionary War. They did, to a certain extent, of course, in the other war. But when the distinguished gentleman from Calhoun, the President of this Convention, in answering that argument yesterday made the quite modest remark that women were disqualified and it was constitutional, and that inasmuch as none of them could ever get to be a man, I agreed with him as a physiologist, that that proposition was true and therefore I believe the report of the majority of this committee is constitutional.

And yet, Mr. President, I propose to discuss this question from a constitutional standpoint. Now, don't get scared. I have no reference to the unwritten Constitution of England or to the written Constitution of the United States or of the State of Alabama. I have reference to a Constitution that existed before there was history even. I have reference to a Constitution that existed before there was a written Constitution or a recorded fact in the history of man. I refer to the Constitution of nature itself, and it is from the standpoint of natural law and a few of the facts of history that I propose to discuss this report of the Committee on Suffrage and Elections.

Mr. President, it not only provides a suffrage plan that fits the case, but in my honest, candid judgment, it has provided a suffrage plan that is in accordance with the eternal law of nature and with the facts of history. Now, our opinion on the suffrage question and on the regulation of suffrage by law necessarily depends upon the point of view that we look at it from. I believe that there are four component parts or factors in the regulation of any suffrage. The first is honesty; the second is patriotism; the third, intelligence, and the fourth property interests. An electorate made up of electors each of whom is honest, patriotic, intelligent and has an interest in the affairs of government certainly would be an ideal electorate. Such an electorate is impossible here or elsewhere, and it is particularly impossible, Mr. President, with the limitations of the Democratic platform upon the one hand and with the limitations of the Fifteenth Amendment on the other hand. Therefore, if we cannot get all the ingredients of the pudding, let us get as many as we can, and I believe that this committee in its temporary and in its permanent plan has done so to a very large extent.

Mr. President, there are only two classes of forces in this world. One is the inherited forces and the other is the acquired

forces. The inherited forces are the laws of the Almighty, or, from the standpoint of science, are the laws of nature. The acquired forces are the forces that are developed by the efforts and energies of man. The inherent force, or the force which inheres in water that attempts to seek its level is a natural force. Its application in overcoming resistance is an acquired property, given to it by the ingenuity of man. Now, Mr. President, we find that there is a difference in the inherited and the acquired forces of mankind. There is a racial difference, there is a national difference. When we come to speak of the inherited force of mankind, it is a fact that cannot be denied that the Arian races possess in the highest degree the inherited forces of nature, and it cannot be denied, but is proven both from the sciences of Demography and maintained by all ethnologists that the white man is endowed in the highest degree and that the African the least of the inherited forces of potentiality, and, when we come to compare the acquisitions of the different races, all we have to do is to compare the development in government, in natural resources, in the acquisition of property in intelligence, in science, and in the arts and in letters, and in every other department of life, we find that the Arian race leads, and when we come to speak of nationalities it is no disparagement to the Latin and other great subdivisions of this race, to say that the Anglo-Saxon leads the world, and I believe it is no flattery to say that the home of the greatest natural inheritance that has ever been given, and certainly the greatest acquisition is within the United States of America. I believe the American citizen possess more inherent power and is capable of greater acquisition than any other citizen in the world.

Now, Mr. President, let us look at the history of our country for a little while and apply some of these inherent forces, some of these intrinsic powers that belong to the two races in this country. Let us take for instance America. It was discovered by the white man; it was subjugated and settled by the white man; its independence was declared and maintained by the white man; its government was established by the white man; its civilizations, institutions and achievements are all under the leadership, and the result of the inherent and acquired powers of the white man. Nobody questions these facts. They are simply the plain facts of history.

Now, let us take the negro. He was brought to this country against his will; he came here not as an emigrant; he came not as a pioneer to subdue and to settle; he came not to establish in this richly endowed country a great government of republican form, but he came as a slave, and from 1617 to 1807 one of the institutions of this country was stealing negroes in Africa and bringing them to this country. Let me pause here long enough to say that it was not a Southern institution; it was not a New England institution, but that it was an institution of the colonists of this country, and that, therefore, New England as well as the South is

responsible for the introduction of slavery and for its maintenance in this country for years. He left behind a country that was dark, and it is dark today. Darkest Africa that is unillumined by the sunlight of Caucasian enterprise is as dark today as it was at the time of the Christian era and will be as dark four thousand years from now as it was four thousand years ago if unimproved by Caucasian intelligence and enterprise. Now, the negro is not to blame for being brought here as a slave. He is not to blame because he did not possess the inherent potentiality of the Caucasian race. He is not to blame if he has failed to develop and acquire as his white brother has done. I would attach the blame nowhere, but I would say that it is due to the fact that he is intrinsically and essentially and naturally inferior to the white race, and will always be. He was brought here as a slave and in that way he became an institution in this country, and he was a slave from necessity. If he had come here as an emigrant voluntarily, possessing no other power than that which nature has given him, he would have fallen before the enterprise and energy and combativeness of the white man; therefore, I say that his very existence in this country at that time depended upon the institution of slavery. He was not a citizen, he was not a voter, but he was property. Mr. President, this institution of slavery as it existed at that time was an institution of this country. We all know, who are familiar with the facts of history, that it was aided and abetted by the reigning monarch of Great Britain; that it had the support of the then civilization of the world; that only here and there a little leaven was beginning to work, which finally resulted in the stupendous, super-organic revolution that resulted in the emancipation. This emancipation, Mr. President, was by a revolution, which revolution was the work of the white race. Left to himself, his own aspirations and energies, he would be a slave today, and would remain a slave forever. If the white man was responsible then for bringing him away from Africa, and if the white man is responsible for slavery, I say that the white man is also responsible for his emancipation, that this emancipation was an incident only of the revolution. It could not be done by peaceable means, because slavery was an institution recognized and authorized by the Constitution of the United States. It was an institution in accordance with the statutes enacted by Congress. It was an institution substantiated and authorized and maintained by the Supreme Court of the United States, and let it be known and let it be taught to our children that the war so far as the South was concerned, was fought for the purpose of maintaining its constitutional and inalienable right of State sovereignty, including the right of secession, and let it be taught that the waging of the war by the Union forces was not for the purpose of freeing the negro, but for the purpose of maintaining in its integrity the Union of the States of this great country. It therefore followed that the emancipation of the negro, though the result of the action of the white man, and as a part of

a great revolution, was simply an incident and not a purpose. It is unnecessary to review here the literature of that period to prove that proposition. I need cite only one fact to demonstrate it, and that was when the celebrated emancipation proclamation was made by Mr. Lincoln, it only embraced the States that he declared were in rebellion against the government. He did not emancipate, by this proclamation, the negroes in Kentucky, Maryland, and Missouri. If emancipation was his purpose, and if the freedom of the negro was the object of the war, then, in the name of common sense wasn't slavery in the States that had not seceded as objectionable as those that had? Therefore, I think we can teach in history that the emancipation of the slave was an incident and not the purpose of the revolution that existed in this country at that time.

And yet, Mr. President, I dare say that, if left to a secret ballot of this Convention—I am saying these words deliberately—that if left to a secret or open ballot of this Convention, and if the Thirteenth Amendment of the Constitution of the United States were repealed, that out of the 115 delegates upon this floor, there would not be a solitary, single vote to re-establish slavery in this country. That question will not come up to vote on, but I tell you frankly, I would vote against it. Now, Mr. President, why is that so? It is because that notwithstanding the fact that we had upon our side the law, the Constitution, the acts of Congress, and the decisions of the Court; notwithstanding the fact that slavery was as much the institution of the United States as any other institution that ever existed before or since; notwithstanding the fact that emancipation was an incident of the war, and was not its purpose; notwithstanding all these facts, I say to you that slavery is contrary to the law of nature, and has no place in that supreme intelligence that rules the world. Therefore, from the very beginning, slavery was doomed because it runs counter to these supreme laws of nature that rule the universe, in spite of laws, in spite of the Constitution, and in spite of court decisions. Why, Mr. President, that little unicellular Oameba, in his limited sphere and environment, to the extent of his inherent capacity, is as much a sovereign as the majestic king of beasts possesses in the jungles of his native land. Hence it is, I say, that the institution of slavery was destroyed because of the fact that the civilization of the ages in that process of superorganic evolution which rules the economics of the world in accordance with natural law, had doomed it, and there was nothing that we could have done then, or could do today, that could set it back, and that very same principle, the very same natural law, will, in spite of the Fifteenth Amendment, in spite of prejudice, in spite of bias, in spite of hatred, in spite of prisons, in spite of bayonets, in spite of obstruction, will make the white man rule this country. And yet, Mr. President, the negro has undergone a wonderful change, and he has been converted from a savage

into a fairly civilized people; from heathenism to Christianity; from slavery to freedom; from property to a voter. All of these through the influences and the work of the white man. What he is today, the difference between the negro in his native home and in this country, has all been wrought by his environment, and the association with the white man. None of it is due to his intrinsic potentiality. It is wholly due to his environment. What he is as a potential factor is wholly acquired. In all these things the white race has been his benefactor. Now, Mr. President, I presume, if we were to take a theological view of this subject, we would say that the institution of slavery was ordained by the Almighty; that it was predestined part of the Divine system of economics which was to solve the world problem. Discussing it from the standpoint of evolution, it is simply in keeping with this natural law that rules and governs, that the white man was enterprising, he was aggressive and ambitious. He desired the negro to till his soil, to become the shade in the summer and the fire in the winter and hence it was that he stole him from his native land. The first ship that was ever made for that purpose was made at Marblehead, Mass., in 1630. It was the ingenuity of the white man; it was his enterprise, his ambition, his great desire for wealth; it was the spirit of conquest, of adventure and of achievement. Now that is the natural way to look at it. Consequently he brought these people whose intrinsic resistance was so weak that they could not defend themselves, whose acquired ability was so small that they had no art of defense, and hence had to come and submit for 250 years to slavery. Now that is the natural way to look at it. Then the same laws apply to his freedom. The negro as we find him in America owes every particle of civilization to contact with, to association with and to environments of the white race. Now, Mr. President, the great mistake was his sudden emancipation. I mean his enfranchisement. First his emancipation, that was a great mistake. We can look back now and see, and I doubt not that if our fathers, who were responsible for the management of that great and glorious cause, could have seen into the future, that there would have been a different result of the Hampton Roads Conference, but there was not and this emancipation came suddenly. According to late writers, it is said, it was because President Lincoln promised that he would emancipate the negroes if the Union armies were successful at Gettysburg, but the great mistake was his sudden emancipation. But that was not the greatest mistake. The greatest mistake was his enfranchisement. First, because it was unnatural and contrary to organic laws of the universe and to the history of mankind. The Fifteenth Amendment is a technical inhibition, it is put up as a little small, thin wood wall to set up and defy the law of the whole history of mankind, and when I swore to observe it I observed it as a technical obstruction to nature and natural laws. It was conceived in hate and executed

in malice and maintained by force. That is the only way you can account for it. No man if he is familiar with natural science or with the history of his country, that did not hate somebody, that was not biased, would ever commit such a crime as that. It was in keeping with the spirit of the age at that time. Vengeance was in the air. The evil genius of mankind was at the throttle. He had dethroned judgment and punctured the great sympathetic human heart, and had set in operation these engines of destruction, and that was the condition, Mr. President, that we had to deal with, a few years after the war. And have we dealt with it? I think we have. It is true we had to deal with many embarrassing situations; it is true we had to deal with Federal bayonets; it is true we had to deal with Federal marshals; it is true before us were prisons, it is true before us was the gibbet or the gallows, it is true before us was the annihilation of our property and perhaps death. But the intransic potentiality that inheres in the white man was equal to the occasion to fight it off and for twenty-five years he has remained supreme and in control of the county, State and municipality. How did he do it? Potentiality that is supreme will always find a method to overcome the potentiality that is weak and insignificant. The very fact that three white men in a beat can control the politics of 600 negroes is an illustration along that line. Do you suppose that three negroes could control the politics of 600 white men. Not at all and we are here today, Mr. President, to make a supreme and final effort to throw off these forces. We are here today to avail as nearly as we can, this technical inhibition that is written in the fifteenth amendment, that we may set in operation this natural force that has controlled the world and will continue to control the world by fair, just and honest methods. Now, let me say here, as I have said before, I have said it upon the stump and I have said it elsewhere, that necessity to commit these little irregularities for the purpose of maintaining the civilization in this State and the counties in it, I believe it to be right. But the purpose is to maintain the right by legal methods, technically legal if you please, but being measured by the laws of nature and by God himself the methods already in use are right. That is the purpose for which we are here. Now I believe, Mr. President, that the report of the majority of the committee has solved the problem. I have heard so much talk about the granddaddy and the grandmammy that I have been almost ashamed for the old people, and to be a legitimate descendant, why that was disgraceful compared to an unlawful spontaniety. There has been some talk about this grandfather clause and about descendants. A great deal. I am going to read you—this is the criminal code—but I am not going to say anything about crime on this occasion, except the great crime of the fifteenth amendment of which I have already spoken, but in this book I find the Constitution of 1787, and now I want to read you a very

ancient document: "We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty for ourselves and our posterity, do ordain and establish this constitution for the United States of America." The two words to which I desire to call your attention are "ourselves" and "our" posterity. It was honorable to be a granddaddy in those days, and it was something to be proud of to be the posterity of one of those granddaddys. When you go on to the Constitution of Alabama of 1819 you will find practically the same preamble "ourselves" and "our" posterity. You come on down to the Constitution of 1861 at a time that tried men's souls, Mr. President, at a time when the very civilization and institutions of these Southern States and their very existence were at stake, even then they did not fail to recollect "our posterity,"—ourselves and our posterity. Then again in 1865, when our people met here to make a Constitution, that Constitution said "ourselves" and "our" posterity. The Constitution of 1868 that was made, as I understand it, by the scallawags, even, that contained "ourselves" and "our posterity." The Constitution of 1875 contained "ourselves" and "our" posterity. And even the preamble of the Constitution that we now propose in this declaration of rights did not forget to put in the words "ourselves" and "our" posterity. I say that this grandfather clause is not only in keeping with the laws of nature, but is in keeping with the fundamental principles of patriotism because it recognizes the men that fought the battles. (Applause). Point to me a single civilization that was ever established except in bloodshed, and I will score the grandfather clause. Now, I cannot get in on that proposition unless you go back to the revolution and then I come in, and it will be the proudest moment of my life to stand up before that Registration Board and say in answer to the question "Are you the descendant of a soldier?" so far as the late war is concerned I would have to say my father was too old to go in, and I was too young, thank the Lord, but my great granddaddies struck it for their country, and that bolod is still here and he struck it for me. Did you ever hear of soldiers going to war to fight merely for themselves? Was that the purpose for which these veterans went to the war and fought so gallantly for four years—for themselves? It was for their posterity. Therefore, I say Mr. President, it is an honor and a distinction to be a descendant from any brave man who ever struck a lick for his country, and because of this I say that he should be permitted to vote without money, without price and without education, and I say that negro Bill over in Barbour County alluded to by Governor Oates ought to vote, because it was heroic of him, and he merited that, that is if he has not lost his patriotism since. Let me read you in this connection a little clipping from The Brooklyn Eagle, you will find it in The Daily Register of July 26th:

ACCORDING TO HUMAN NATURE.

Brooklyn Eagle.

Human nature is a higher constitution than a Federal compact. White control is a better preservative of government and civilization than constitutional amendments which threaten to ignore or cross it.

(That fellow is a genius that wrote that.)

"The nation, under a mixture of sentiment and of political gambling, snarled itself up in the fifteenth and fourteenth amendments. But the States that were seriously involved in that snarl have extricated themselves from it and the other States, practically unaffected by the consequences of the snarl, are glad that their Southern sisters have made their escape from the complication."

You see they are getting a little more heart up in that country. They are getting judgment back upon its throne, and they are beginning to look at the situation with their natural eyes and from a natural standpoint, and from the standpoint of philosophy and human nature.

"The next generation may or may not reconcile the technicalities of the lease with the actualities of it. This generation is satisfied with the actualities of it, and is willing to take its stand by the side of human nature, of history, and of rightful race instinct, leaving to the future the removal by whatever surgery may be devised, of a moribund vermiform appendix affecting suffrage and representation, which remains inoperatively attached to the 'Constitution,' not of the body politic, but of the political fabric called the Union."

Now, sir, we are here for the purpose of performing apendectomy, that is the technical name for removing a defunct veriform appendix, and the distinguished lawyer, the chairman of the committee, is the presiding surgeon and the distinguished gentleman from Madison gave the anesthetic when he made the unanswerable argument as to its constitutionality. Now shall we remove the appendix or shall we give a dose of salts and trust to nature? That is the question. Shall we continue because of little personal bias and prejudice, because of a little pique, because of a little disappointment, or because our own particular kid has not been named and christened, or shall we all pull in the interest of our great State, and in the presence of the Almighty and assist in the operation? I say let us do it, and let the grand daddies and descendants and the good character fellows do the work. Now, Mr. President, what is the duty of this Convention and of the people of the South towards the negro. Mr. President, I would prefer to consider that question in accordance with the rules and teachings of the dispensation under which we live. This dispensation

that had its promise when God decreed that the "seed of the woman should bruise the serpent's head," that began when the "Virgin Mary conceived of the Holy Ghost," that was announced when the angels appeared in the air and sang "Peace on earth, good will towards men;" that was acknowledged when the dove descended upon His head by the River Jordan and said, "this is my beloved Son in whom I am well pleased;" that was enunciated in the Sermon on the Mount; in that religion that was baptized in the tears of Golgotha and stained with the crimson blood of Calvary.

I would approach it in this light and not in accordance with natural laws. I would approach it as benefactors and as philanthropists than otherwise. The thirteenth amendment is good because it is in keeping with the laws of nature. The fourteenth amendment is good, because it is in keeping with the laws of nature and right. The fifteenth amendment is dead because it counteracts the laws of nature and runs against the facts of history and is bad. But, Mr. President, in this era of civilization in this era of benevolence and of charity and forbearance and forgiveness we owe that race something and we should do all we could for it. The report of the committee recognizes the principle, and every one of them who in this enlightened civilization under this dispensation, in contact with the white man, has acquired good character and intelligence to understand a republican form of government, can come in, and I believe it will be the duty of Registrars to admit such, and under the permanent plan, if they have by their energy and their thrift and their industry acquired $300 worth of property, or if they have acquired sufficient intelligence to read the Constitution of this State and pay voluntarily a patriotic contribution to the State, your committee says they can come in, and that is in keeping with the broad philanthropy of the civilization in which we live. Let us educate his children, let us give him an opportunity. Let not the strong hand of the superior race crush him to earth in obedience to the law of the survival of the fittest, but in obedience to Him who said "Forgive them for they know not what they do." Let us lift them up, and in doing that we not only vindicate our action in this Convention, but we lay a predicate upon which future generations can act, and we will so entrench ourselves in the civilization of the age that no Supreme Court can find hatred and prejudice enough to set at naught the methods we have adopted for our salvation.

Mr. President, the negro inherits this right. I do not know how you feel about it, but when that old statesman over there, the Chairman of this Committee, (Mr. Coleman of Greene) the other day was giving from his own observation a description of the personal conduct of the negroes during the war, it actually brought tears to my eyes. A great race, whose freedom would probably result from the success of the Union armies, actually remaining

at home and supplying the sinews of war to keep them in slavery, and taking care of the wives and daughters of the soldiers who were fighting to keep them in a condition of slavery. Mr. President, that shows their nature. Suppose it had been a Caucasian race in slavery, and their masters were divided, in less than forty-eight hours we would have united with the side that was fighting to give us our freedom, and you know it. This Christian civilization and this Convention should recognize, Mr. President, that loyalty of the old slave, and should say to his posterity that if you are honest, if you are patriotic, if you are intelligent, if you will acquire property, we will allow you to come in and by your vote share in the administration of the affairs of your country. Therefore, when you consider the permanent plan of the Committee, it is not only in keeping with the temporary plan, with natural law, and with history, but it is in keeping with the Christian civilization in which we live. The fact of the business is, that it is one of the finest documents ever written by the hand of man, and proclaimed in a parliamentary body.

Well now, what about the registration plan? As I understand it, here is the top seive, that catches all the "grand-daddies," and then here is a basement pan that catches the rest. Now under the Democratic platform, we have got to have it, you understand, because there are a few of these people that are going to slip through the meshes of both the upper and middle seive, and we have said that we will not disfranchise any white man in the State of Alabama, and we won't. Therefore we must have a Committee, or somebody to come along and then I do not know what rule they will adopt. If I were one of the Registrars, this would be my test: First, "Have you ever been convicted of any crime?" "No." I could then see the balance for myself, without asking another question, and I think that is the purpose, though nobody has said so.

Mr. President, there has arisen in this connection certain questions or propositions which I am sorry have come up. It has been alluded to on this floor, and it has been charged in certain newspapers of the State, and it has been rumored in sundry ways, that there was something more in this registration clause. That there was a "nigger in the wood pile" and that the purpose was to transfer that nigger in the wood pile to the permanent class where he could vote, not by one, but by the dozens and hundreds, and be held in reserve for emergencies. Now, Mr. President, is that logical What would you think of a man, I ask you, that had resting upon his breast a great weight, or a great burden, and were to cry out for relief, and have it removed with the assistance of his brethren, and after it is removed for him to go back deliberately and pull the weight on himself again?

MR. ROGERS (Sumter)—And to secretly put it back?

MR. CUNNINGHAM—Yes, secretly put it on, clandestinely and thievishly. Mr. President, it is so illogical that no sensible man would do it. But that is not my answer to those insinuations and statements. I am a physician, and I try usually to find out what is the matter with a patient and to make a correct diagnosis of the case. I have heard it insinuated as to what would be done in certain sections of the State, and in that section which is known as the "Black Belt." I look into the faces of the "Black Belt" citizens here, and they are as good looking as I am; they have the complexion and the outline and the contour, face and countenance of my sort of folks, and I believe that they are my sort of folks, and therefore I do not believe they are going to do it. That is what I believe. Who are these gentlemen of the Black Belt, and who are we of the White Belt? We are of one race and country. We are one blood, whether we trace it back to the Puritan, to the Cavalier, or to the Huguenot, we are all American and are therefore of American blood. The forefathers of the people of the "Black Belt" and our forefathers wrought alike, side by side in the quarries from which were taken the stones that were erected into the magnificent temple of liberty for this great American Republic. Side by side they stood to maintain it against the world, to develop its resources, and to maintain its institutions. In 1861 when the household of the temple divided, the forefathers of the hill counties, and of the black belt, were still side by side; they went shoulder to shoulder, and from Fort Sumter to Appomattox, there was no question as to where a patriot came from, whether from Dallas, from Jefferson or from Randolph.

For a common cause they united and they fought, and when the last stroke of the hammer in the hand of the magnanimous Grant struck to pieces and there fell to earth the proud and stainless rapier at the feet of the matchless Lee, they were still side by side (applause), and when the Southern wing of that temple fell, they were buried together beneath its rubbish, and from it they arose, and like the Israelites of old, they set their faces towards the new Jerusalem of a reconstructed South, and together thank God, they have made it and will forever maintain it. (Loud applause.)

Was there any talk as to where a man came from in 1874? It is fitting to note the facts of history, and it serves to illustrate the occasion, that it was under the leadership of the "bald eagle of the mountains," the immortal Houston, and the matchless Morgan from the Black Belt, that this State was redeemed, and I say to you that today this great question is not a question of the "Black Belt," it is not a question for the hill counties, it is a question for white men to solve, who want honest methods in their elections. (Applause.) I am as much interested in it from the great industrial county of Jefferson as I would be if I lived in the county of Lowndes.

But they say there is too much representation. Our Northern brethren say we will cut down your representation if you disfranchise a certain percentage of your male population, and we think that it is wrong, and we are going to try and keep you from it. We come down to Alabama and the boys in the hill counties say we do not think you in the Black Belt should have five times the voting strength as the white men in the hill counties, and therefore they object to it. You go to the Black Belt counties, and you find that citizens in a beat where there are five or six hundred negroes and a half a dozen white men do not want to lose their political power in their county politics, because you disfranchise these negroes. So you see this is an issue among yourselves. There are others who say we will not ratify this Constitution because you put this and that into it, and goes into our back yard and takes a portion of my pie. It is said that some of the Sheriffs will fight it because they can be removed temporarily by the Governor for neglect or cowardice or connivance in lynching or bodily harm to a prisoner. I was told myself by a Tax Assessor that this poll tax which is to be a voluntary patriotic contribution, that unless we provided means for enforcing its collection would take seventy-five thousand dollars out of the pockets of the Tax Collectors of the State. Gentlemen of the Convention, let us rise above all these things; let us rise above Black Belt and hill counties, let us rise above every personal interest and every selfish motive, and in the name of God, natural law and humanity, justice to ourselves and our posterity, stand together, pull together, work together and run together. (Applause.)

Mr. President, we are going to do it. And, sir, I think I see a new light. At present it is dim, but I believe it to be a rising sun. It is obscured by the clouds and mists, but in the rifts I gather a gleam that is an omen of the brightness and glory and splendor beyond. If this sun continues to rise to its meridian of glory, it will dispell the clouds and mists, and will reveal to the civilized world a reunited, prosperous, glorious and happy people. The mailed hand of the tyrant, clad in the armor of the militant, will no longer be seen to hold by the throat a great, generous, brave, chivalrous and courageous but overpowered people. Instead of hate and prejudice, there will be love and fairness. Instead of oppression and usurpation, there will be recognition and consideration. Instead of the carpet-bagger and his grip, there will be the capitalist and the laborer. Instead of the politician and his embition, there will be the statesman and patriot. Instead of racial hatred and prejudices, there will be Christian philanthropy and charity. Instead of discouragement and despair, there will be hope and endless fruition, and may God speed the day. (Prolonged applause.)

MR. SAMFORD (Pike)—I desire to ask unanimous consent to make a report from the Committee on Engrossment, to lie upon the table and be called up in regular order on Monday morning.

The consent was given and the report was read as follows:

The Committee on Engrossment have examined and compared the following Article, and find it correctly engrossed.

Respectfully submitted,

Wm. H. Samford,
Chairman.

MR. SANDERS—Mr. President, I move that the rules be suspended and that the speech of the distinguished gentleman from Jefferson, Mr. Cunningham, who has just taken his seat, be printed in pamphlet form, and that two thousand copies be furnished.

MR. BAREFIELD—I would like to amend that by making it five thousand.

MR. SANDERS—I accept the amendment.

Upon a vote being taken, the motion was carried.

Mr. Martin secured recognition.

MR. O'NEAL (Lauderdale)—As the time for adjournment is rapidly approaching, I make a motion that the House remain in session so as to allow the gentleman thirty minutes time in which to deliver his remarks.

A vote was taken and the motion prevailed.

MR. MARTIN—Mr. President and gentlemen of the Convention, I know you are weary and that this is an unusual hour to rise for the purpose of addressing a Convention after you have been in session as long as you have today, but I ask the indulgence of this Convention for a few moments at least. It would be impossible for use to over-estimate the grave importance of the questions that are before you for consideration and determination, their far-reaching consequences cannot be over-estimated by you. Every citizen of the State of Alabama is interested in them and our decision must tell for weal or for woe upon those who are to come after us. Gentlemen of the Convention, as grave as these questions are, as momentuous and delicate as they are, I believe, and I thank God for the faith that is in me, that the delegates here assembled will prove equal to the occasion and from the wisdom and patriotism of this Convention there will spring a Constitution that will be to the people of the State of Alabama, a pillar of cloud by day and fire by night to lead them out of the darkness and the undesirable condition of affairs that surrounds them, a condition

that was forced upon this people by the unwise, unstatesmanlike and vicious legislation of the past. But, gentlemen, I care not how patriotic you may be, there is one thing you cannot do. You can shape and frame the fundamental law of the State, but it will take that great power that sent us here—the people themselves—to breathe life and vitality into it. Therefore, it is the earnest wish of my heart that we may so conduct ourselves as to be able to take the Constitution that we propose in one hand and our conscience in the other and go back to our constituents and say to them, here is the result of our labor, we have done the very best we could under the circumstances, read it in the light of the authority you gave us, and you will find that we fought a good fight and kept the faith

Now, Mr. President, somewhere I have read that the chief purpose of convening this Convention was to take such steps within the limits of the Federal Constitution as would continue the control of the white man in the affairs of the State of Alabama, believing as we do, that it was to the best interests of the Black Belt and to the best interests of the white man and of the entire country that it should be so. It has been decreed, it has been fixed, and beyond all controversy, that the while man is going to control the affairs of the State of Alabama. Now, the great question for you and me to decide is this, shall he control it by law and order, or shall he control it by force and fraud? I say let him control it by law and order. Somewhere I have heard it said that this Convention was to disfranchise no white man. It has been the declared purpose ever since the Constitutional Convention was first agitated, as the purpose of the Democratic party in the Convention of 1898, it was proclaimed, and in the Convention of 1900, it was re-iterated. I was not a member of the Convention of 1900, neither was I present, but there was a scene enacted upon this floor that will not soon be forgotten. A man who is as well known to the people of the State of Alabama as any other man in it, a man who has the confidence of the people of Alabama as much so as any other citizen of the commonwealth, a man who carries by his side an empty sleeve, itself being a passport to every patriotic heart, Judge Carmichael, rose and stood upon a table, so that he might be seen and heard of all men, and there proclaimed that no white man in the State of Alabama was to be disfranchised. Those words rang out like a clarion note all over the hall. They were echoed and re-echoed from hill-top to hill-top and from valley to valley. Your Convention adopted that resolutin as a part and parcel of its platform, and the great Democratic party published it to the world that no white man in the State of Alabama was to be disfranchised. Then when your Convention met to nominate delegates to this Constitutional Convention, after having nominated your candidates, you gave them instructions in the nature of a platform of principle, and among other things you said, we pledge our faith to the people of the State of Alabama

that no white man is to be disfranchised. We, then, as candidates, went before the people. Your Democratic State Executive Committee adopted it and declared it to be a truth. Your Campaign Committee pledged the Democratic Party to the people of the State of Alabama and directed you and me to go before our people and say to them that we pledged ourselves the honor of the party that that platform should be strictly carried out. We did it, and the people believed it, they voted for this Constitutional Convention, and they honored us with their confidence and sent us here. Mr. President, a state of circumstances might arise to cause me to take my commission and carry it back to those who gave it to me and say to them that I could no longer conscientiously serve them, but never, no, never, so help me God, will I deliberately violate the pledge I made my people. We were elected on that platform, can we carry it out? It has pleased some learned gentlemen to say that it cannot be done, that we cannot steer clear of the Federal Constitution, and at the same time carry out the platform, for I verily believe that has already been accomplished. I believe that if we adopt this report, we can keep our pledge and at the same time not violate any provision of the Federal Constitution.

Now, gentlemen, what does this report say? It says that those who have honorably served in the land or naval forces of the United States or of the Confederate States shall be allowed the privilege of voting. What is the right of franchise? It is nothing more than a trust. He who holds it is a trustee. He who holds it, holds it for the good of his country as a trustee. What class of men, therefore, do you want to confer it upon? Those who have proved themselves worthy. Those who have proved themselves of the right character. That is the class that you want to act in the capacity of trustees in this important matter. Now a great many negroes will be allowed to vote under this clause, and a great many white men will be allowed to vote under the same provision. The old Confederate soldier will predominate, no doubt. Now, gentlemen, we are not afraid to trust those men. They have been tried in the fiery furnace and came forth pure gold. They were tried in the days that put men's souls to the test. Are you afraid to risk the affairs of the State of Alabama in their keeping? Why, I repeat, that in the dark days that put men's souls to the test, these men upheld the honor of your State and bore a name untarnished all through the trying period of the war. Then, when the war was over they came back home. They found a worse state of affairs than was ever before presented to their vision. They found their property was gone, their families impoverished, their country in ruins, and tyranny stalked unbridled through this land and free men breathed with bated breath. In that day, the rattle of the saber and glitter of the bayonet was heard and seen in this building. Those patriots though, could not be deterred by threats,

they could not be seduced by flattery, but they said to the tyrant and to the seducer, "Get thee behind me, Satan." True, all is gone save honor, but that we propose to preserve and transmit as a sacred heritage to our children, and that they did.

Now, there is another class, that the lawful descendants of these men may vote. Gentlemen, when the war broke out we were a poor people, an agricultural people, and the rank and file of the Confederate Army was made up of poor men. They owned no property. They never owned a negro in their lives, but they fought for principle and for conscience sake. Now, when those men were called to arms from their homes, they left the plow standing in an unfinished furrow upon the hillside farm. He left there a wife and a group of little children, the oldest, perhaps, not more than 10 or 12 years of age. The father gone, that boy, under the guiding hand of a loving mother, stepped between those plow handles and year's end to year's end worked and labored in order to supply his mother and little sisters and brothers with the necessities of life. Did he go to school? No, he never went to school, for he had no time to go to school. He stood in front of that cabin door, and with all the strength and energy of his young life, drove back the wolf of want and hunger from the sacred confines of that home. Then, when the war was over, his father came back, perhaps on one leg or with an empty sleeve by his side, broken in health and wounded in body, a hero without success, a disabled soldier without a pension. His country could not help him and therefore that boy continued to labor between those plow handles not only to support that mother but to enable that decrepit and broken-down Confederate soldier to live, literally growing from childhood to manhood between those plow handles. Now, I put this case to you, delegates of this Convention. I tell you, in the first place, he made those sacrifices for his country, and I put the question to you, before God and man, will Alabama today, like a cruel and unnatural mother, lay the heavy hand of oppression upon him. Almighty God forbid it. Gentlemen, I tell you, you may do it if you want to, but beware that you do not sound the death knell of your Constitution when you do it.

Now, I will not detain you much longer, gentlemen, but there is another thing, and I want it distinctly understood that I do not share in those apprehensions as to the sincerity and good faith of the Black Belt of this State, the land of fair women and brave men. I want to say right here that I believe that God never made whiter men than these Black Belt Democrats. They have suffered long, they have suffered much, but they have proven true in sunshine and in storm and when they saw the day of deliverance coming, they turned to the hill counties and raised a Macedonian cry, "Come and help us." I stand here today and tell you, hold forth, we are coming.

Gentlemen, I do not speak to Democrats, I do not speak to Populists or Republicans, but I appeal to patriots everywhere, strike hands, let's make one grand and determined effort to get back to original principles and preserve in its purity this sacred inheritance transmitted to us by our fathers. Preserve in purity the ancient institutions of this country. Mr. President, when I throw my eye to the left and see the honored Chairman of this distinguished Committee, a man well stricken in years and feeble in health, quitting the quiet of his own home, and coming to this Capital City, and day after day, and week after week, in the hot summer time, laboring for the good of his people, I feel like bowing my head before him, and, in the name of a grateful people, return most sincere thanks. I believe, sir, that long after we shall have been called home to our fathers, the good work that you have done will be a blessing to the people and when it blesses the people your people will bless you.

Leaves of absence were granted to Mr. Reynolds (Henry) for today and Monday, Mr. Norman for Monday, Tuesday and Wednesday.

Thereupon the Convention adjourned.

FIFTY-SEVENTH DAY

MONTGOMERY, ALA.,
Monday, July 29, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by Rev. Mr. Marshall, as follows:

O, Lord, God, ruler of the Universe, Thou who dost rule and govern all things well, we do thank Thee for Thy Provident care over us since we last met together in this hall. We thank Thee for life; we thank Thee for a reasonable portion of health and strength; we thank Thee that Thou hast blessed us with the temporal things of life, and we thank Thee that none of us have been cut down in death; and we come before Thee this morning, we trust, not in a mere form, but because we feel the need of Thee, and we pray Thee that thou wilt this day direct the affairs of this Convention. We thank thee, our Father, that Thou hast blessed us so bountifully. We thank Thee for this State. We thank Thee for the resources of the State, and its probable development, and we pray Thee that Thou wilt help this Convention assembled to make such a Constitution as will best promote the interests of this State. O, Father, we pray Thee to guide each individual here. Give us the strength and grace and wisdom necessary to discharge

faithfully every duty of life. Bless the deliberations of this body, and may they be such as Thou wouldst have them. Bless the families of the members of this Convention at home; be with them, strengthen and uphold them. Guide us by Thy Counsel, uphold us by Thy strong arm, and guide us into all truth and at last receive us unto Thyself in Heaven, we ask for Christ's sake. Amen.

Mr. Oates took the chair.

Upon the call of the roll, ninety-one delegates responded to their names.

MR. deGRAFFENREID—I move that the roll call be dispensed with for the introduction of ordinances and resolutions, and also for the reports of standing committees that the house may take up now the business which it had on hand Saturday afternoon when the Convention adjourned.

Upon a vote being taken, the motion was carried.

MR. WILLIAMS (Marengo)—I ask unanimous consent to introduce an ordinance which is in the hands of the secretary.

There being no objection, consent was given, and the secretary read the ordinance as follows:

Ordinance by Mr. Williams (Marengo):

Whereas, commercial drummers, ministers of the gospel, school teachers, railroad employes and many other good men and desirable electors are practically disfranchised by reason of their occupations under the article as reported to this Convention by the Committee on Suffrage and Elections;

Therefore, be it ordained by this Convention, That, where any person is duly registered as an elector and an election is held at which he would have a right to vote were he at the place designated as his regular voting place on the day of election, such elector may vote at any other place where the polls are open for voting in such election, provided he exhibit and surrender to the managers of such election at such place where he does vote (not the original) but a certified copy of his registration certificate under the hand and seal of the probate judge of the county in which he is duly registered as such elector, and provided further, that, before he votes, he is sworn by one of such managers and states on such oath, that he has not before that time voted in such election, and will not again vote in such election, and such oath must be reduced to writing and subscribed by such elector, and the managers of such election must preserve said oath and certificate, and may by the solicitor of the Judicial Circuit be required to return the same before any grand jury. Any elector, who has violated or does violate such oath shall be guilty of perjury.

THE PRESIDENT PRO TEM—The ordinance is referred to the Committee on Suffrage and Election.

MR. GILMORE—I have a resolution.

THE PRESIDENT PRO TEM—What is the purpose of the resolution?

MR. GILMORE—I ask to be allowed to introduce it to be referred to the proper committee.

THE PRESIDENT PRO TEM—Is there any objection to the introduction of the resolution by the gentleman from Clarke. The Chair hears no objection.

The Secretary read the resolution as follows:

Resolution No. 272 by Mr. Gilmore:

Resolved, That 5,000 copies each of the speeches of General William C. Oates, General George P. Harrison, Hon. Frank S. White, Hon. S. H. Dent and Governor Thomas G. Jones be printed in pamphlet form for distribution among the citizens of the State.

THE PRESIDENT PRO TEM—What reference does the delegate desire made of the resolution?

MR. GILMORE—That is be referred to the Committee on Printing.

THE PRESIDENT PRO TEM—It is referred to the Committee on Schedules and Printing.

MR. CARMICHAEL (Coffee)—I ask unanimous consent to have read a two-line memorial.

THE PRESIDENT PRO TEM—The gentleman asks permission to have read a memorial. The Chair hears no objection.

The Secretary read the memorial as follows:

Enterprise, July 15, 1901.

To Hon. Malcom S. Carmichael:

We, the undersigned, respectfully petition through you, the Constitutional Convention, to embody in the organic law, plenary powers to the Railroad Commission, they to be elected by the people and paid by the State. Bank of Enterprise, W. R. Stone; cashier; R. Tillis, J. E. and W. E. Henderson, Law Edmonds and Byrd, W. E. Law, Carlisle and Welkins, Weekly Enterprise, M. F. Whaley, W. B. Stalks, Stalks and Watson, W. A. Edwards, C. F. Mizell, W. S. Edwards, J. W. Henderson, R. A. Clements, Walden & Martin, R. B. Martin, Weldon Thompson, Harrison & Byrd, E. L. Marx, jeweler; Folmer Walden & Byrd, P. C. Belcher, J. H. Devisy & Co., A. M. Owens, McGel & Fleming, A. F. Micler Co.,

D. B. Moore & Co., W. H. Johnson, W. C. Johnson, T. D. Edwards, B. W. Fenny, W. A. McFilroy, W. W. Filmore, W. J. Pomeroy, J. W. Bowldvin, W. S. Price, C. W. Carmichael, C. M. McKelly.

THE PRESIDENT PRO TEM—What course does the delegate desire this to take?

MR CARMICHAEL—That it be referred to the proper committee.

THE PRESIDENT PRO TEM—It is referred to the Committee on Corporations.

MR. LONG (Walker)—I move that the privileges of the floor be extended to Hon. F. S. Blackman of Calhoun county, a State Senator.

The motion was adopted.

Leaves of absence were granted to the following delegates: To Mr. White of Jefferson for today; to Mr. Jones of Montgomery for today; to Mr. Ferguson of Jefferson for today.

THE PRESIDENT PRO TEM—The next thing in order is the regular order—the consideration of Section 4 of the report of the Committee on Franchise and Election.

MR. PORTER—Mr. President.

THE PRESIDENT PRO TEM—The Chair recognizes the delegate from Coosa, Mr. Porter.

MR. PORTER—Mr. President, it is with some reluctance that I rise from my seat to address this Convention after listening to the many able arguments delivered on the floor of this hall upon the subject now before us. I am satisfied at this late hour that anything I should say in my feeble way would be like pouring water upon a duck's back. I was taught in early life that small people were to be seen and not heard. I am still trying to stand by my early education. This debate as I understand has been prolonged for the purpose of allowing each delegate to be heard. My duty to my people demands that I no longer be silent. I am not in the attitude of the majority of the delegates of this Convention, who are under party pledges not to do certain things. I am here as a delegate with a small minority of other delegates, representing 35,000 voters from North and South Alabama, who were opposed to the holding of this Convention. I am pledged only by my good conscience to do right, as I see it, and I am satisfied that my people will be satisfied with my action and that I will receive when I return home their plaudits: "Well done, thou good and faithful servant." Suffrage is the all-absorbing question before us today. In the few remarks I shall make I hope to speak the truth, and nothing but the truth, as I understand it. Why this

perplexing question before us today? It is some of the fruits of Democratic partisan folly and secession. In this historical hall and Capitol in 1861 there was a body of men assembled, a majority of whom were led astray by sentiment by leading politicians, against the better judgment and supplications of a small majority. The result—war and blood, destitution and ruin, reconstruction, Thirteenth, and Fourteenth and Fifteenth Amendments to the Constitution. We were left in the attitude of a sick patient. The doctor was sent for, he came and prescribed the Thirteenth Amendment upon his first visit. We refused the medicine. He came on the second visit and offered us the Fourteenth Amendment. We refused. He came with the Fifteenth Amendment a little larger and a little more quinine, and says I will stand by you and see you take it, together with the Thirteenth and Fourteenth Amendments. We have lived and prospered for a quarter of a century after taking that medicine. Here in the early dawn of the Twentieth Century we are assembled again in Constitutional Convention for the purpose of seeing if we can devise some plan whereby we can get around the effects of this medicine. We are here offering new inducements. I fear for more reconstruction. Are we so forgetful as to be carried off on sentiment again? Let us bring a halt, and see whither we are drifting. Mr. President, I am a believer in the doctrine that whatever a man soweth that will he reap. If he sows to the wind he will reap the whirlwind. This applies both collectively and individually. We have the proposition under discussion in the way of a minority report versus the majority report, and upon that delegates are divided. It should be a friendly division. It behooves us as delegates to this Convention to do our duty, in trying to get the best thing possible for our peple, and send it to them for their approval or rejection. We should be consistent, Mr. President, and not hypocritical. When this Convention met in May, there was a resolution offered providing for the seating of members by lot—a page was to be blindfolded, the names of all delegates were to be placed in a hat, and a page was to draw therefrom and hand the Secretary one by one, as he called it, the name thus drawn, the member whose name was called, was to come in and choose his seat. That resolution was fought on the floor of this House upon the ground that it gave Republicans and Populists the same chance to get good seats that it did the Democrats. The Journal will show that 41 votes were recorded against this resolution in opposition to allowing their brother delegates the same chance as themselves, simply on the ground that they were Republicans and Populists. The Republican and Populist delegates of this Convention, some of them at least, are old Confederate soldiers and sons of Confederate soldiers. It is not necessary for me to go out of this House to prove my record as a Confederate soldier. I see some familiar faces now present listening to me whom I have met in places as hot as the place we meet to-

day, the only difference in those faces is that the plowshare of time has plowed furrows, and the frosts of many winters have whitened their heads. In my breast there bears a heart that goes out with love for everyone of them. For the last three or four days we saw some of those delegates who voted against the resolution that I referred to blistering their hands and skinning their throats applauding speakers who were speaking in favor of giving us preferred seats as old soldiers and sons of soldiers. We don't ask it; we don't want it. Section 2, as passed upon, does great injustice to immigrants coming to Alabama. It disfranchises them for six years before they are allowed to vote. A tax payer all the time a voter after six years. The enabling act calling this Convention and the Democratic platform in my judgment, has handicapped this Convention in its work. The Constitution was partly made before we came here. The Capitol was not to be removed. The tax rate was not to be increased. The basis of representation was not to be changed. No white man was to be disfranchised. All of these are provided in the present Constitution, and we did not need a Convention for that purpose. That reminds me of a story. Pat was in the lockup. The judge came along and said: What have they got you in there for? Pat related his troubles and the judge said, They cannot put you in there, Pat, and Pat replied, Please, your Honor, they have done done it. The white man is already disfranchised here in Alabama indirectly, I might say almost directly. Mr. President, under the present election laws of Alabama, there are many white men already disfranchised. I know many good men in Alabama who have not voted since our present election laws were enacted. I remember reading last fall, just before the national election, in The Montgomery Advertiser, where fifty-seven men, intelligent men in Dallas County, got a ticket immediately after they were printed, and they were asked to fix it as they wanted to vote it as Democrats, and everyone of them failed. Subdivision 2 of Section 4, in my judgment, is unconstitutional. To vote for it, I feel would be to violate the oath I took when I became a delegate to this Convention. We met here to disfranchise somebody. No white man is to be disfranchised. Then who are you going to disfranchise? Is there not discretion somewhere? There are, I understand, ninety-six lawyers in this Convention. They are all of them constitutional lawyers, I presume, by this time. Mr. President, I am not a lawyer, I am a farmer, but in the language of Mrs. Wyley Jones of North Carolina, after the battle of Cowpens, in conversation with a British officer, Colonel Tarleton, who remarked "You appear to think very highly of General Washington, and yet I have been told that he is so very ignorant a fellow, that he can hardly write his name." It may be the case, she readily replied, but no man better than yourself can testify that he knows how to make his mark—pointing to his wounded hand, made so by General Washington in that battle. I know how

to make my mark. Subdivision 3 of Section 4 of the suffrage report is sufficient, and all soldiers and their sons could and should come under that clause, anything else is humiliating. Mr. President, the poll tax, in my judgment, is the only solution that I see to this question. Mark what I say, if any are to be disfranchised, let them disfranchise themselves. I am opposed to the disfranchising of any citizen of Alabama except for crime. I want the catalogue of crimes mentioned in Section 6 amended so as to disfranchise and put in the penitentiary every man who sells his vote and the man who buys it. The bribe giver is as mean as the bribe taker. The man that will do either is unworthy of the ballot. I listened very patiently the other day when the distinguished senior member from Randolph was picturing the conditions in his county, and while I know he told the truth, yet wherever there is a man who proposes to sell his vote, there is somebody that is guilty of buying him, and if negroes sell their votes they should be disfranchised, they are not worthy of it. And it occurs to me, coming from the Fifth Congressional District, the same as does the gentleman from Randolph, that in the last Congressional election is that district there was more money spent in the white primaries among white men than was ever known to have been spent in that district in all the past. What we need are honest men in Alabama, when we get them, we will get honest elections. Section 5, if enacted into law, as a part of the Constitution of Alabama, in my judgment, will disfranchise thousands of white men in Alabama. Section 6 of Subdivision 3 of Section 4, with a poll tax, is all that is necessary, with a little amendment to Section 6, which I propose to offer when we get to it. Mr. President, we should be more discreet. Closed mouths instead of closed doors is what we need now. The old soldiers are over 45 years old, not subject to poll tax. The old negro always devoted to his old master and mistress is still loyal and grateful. I appeal to the old Confederate soldiers who will be the first man to rise up and strike down this faithful old man who stood so faithfully by our fathers and mothers, our wives and children, made bread for them and us while we fought the battles of our country. Mr. President, I am an old soldier who surrendered with General Lee at Appomattox Courthouse on the 9th of April, 1865. I have never gotten my consent to do it. I will paint no picture, I will present one already painted, and that picture by the lamented Grady in his famous speech at Boston:

"What of the negro? This of him: I want no better friend than the black boy who was raised by my side and who is now trudging patiently, with downcast eyes and shambling figure, through his lonely way of life. I want not sweeter music than the crooning of my old 'Mammy,' now dead, and gone to rest, as I heard it as she held me in her loving arms, and bending her old black face above me stole the cares from my brain and led me smiling into sleep. I want no truer soul than that which moved

the trusty slave, who for four years, while my father fought with the armies that barred his freedom, slept every night at my mother's chamber door, holding her and her children as safe as if her husband stood guard, and ready to lay down his humble life on her threshold. History has no parallel to the faith kept by the negro in the South during the war. Often 500 negroes to a single white man, and yet through those dusky throngs women and children walked in safety, and the unprotected homes rested in peace. On marshalled the black battallion marched patiently to the fields in the morning, to feed armies their idleness would have starved, and gathered anxiously at the big house to 'hear the news from Marster,' though conscious that his victories made their chains enduring. Everywhere humble and kindly; the rough companion of the little ones; the observant friend; the silent sentry in his lowly cabin; the shrewd counsellor; and when the dead came home, a mourner at the open grave. A thousand torches would have disbanded every Southern army, but not one was lighted. When the master, going to a war in which slavery was involved, said to his slave, 'I leave my home and loved ones in your charge,' the tenderness between man and master stood disclosed. And when the slave held that charge sacred through storm and temptation, he gave new meaning to faith and loyalty. I rejoice that when freedom came to him, after years of waiting, it was all the sweeter because the black hands from which the shackles well were stainless of a single crime against the helpless ones confided to his care."

Mr. President and delegates of this Convention, there have been many noble and patriotic speeches made in this Convention since we have been in session. If some had been eliminated, in my judgment, it would have been better for the people of the State of Alabama. They had better have been delivered behind closed doors. I want to repeat what has many times been said on the floor of this Convention, that this is a white man's country; it is large enough for the black man also. The white man is ruling, the white man is going to rule it. There is not a negro holding office in Alabama, except it be some Federal position in the Postoffice Department, and if that be a crime, let him who is not guilty cast the first stone. From the best information I can get, but few of them ever vote. White supremacy is as complete in Alabama as it is possible for it to be. The negro is satisfied with this. All he asks as a lawabiding citizen—he works the roads, pays his taxes and fights the battles of his country, if called upon—All he asks is the right to choose between two or more the one he prefers to rule over him. This right, in my judgment, he should have. In the near future some of us will see the folly of our ways and repent that we did not act otherwise. The suffrage as proposed by the majority of the committee. I admit

the right of the State to regulate the suffrage as prescribed under the Fourteenth Amendment before the Fifteenth Amendment was adopted, but the Fifteenth Amendment takes away from the State absolutely the right to exclude the negro from suffrage, and I read from James G. Blaine, Twenty Years in Congress to prove what I say as high authority:

"The adoption of the fifteenth amendment seriously modified the effect and potency of the second section of the Fourteenth Amendment. Under that section a State could not exclude the negro from the right of suffrage if willing to accept the penalty of the proportional loss of representation in Congress which the exclusion of the colored population from the basis of apportionment would entail. But the Fifteenth Amendment took away absolutely from the State the power to exclude the negro from suffrage, and therefore the second section of the Fourteenth Amendment can refer only to those other disqualifications, never likely to be applied, by which a State might lessen her voting population by basing the right of suffrage on the ownership of real estate, or on the possession of a fixed income, or upon a certain degree of education, or upon nativity or religious creed. It is still in the power of the States to apply any one of these tests or all of them if willing to hazard the penalty prescribed in the fourteenth amendment."

This is a complete answer to the various gentlemen on this floor, and is undoubtedly the right construction to be placed upon it. The war of 1865 is over, reconstruction is over. Are we willing to risk the chances of reconstruction again? I hope not. Now, Mr. President, in conclusion I want to say a word in regard to the Black Belt Democrat. What of him? Mr. President I have been closely associated with some of them in every Legislature that has met since 1896. That association has been of such a character that it affords me much pleasure to avail myself of the opportunity to say that they are high-toned, refined, educated, patriotic and as big-souled men as it has ever been my pleasure to meet. I have found them when the question of right against might was involved, to be invariably on the side of right against might —except in politics. Standing up for the weak against the strong. In each and every Legislature above referred to, a proposition has been made by some Hill county Democrat, at the instance of some one by three would-be politicians of my county, who are out, and want to get in, and their only chance through the appointing power, to rob us of local self-government. The Black Belt Democrats after hearing the evidence as I produced it on this floor, and I made my case so plain that they on every occasion stood by me and I have been able to defeat any legislation in that direction affecting my county, and we have local self-government in the county of Coosa. I stand here in my place as representative of the people of that county, and I tip my hat to the Black Belt Democrats.

MR. BLACKWELL—Mr. President and Gentlemen of the Convention: I rise to advocate the majority report in regard to that section of the Committee on Suffrage and Elections which is commonly known as the grandfather clause. I know it is a little late, Mr. President—there are a great many others who wanted to say something on that subject, because it was a subject we had discussed before the people, and had said that we intended to try and put into the Constitution, and we desired to let the people know how we have carried out the pledges made to them. In addition, we thought that it was the proper thing to say something, believing that things said by local men might be read by the local people, and thereby more people would know the reasons that prompted us. I know the subject has been discussed and rediscussed. Mr. President, were you ever a boy, and did you ever have a whole lot of people at the place you had to eat, and when you had to wait, did you ever go behind the door near the dining room and look through the crack to see how they were getting along, what was prepared on the table and see the luscious pieces of chicken disposed of and the nice hot biscuit, and did not you look longingly until you saw the last piece of chicken gone and the last hot biscuit disappear? Were you ever a boy under those circumstances? Well, that is the condition I am in now. That is the condition a man is in who attempts to discuss this question after all has been said about it. I feel like the old preacher who was invited in after the feast and requested to ask a blessing. He looked up solemnly and said: "Lord, bless the owl that ate the fowl and left the bones to Seaborn Jones." It is not expected that we will all agree upon this matter. There are three propositions that I law down that I am willing to live and die by. The first is, Mr. President, we may differ and be honest in our difference; the second, that we may differ and continue to be friends; the third is, that we may differ, and yet be Christians. Now, those are broad propositions that I lay down to start with. I do not expect to see us all agree on all of these matters. We come from different quarters to this Capitol today, and we are all attempting to reach the same place; yet as a matter of fact, we came here by different routes and each of us saw different things along the way. We do not take the same route even to go to a place. I knew at the outset of this movement that we were going to meet obstacles all along the way, but obstacles frequently have a capacity of developing a man, showing what there is in him. You never saw a boy fly a kite unless he had the wind against the kite; he has got to have opposition as a matter of fact before the kite rises. Not a great while ago, sir, I visited Niagara; I got there in the night time, and I heard the singing of the water, and in the morning when I went out to see what it was that produced the beautiful music that I had heard, I saw the mighty roaring river coming in contact with the obstacles that nature had placed in its pathway. I saw great boulders that nature had placed in the water, and

learned it was the obstacles that the river came in contact with that had made the water sing its sweetest song, and I looked and saw the mighty vapor thrown high into the air, and the rainbow amid the glistening spray. I saw it was the obstacles that produced all these visions that were so beautiful to the eye. When you take a prism and let the rays of the light strike it, those rays are broken up and present to you all the colors of the rainbow. It is the obstructions that bring out all this beauty of color. So, obstructions of themselves are not necessarily hurtful things. I expected to come in contact with these obstructions. Now, I am for this majority report. It seems to me to steer clear of all the breakers and give us just what we promised the people we would give them. Nothing else suggested here would effectually accomplish what we have promised the people, and what we are sworn to do; nothing else will do that work except what we have here in the majority report. I want to steer clear of all breakers and of all snags. It seems to me to put us out in clear sailing; it reminds me of the young man and the pilot, and the young man asked "How long have you been on this river?" and the pilot replied, "Twenty-five years," and the young man said, "You must know every sand-bar and snag that there is in the river." The pilot replied, "No, I don't know where they are, but I know where the deep channel is." I want to get in to the deep channel. This majority report puts us there. I believe we won't strike any breakers in it. There may be some other way of getting through—the way of the minority report is presented, but there seems to me danger of running up on snags and sand-bars, and I prefer to go into the deep channel that is well known. As a matter of fact, some have said that there is nothing in our pledges, that we have a right to violate them. A gentleman stated here the other day that we were agents of the people, and, as agents of the people, we had been commissioned to do a certain thing; that when we came here we found that was not the best thing in our judgment to do. He said the thing to do was to adopt the most practical thing that presented itself to us, and, after adopting that most practical thing, to re-submit it back to the people that they might have an opportunity of ratifying what the agent had done. Now the principal was consulted before the agent was created, and the principal has declared to the agent that he had made satisfactory investigation. Now, he says go and do what I have commanded you, and the agent comes up and says, "I do not think that is the best thing to do." You know when Lamar was in that position in the Congress of the United States, and did not think he ought to advocate free silver, he resigned that they might send a Representative who was not against their convictions. But these gentlemen says "We submit the work we do back to the principal again for ratification or rejection." But you re-submit what the instructor did not want, and when you submit it and he rejects it, there is no way left open

for him to get what he sent you to do for him. After repeated instructions from the principal the agent says that my conviction prevents my doing what my principal wants, I know better than the principal what he wants, although he studied the matter carefully before he sent me here. That is the position of the agent and it seems to me very dangerous ground that the gentleman is getting on here. It is a fact, as Mr. Jefferson has said, that the whole art of governing successfully consists in the art of being honest, and wherever the corrupt and the ignorant are allowed in any considerable number to exercise the right of suffrage, there you plant the germ of degeneracy which the cunning will discover and the wicked will open and cultivate the germ you have planted and make it grow to the danger and to the destruction of the Government.

MR. DENT—Will you permit me to ask a question?

MR. BLACKWELL—My time is very limited, but I will permit the gentleman to ask this one question.

MR. DENT—I understood you to say that the majority report squarely complied with the platform and the obligations which we are under.

MR. BLACKWELL—Yes, I think so, and I will answer that.

MR. DENT—I would like you to show when the platform says "infamous crimes," how you get in "tramps" and the other classes mentioned.

MR. BLACKWELL—I think, as a matter of fact, that we declare by our action, the crimes we mention to be sufficiently infamous to prevent men who commit them from exercising the right of suffrage. The excellence of every government is its adaption to the state of those to be governed by it. By this Constitution we are construing what we meant when we said infamous crimes. Sometimes we are governed too much and go further than authorized in representing the people. Mr. Jefferson said: "We are vibrating between too much and too little government, frequently." I hope this Convention, as a matter of fact, will have the pendulum to rest on the middle ground at the right place, and it seems to me that the majority report fixes it there. My friend, the other day when talking, made a very wise suggestion in regard to some people quoting Thomas Jefferson, and the way they misconstrued him here as to what he meant by government. He said that it was absolutely political blasphemy to attribute to Mr. Jefferson the things that our Republican friend read here the other day as the doctrine of the immortal Jefferson. As a matter of fact this seems to me to be very largely true. A number of delegates here have said that they want the best government for the people of Alabama. You have tried it with the negro as a voter. During that era did we have the best government?

You know, sir, when the Republicans took charge of the State of Alabama it owed $5,000,000, and in six years of profligate legislation by that party they increased that debt to $32,000,000, and they increased the offices and pay of officers, and when they found we did not have enough offices to swing around the circle, and give every carpet-bagger one, they created new offices. When the people elected Governor Lindsay, the Republicans who had their contracts that they had not complied with under the carpet-bag rule, refused to give up the office of Governor and Treasurer of the State of Alabama, and you remember, sir, when the Federal bayonet was brought here to protect the men that had been ousted by the vote of the people. The Republican Governor and Treasurer brought bayonets to retain them in office. And we saw at Alabama's Capital the glitter of the Federal bayonet to overthrow the will of the people. If we adopt the majority report I think we will have fair elections.

"We will have a weapon firmer set
And surer than the bayonet,
The ballot though it falls as gently as the snow flake on the frozen sod,
Yet it executes the people's will as lightnings do the will of God."

You remember when they came and found us weak and prostrate, before the smoke of battle had hardly cleared away, the rattle of musketry, and the thunder of the cannon had hardly ceased to reverberate, they laid the strong arm of the law upon us by the agency of the negro ballot, and brought corruption into the State of Alabama and debt, a part of which debt we are still paying. Now, do you believe that it is for the best interests of the State of Alabama that such a condition should be made possible again? I had intended to argue many questions involved in this article, and to present some authorities, but I see that the matter before me is going to be more than I can cover in my time. Jefferson says, "The only orthodox object of the institution of government is to secure the greatest degree of happiness possible to those associated under it." To restrict suffrage to the virtuous, the honest and intelligent is simply to prevent men who are incompetent from injuring themselves and their fellow man. As a matter of fact, whenever we leave the suffrage to any very large extent in the hands of incompetent men, we fix it so that the hands of the competent are tied and good government is arrested, nature has marked the weak and incompetent to be protected by the Government, rather than to be the directors of the Government.

Now, in extending the suffrage, Mr. Jefferson has said that you cannot draw the line against the men that do the fighting of the country. He recommended that the men who were the soldiers, and not only the men who were soldiers, but the men who were in the militia in the State of Virginia, should be embraced in their

State Constitution as electors. The only qualifications necessary with these men were that they had been soldiers, or in the militia.

Now, Mr. President, I want to say that prominent gentlemen have said, in order to make the negro useful here you must keep him contented. I want to know if there can be any contentment by bringing about such a state of affairs as we had here during the time the negro had unlimited suffrage? Another gentleman said we could not invite capital to our land if the majority report of the Committee was adopted in Alabama. The majority report means that the intelligence and the virtue of the State of Alabama, those who are interested in good government should control it. In North Carolina and South Carolina, where we have adopted these methods, we have increased in cotton manufacturing industries more than any other two States in the South, and today, more cotton is used in the manufacture of goods in North Carolina and South Carolina than there is cotton made in those two States. Now, can you think of such a thing as an intelligent man with money to invest, viewing it from a business standpoint, who would refuse to invest in Alabama because the intelligent people, the virtuous people, and those interested in its prosperity rule in Alabama? Can you conceive of such a thing as that having a tendency to drive these men out? and yet that is the argument offered by this gentleman.

I want to say for myself that I may be to some extent partial to the idea of extending this benefit to the old Confederate soldiers and to his descendants, for, Mr. President, so far as I know, I am the youngest Confederate soldier in the State of Alabama. I enlisted in the Confederate army when I was 14 years of age, and I spent my fifteenth birthday as a prisoner of war in Camp Douglass, Illinois, being just a few months over fifteen years of age when the war closed. I had to undergo the hardships that were entailed upon the men there, and I know something about what those men have had to suffer, and they are entitled to recognition. As an old friend of mine used to say, in regard to our suffering, We slept until after breakfast, skipped dinner, and went to bed before supper, and he said on the march, before we got there, that he had known it to be true that the Confederate soldiers ate dried apples for breakfast, drank water for dinner and swelled up for supper. These men had to undergo many hardships and I know they suffered, and therefore I may be to some extent partial to those old soldiers.

Now, Mr. President, some gentlemen learned and distinguished on the other side, has said it was drawing the line too narrowly, to say that we met here for the purpose of acting upon the question of suffrage alone. We are here to purify the ballot, he said. I do not understand that there is any way to purify the ballot, except to eliminate from the right of suffrage those who are incompetent to exercise that right, and it seems to me the plan offered by the

majority is the only feasible means of eliminating them. Then it is not stating it too broadly, when I say it is for the purpose of correcting the evils existing in the suffrage here. We know how many of these evils have grown in Alabama.

I went with Senator Morgan into North Alabama when he made that celebrated campaign in which he told us of the condition of the black belt in the State of Alabama, in which he told us of Roddy Thomas, the negro judge that presided over the City Court of Selma. Now, as a matter of fact, we were told then of the carpet bagger who was elected Commissioner and of the contracts that were made with men in other States to build bridges and public works in Alabama at a cost of four times what it would have cost to build them at home. They squandered the peoples money and it amounted to this, that the people who lived in the black belt which is the fairest part of creation, where it seems as another has beautifully said that "Nature was in her happiest mood when that part of the world was made, when her valleys were depressed and her mountains raised saffron crowned and vermillion embroidered." The white men had to leave or control it, and if the white man left it, no other white man could be induced to come to it, because the negro was so numerous that no white man would desire to live among them. Some say you cannot afford to adopt the majority report because it eliminates too nearly all of the negroes. It is better than the negro has now, if you look from the negro's standpoint, does not the negro have more rights under it, than he is exercising today, the way things are? As Mr. Cochran said here in Montgomery, hasn't the fifteenth amendment as a matter of fact been nullified, and will he not have more rights under the article suggested by the majority report than he actually has now? When you learned how to eliminate the negro, and the reasons were set forth for it, the trouble was that they did not stop by eliminating the negro, and fraud has been practiced even in the Democratic primaries by white people. When we had a division between the white people eight or ten years ago, it was not so much because of any difference existing on governmental policy between the white men in Alabama, as because of the fact that a great number of white men believed that by the methods employed, their voices had not been heard in the State of Alabama. When that is practiced among the white people and it comes to the point that whoever has the machinery receives the nomination and we teach it to our boys what will the result be? If a boy asks you is this right, which he sees practiced here, what are you going to tell him? He didn't live at the time of slavery, and of the carpet-bag rule, but he comes today and wants to know if that is right, which has been practiced in politics here, and you tell him it is right to do it to get an office paying from $400 to $2,500 a year, you teach him that it is right to steal to swear a lie and if you put that boy in business in a commercial way, and he sees an oppor-

tunity to get $400 or $500 by improper methods, he will say I was taught that to get an office paying a few hundred dollars a year I could afford to swear to a lie, and here is $500 that I can get by doing it, and I see no difference between this and other matters. Thus you blunt the moral sensibilities and make a lot of thieves and villians in your land. That is the condition that confronts the people, and that is the condition we are met here to remedy. A man's moral nature is not made up like a house. It is not fixed so that he can have a parlor to keep his clean linen in and a kitchen to keep his soiled linen in; but when you saturate him with corruption, it goes through his entire nature. It does not stop in any one part, but goes through his entire nature. It seems to me that this ought to be prevented, and one object I had—one of the chief objects I had—in wanting to come to this Convention, was to do what I could to make it easier for the mothers of the State of Alabama to raise honest boys in their homes, to make it easier for them to be honest by removing the temptation from them, because you open the way to preferment through honest methods, and the way for the exercise of the energies by honest means. I think that is sufficient of itself if we can put the family—if we can put the young men on a higher plane in our land. Why, sir, there is but one sentinel on the watch towers of liberty in republics, and that is a free man with a ballot in his hand, voting for you or I, because we agree to put in the law a great principle that he believes will bless his fellow men, and a man is a traitor, and it would be treason under any ordinary circumstances, for a man to offer to bribe or offer to sell a vote in a republic. Whenever the time comes when it becomes a little more respectable to buy a vote, the test of eligibility will not be the fitness of the man for the place, but the length of his purse. That would be under such a condition, the only test of eligibility in the future. We want to remove the possibility of such conditions in Alabama. When the time comes that the ballot reflects nobody's sentiment, but is cast in obedience to the dollar —when you count dollars instead of ballots, you count slaves instead of free men. There is no question about that.

Now, I want to say that I have gone hurriedly on this line. I am glad in an humble way, when quite a boy, I helped to drive the carpet-bagger out of the State of Alabama, and while I am as far as any living man from wanting to revive the feelings of the war, I respect the motive that control the white people of Alabama in that war, and in that conflict that occurred after that war. And I look back yet with pleasure at the heroism and the courage that we displayed in that emergency, a courage that is without a parallel in history. I am satisfied with the results of the war, as my distinguished friend from Jefferson said the other day. I am absolutely against slavery now. I was a mere boy when the war began. I did not know the rights and wrongs of slavery. I heard from the

hustings that it was right. I heard it was right from a Bible standpoint. Slaves were worth $1,000 apiece, and from that standpoint, which, by the way, was not the least of them, I believe it was right.

MR. BEDDOW—I move that the gentleman's time be extended for half an hour.

MR. BLACKWELL—It will not take anything like that amount of time. I was just on the verge of saying when I look back at the heroism of those splendid men engaged in that conflict, while I am satisfied in every way with the abolition of slavery, and I do not believe it was right, and I think the world was against it, and, as my friend says, I think it was doomed, I am satisfied with the motives that permeated those men and the spirit that moved them and the deeds they did. When I look at their courage, I can say, in the language of Burns:

"Still o'er these scenes my memory wakes,
And fondly broods with a miser's care;
Time but the impression stronger makes
As streams their channels wear."

Now, Mr. President, I am sorry that my time was so limited, but I recognize the fact that I ought not to have an extension of it, as there are too many gentlemen here who want to speak in regard to this matter.

Now, some gentlemen have talked about the harm of recognizing especially those men who had obeyed their country in her hour of direst need. I want to say we have it recognized in the United States Government in the pension list. A few years ago I paid to seven people, who were daughters of soldiers of the Revolutionary War, pensions during this decade, and I paid to a number of the widows of the soldiers of the war of 1812 pensions and to many of the widows of the soldiers of the Mexican war and children of soldiers of the last war, and to widows of the soldiers of that war, and how these gentlemen can say that it is right that the soldier should vote, and they do not object to that, and think it right that he should vote without restriction, and yet follow right along and object to his descendants voting upon the ground that it is unconstitutional, I cannot understand. These soldiers have made for themselves a reputation throughout the world, as great as any set of men who have ever lived in the world's history.

As another has said of them, that "Some of the grandest and some of the holiest memories, some of the loftiest and some of the proudest deeds that glow amid the nation's archives, flash out like burning suns on the old historic rolls, cluster around the old Confederate.

Yes, we weep for them, of them when they were slain as did the exiles of Israel by the waters of Babylon.

"We know they dared do all that men could do, and he who dareth more, is none." We recognize that fact, and these are the men and their descendants that we want to put on that roll of honor. The old red fields of Roman and Grecian valor, the dread pass of Thermopylea, the corpse filled bosom of the battle plains where Spartan courage died, paled before the deathless splendors of heroism flashing from the bloody waters of the immortal Potomac to the waves of the Rio Grande.

The old Confederate suffered defeat which brought desolation, sorrow, mourning, woe and penury, but thank God it did not bring dishonor, and even from a generous and brave foe, they have won the meed of immortality, of which a conquering hero might well feel proud. Men who have battled so bravely and endured so grandly can never perish amid the exiled darkness of oblivion. These men should be honored for what they did. The immortality which wreathed forever, the deeds of these men shines around about us here, and call upon their boys to remember whose sons they are and whose honor they have in keeping. In every age of the world pure patriotism and lofty courage have been historic synonyms, such pictures of herosim have been rescued from the Lethean waves of oblivion by the harp of classical song and story. We need not turn to shaded paths of Grecian and Roman valor to find the shining thoroughfares where princely warriors crown the world with the immortality of their deeds. We need not search the storied archives of Spartan valor for names forever wedded to immortality. We need not pour over the sunlit records of genuis reared by Homer, Virgil and Ceasar to consecrate the majesty of heroism. The bloody annals of the world's warfare bleams with no grander names—no deeds of sublime heroism than those of the old Confederate soldier. Their daring deeds will live as long as patriotism has a friend, or virtue a champion, or heroism an admirer.

There are many things I would like to say in connection with them, but I want to say in this connection that if we relieve Alabama of the ignorant, if we relieve Alabama of the vicious vote, of the incompetent vote, then there is no State in the Union that offers so much to the emigrant as Alabama. Think of the mineral resources, think of our iron mountains, think of our land carpeted with forest. Think of our rivers which are tied across it like bow of silver, and the bay thrown around it like a golden mantle, and think of the character of the civilization of the people here, and where is there a spot more inviting than the State of Alabama. If we do our duty here, and eliminate that ignorant element, then the generations that come after us, in the language of the poet will say:

The monarch may forget the crown that on his brow an hour hath been;

The bridegroom may forget the bride that was made his wedded wife yester'e'en;
The mother may forget the babe that climbs around her knee;
But never will I forget, Alabama what thou hast done for me.

MR. MILLER (Wilcox)—I will not detain you long in presenting my views upon this suffrage article. The article in its entire make-up has my hearty support, not only as a member of the committee which has submitted it to the Convention, but as a delegate upon this floor. Technically, the only question that is presented by the proceedings as they stand now, is the objection to the descendants' clause in the temporary plan, but properly the debate has extended over nearly the entire article, meeting a suggestion made by a distinguished delegate, that perhaps the best way to present the question was by a running debate covering the entire subject.

In reference to the descendant's clause I will state that individually I would be opposed to that clause if it did not occupy the special position in the plan which it does. If the descendant's clause was made a part of the permanent plan proposed by this article, I could not support it, but standing as it does in the temporary clause, I cannot see how any delegate can oppose it upon any of the grounds that have been suggested, either the ground of unconstitutionality or the ground of inexpediency. I will not say anything upon the subject of its constitutionality. That question has been illumined by the best lawyers and the best debaters of this Convention and it would be superfluous on my part to attempt to add anything to what they have said. To my mind it has been made clear that it is not unconstitutional. By the temporary registering plan embraced in this article, there are three great doors by which the voters of Alabama can enter into the field of the electorate. The first is the door of the soldier, and that admits all soldiers. True, in some of the wars enumerated there were no negroes who were soldiers, particularly in the American revolution and the war of 1812, but in the liberality of this provision as submitted by the Committee, the negro race has no ground for complaint, because in the enumeration, wars in which he did participate are not left out, and to my mind that eradicates any viciousness in the plan. If it was the purpose of this Committee, or it should eventually be the purpose of the Convention to eliminate the negro because he is a negro, then, gentlemen of the Convention in which he did participate. It may be that this plan will be looked upon with a great deal of favor, because there is mentioned in it the soldier on the Federal side during the great Civil War. Those who stand off at a distance, or those who may be in our midst who would otherwise conceive that we had a prejudice, and that we were actuated by prejudice in this article or actuated by prejudice in this clause of the section, to my mind would look with kind-

ness and with consideration upon our effort to rid the State of the vicious and incompetent voter, when we have risen to the height of saying that the Federal soldier and the descendant of the Federal soldier may enter into the life electorate list in our State. To my mind it seems that this clause eliminates, or meets and fully answers any objection that might be raised, that we were acting from prejudice against the negro, or the soldiers who fought against us in the great civil war.

Mr. President, I would make one suggestion. I do not know that it has been made to the Committee, but it will doubtless be made when the part of the article is reached, and that is in enumerating the three grounds of the temporary plan, which only runs until the 1st day of January, 1903, that we should change the position of those grounds and say, first, that any man who has a good character and who understands the duties and obligations of citizenship under a Republican form of Government. Let that be the first subdivision of Section 4. I make that suggestion for the reason that in the ordinary mind, in the minds of all of us here, and outside among the people, it is naturally supposed that the most important ground is stated first and it does seem to me that ground has a wider field and broader operation than either the first or second, the soldier or the descendant of the soldier. When suffrage is based upon the proposition of doing honor to the soldiers of our country, of course that embraces a limited number of our citizens, large, it is true, but not covering the whole ground. When we say the descendants of soldiers, that enlarges the field somewhat, but, gentlemen of the Convention, when we say all men of good character that takes in, not only the soldier and the descendants of the soldiers, but it takes in all those whose good fortune it may be, or whose ill fortune it may be, has not permitted them to render service to their country in the line of war.

As I stated, Mr. President, I would not support the descendant clause of this section, if it were placed in the permanent plan. Under our plan as presented to this Convention and as I believe this Convention will present to the people of the State, we say the soldiers of the wars named, and that number cannot be increased, because there is no enlistment going on now, and therefore, the book as to the soldier is closed. He is a voter now. It is not an increasing clause, so far as I can see, although wars may come in the future, but the wars are specifically named, and under the temporary plan while the soldiers are taken in, we have closed the book. Every soldier in the State of Alabama of the wars named can go up to the registrars and have their names placed in this electorate list, which is a life list. Then the decendants of soldiers, those who are now voters, and that small number who may become voters between now and January 1, 1903, are alone affected by that proposition in the temporary plan. The provision remaining in the tem-

porary plan does not make the white man, the soldier and the descendant of the soldier rely upon the first proposition in the electorate. To transfer the descendant clause into the permanent plan, Mr. President, and gentlemen of the Convention, would be to put a premium upon ignorance among our own people, those whom we desire to see elevated and those whom we have met here to help elevate themselves. This Convention is confronted in this proposition with that grave question that has presented itself to every Constitutional Convention that has ever met for the purpose of elevating the qualifications for suffrage. It is a most delicate proposition. The very fact that we want to elevate the suffrage shows that there is an incompetent vote inside the ranks of voters, but it is a hard question to deal with an incompetent voter, when he already has the ballot. That is the question which confronts us today. That question presented itself in the State of Massachusetts. She had her election law passed in 1857 and operated under it until 1894. Massachusetts desired to elevate the qualifications of the electorate and she wisely took the precaution in 1894, when she raised the standard of the electorate to put in a proviso that it should not affect a single man that could vote under the law of 1857. That is what we are trying to do now, with reference to our white voters. They have voted all their lives and their fathers have voted; they have fought and bled and their ancestors have died for their country, and we are endeavoring to hold them this privilege and not to create a new honor to give them, but merely to enable them to retain the honor and privilege that they have enjoyed and their ancestors have enjoyed for so many years. This plan does not put it into the permanent plan, but after the 1st day of January, 1903, the constitutional proposition put to the people of Alabama is, that all the white voters who are competent to vote under the old law and all who may become competent to vote between now and the 1st day of January, 1903, can go into the list, but after the 1st of January, 1903, no longer can the soldier or the descendant of a soldier come up and claim the privilege of being admitted to the electorate.

Mr. President, some objection has been made to the life list. If we will consider for a moment, we already have a life list, and we have operated under it for years. We operated under it until the Sayre election law was passed, and that law required all the people of Alabama to register every two years. Well, that was a trouble and an annoyance. When a voting citizen of the State has once been qualified and certified and admitted into the electorate, he does not want to keep it continually before his mind that he must go up and secure his privilege again, and that feature of the Sayre election law was repealed years ago, and any man who registers now is in a life electorate without further registration, except, perhaps, upon a change of residence. Therefore, Mr. President, I see no objection to that. We have been living under it, and while

it has not been called a life-electorate, and it has not been provided that it must be put into a book, to be kept alphabetically by precincts, one copy of the book to be kept by the Probate Judges of the State of Alabama, and another copy of the book from each county kept by the Secretary of State, giving great dignity and importance to the life electorate, yet our attention has been drawn to it now in a way which we have not heretofore considered the matter and we imagine it is a new thing, but the life electorate is as old as our laws, except the little interregnum of time when the Sayre election law was in force.

The registration part of this Article has not come up for consideration, but it has been argued and it is noised around, both within our circles here as a convention and outside with the people, that there is some reason for alarm in reference to the registration clause of this Article, and what may be considered in some quarters as serious alarm. In the discussion of this great question before the committee, (and that committee sat for over thirty days discussing every feature of it), laboring hard to present it to this Convention in its best form, answering all of the objections there that could possibly be made to it, this much-talked-of descendants' clause was put in, in order to answer any alarm with reference to the registrars. This alarm with reference to the registrars springs out of a want of confidence of man in man. It was said in the committee that if you put in this temporary plan one sole ground, that of good character and understanding of good character and understanding of the obligations and duties of citizenship under a republican form of government, and let that be the ground upon which voters are to be admitted into the electorate by the registrars, that inasmuch as the Governor is a Democrat, the Commissioner of Agriculture and Industries, another member of the appointing board, is a Democrat, and the Auditor is a Democrat, that Democratic registrars would be appointed in every county, and the alarm would be heralded over all the State that these Democratic registrars under the broad license of good character and obligations of citizenships, would say to the opposition the white Republicans and to the Populists, we will not allow you to register, because we do not consider you to have a good character or that you understand the obligations and duties of citizenship." So the descendants' clause and the soldiers' clause, outside of the merit that rested in them, were put in as a matter of expediency and policy to meet the fears that were abroad in the State, so that a man coming up to register, if he is denied because of the want of character, could say, well, I am a soldier, and that is self-executory and admits him at once, or I am a descendant of a soldier, and that admits him without further inquiry. So, it was for that reason in part, but not wholly, because the soldier clause rests upon a meritorious ground of its own, and, in my judgment,

the descendant of a soldier is not unreasonable or capricious; but there is also a thread and a very strong thread of merit running through that proposition.

The registrars must act in regard to this matter. No law is self-executory, though you write it in a thousand books, and unless you put a personality behind the law, it is dead. There must be somebody to carry the law into execution. There must be an executive or the law is dead; there must be a judiciary or the law is dead. The life of the law is found in the personality of its officers, so we are bound to have registrars, and it is impossible to get along without them. Under the very simple Constitution on Suffrage that we have now, where a man has only to effect his residence and attain the age of twenty-one years, you have to have a registrar put his name down, to see that he is twenty-one years of age, and to see that he has acquired the proper residence, and even now there is some latitude, but not much, for the registrars. It is true, Mr. President and gentlemen of the Convention, in this good character clause, there is some latitude for the registrar, but it is only temporary. Mr. President and gentlemen of the Convention, these registrars get their existence from the representatives of the people, and no one ever heard of electing a registrar, and in all the Constitutions of all the States there is no provision for such a thing. We would not dare to come before this Convention as a committee and submitted a proposition that the registrars should be elected by the people. Then where would you go? Would you go to the highest official of the county? It was suggested and discussed as to whether we should take the Probate Judges, the Sheriffs and Clerks of the courts in the counties, or any one or the three of them, to constitute this board, to appoint the registrars for their respective counties, but that was found objectionable. The great county of Jefferson is vitally interested in the registration system of Wilcox County. Jefferson County does not want a board which might stuff the registration list, and neither does Wilcox County desire that Jefferson County should stuff her registration list. Our population, our voting population, and our property value in every county in the State, bear relatively upon every other County in the State, and if you put this power in the Probate Judge and the officials of the county, they will form plans of their own. The distinguished gentleman from Jefferson, the Chairman of the State Committee, if we had come in here with a proposition to let the Probate Judges and local officials make these appointments, might have said with some force, that it was a plan or a scheme to permit these counties to manipulate these matters to suit themselves. In order to relieve that, gentlemen of the Convention, we recommend to the Convention and we believe that the Convention will recommend to the people of the State of Alabama, that these registrars should be appointed by the highest authority in the State, by your Governor,

the Commissioner of Agriculture and Industries and your Auditor, elected by the whole people of the State, forming an honorable, responsible board, who will appoint three men in each county to perform this duty. Where else could we have better placed this power than right there?

So much has been said about registrars and so many insinuations have been made with reference to certain counties, that the indignation of this Convention has been excited, and it has pleased us gentlemen of the Convention, to see men from North Alabama rising in their seats to condemn these insinuations as to what the Black Belt might do to dishonor the Constitution that this Convention would submit to the people. We consider it an outrage to make such a charge. We have stood for twenty years battling for civilization in the Black Belt. We have preserved those counties' civilization in the hands of the white men of those counties, and, gentlemen of the Convention, the whole State of Alabama has reaped the benefit of it. We have been encouraged to do it. We have been applauded on other occasions for doing it, and it is passing strange, indeed, for us to sit here and listen to insinuations from high authority that this is a scheme left open that we might do injury to the great State of Alabama. Gentlemen of the Convention, we started this cry for a Constitutional Convention twenty years ago. When it was forced upon us, that we had to stand outside the law to maintain ourselves, we then raised the cry to open the gates and let us get inside the law. We have cried for it and it has come. These great movements do not come in a day. We cannot get a great State like Alabama to move suddenly up to the point where we are today.

MR. HOWZE—The time of adjournment is near at hand, and I move that the gentleman's time be extended until he finishes his remarks, giving him the floor after dinner.

Upon a vote being taken, the motion was carried.

Leaves of absence were granted to Mr. Tayloe, Mr. Pitts, Mr. Reese, Mr. Hodges, Mr. Eley, and Mr. Waddell for today.

MR. WILSON (Clarke)—I notice in the gallery the distinguished Representative from Congressional District in which I have the honor to live, and I move that the privileges of the floor be extended to the Hon. G. W. Taylor.

MR. KNOX—Mr. President, I had a similar resolution to offer.

MR. HEFLIN (Chambers)—I make the point of order that more than a month ago the privileges of the floor were extended to the gentleman.

MR. WILSON (Clarke)—That being the case, I withdraw the request.

The Convention thereupon adjourned.

AFTERNOON SESSION.

The Convention met pursuant to adjournment, there being 90 delegates present upon the call of the roll.

Mr. Heflin of Randolph, took the Chair.

MR. SENTELL—I would like to have unanimous consent to introduce a short resolution to be referred to the proper Committee.

Unanimous consent was given.

The Secretary read the resolution as follows:

Resolution 274, by Mr. Sentell:

Whereas, there are many members of this Convention who desire to give some expressions of their views upon the question now under consideration, and whereas, they will not be permitted to do so under the present rule of long speeches. Therefore, be it,

Resolved, That on tomorrow, Tuesday, up until 12 o'clock, the hour of voting, all speeches be limited to five minutes in length.

Referred to Committee on Rules.

MR. MILLER (Wilcox)—Mr. President, I thank the Convention for the extension granted at the close of the morning session. At that time I was speaking on the subject of the registration under our pending article. The article provides for a constitutional registration which is a temporary registration as stated. The registrars appointed under this constitutional system of registration go out of office on the first day of January, 1903, they cease to exist as registrars after 1903, then comes into existence under this article. No provision is made for that except to state that the legislature shall provide for registration under the terms of the system. The Committee on Suffrage deemed it wise to provide a system of registration because the legislature will not meet in time to do this. That is the main reason for the registration system which is provided for in our Constitution and which is presented to you in this article. It has been stated on the floor, and I have heard it off of the floor, that registrars are to be appointed three in each county under the small consideration of pay of $2 per day, that this would secure in the service of the State, in this great and important work, third class men. Mr. President and gentlemen of the Convention, your Committee had that seriously

under consideration what pay should be given registrars under this system. We looked at the expense of registering the entire voting population of the State, and saw that it would cost a great deal. Propositions of three dollars, two dollars and a half and two dollars a day were seriously argued and considered by the Committee. As a matter of economy to the State, two dollars per day was adopted, and I believe that will secure for the Service of the State good men in every county. The article designates and photographs these men to the Governor and Commissioner of Agriculture and to the auditor, gives them what kind of men should be appointed in the county, reputable and suitable men. Now, Mr. President, we believe that in every county in the State, not solely for the consideration of two dollars per day will that secure suitable and competent men, but we will secure good men, and this will pay their expenses and they will largely contribute their services in honor of the State and to help us in theis great cause. It is not considered that the two dollars per day will be full compensation for this great work, but in connection with the patriotism of our people, at least in our part of the State, we are satisfied we can secure good men, the best in the county to serve the State of Alabama in this great work.

MR. deGRAFFENREID—May I interrupt the gentleman a moment? The State of Alabama only pays these delegates to this Convention four dollars per day, and they pay their own expenses.

MR. MILLER—Yes, sir; and the registrars in canvassing the counties in the State of Alabama will have very little expense unless in crossing a river and paying ferriage. Two dollars per day will be ample to meet any expense that they will be put to, and more too. Of course large counties like Jefferson and Montgomery and Mobile, where they have to lodge and spend a great deal of time, in those large cities they will have more expense than out in the rural districts, but with us in the rural districts—and we constitute the great body of the State of Alabama—the registrars will go from beat to beat, and from precinct to precinct, and not have any lodging or horse feed to pay, only occasionally to be put across the river at a small ferriage charge. So we allowed that two dollars would secure all over the State of Alabama competent, suitable and patriotic men who will discharge this duty to the State of Alabama. Mr. President, as has already been alluded to in the argument made by our distinguished President, we selected the Governor, Auditor and Commissioner of Agriculture because they resided in different parts of the State. One, the Auditor, in North Alabama, the Commissioner of Agriculture in the Black Belt, and the Governor in the southeastern portion of the State, so that in settling this great question of registrars, every portion of the State will be fully, fairly and equally represented. We have endeavored in this article, Mr. President, and in all these clauses that are under argument, to present to this Convention a fair disposition of this great

question, which is the question which brought us together. So, Mr. President, we see that there is no ground, there is no serious ground, there is no real ground for any man to suspicion or to insinuate or to charge that this scheme is left open for some unlawful purpose. Why, it might be as easily charged that the door is open in Jefferson County, as that the door is open in Wilcox County. Is it to be said and is it to be understood, that because we have maintained up to this good hour the supremacy of the white man in the black county outside of the law, that therefore we will do it when the law will condemn us? Mr. President and gentlemen of the Convention, the adoption of this Constitution will work one great revolution in the black belt. There are thousands of the best men in the State of Alabama, whose hearts have always ached because we had to go outside of the law to maintain ourselves. We have clamored for an opportunity to stand up in court with very truth upon our lips and we have prayed and worked for this hour, and it is to be said now because this Constitution is adopted that we will continue to live outside of the law. So far, Mr. President, there has been such a dire necessity upon the white people of the black belt to go outside of the law that there was not and could not be any public sentiment to condemn it. But as I said with those men in the black belt, when they called into existence this great Convention, to do this work at an expense perhaps of seventy-five thousand dollars to the State of Alabama, and open up the way by which our people can live inside of the law, there will be a public sentiment in the black belt, and a public sentiment in favor of all things rising far above even a Constitution or a statute, we will have a public sentiment that will aid this Constitution, we will have the public sentiment that called the Constitution into existence, we will have a public sentiment that will permeate every statute passed upon the subject. Therefore we say that it is gratuitous, that it is uncalled for, and that it is mortifying, that insinuations should be made that the door is left open for certain counties. Mr. President, the permanent election law, the permanent qualifications to the franchise—we have met to elevate the qualifications for suffrage. As stated in the argument in the morning, no State can take the whole body of a people and raise them up to the second story at one effort. We have built by this article a stairway from the floor upon which our suffrage now rests, up to a second story. We have laid the steps, three grades of steps, to elevate our people into the second story, into an elevation on the suffrage question. We want to build our people up, a government should seek to elevate its people. We have put step by step good character, the soldier and the descendant of the soldier, and then after the first day of January, 1903, we have made a broad platform—as good a qualification for suffrage as exists in the United States. We have said while that is high compared with where we were, still it is not too high. We have said he who can write and read an article of the Constitution of the United

States and who has been employed regularly for the last twelve months can vote, that is to a man after the first day of January, 1903, or if he cannot write and read or should be wanting in regular employment and cannot come under that clause, why then this instrument says to him, if the Convention adopts it, any man who owns certain property, forty acres irrespective of its value and there is wrapped up in that forty acres the germ of a noble principle in suffrage. It is crowning the home with honor; any man who owns his forty acres irrespective of its value, or other real estate of three hundred dollars in value, or personal property of three hundred dollars in value, or if his wife and he the representative of her and his children own three hundred dollars of real or personal property, should be entitled to vote. That is saying to the people of Alabama, taking the two systems together, the temporary and the permanent, the temporary saying here is the life boat it is coming along for sixty days through the country, and a few more days in the large counties where they have large cities, and all soldiers, descendants of soldiers, all who are of good character get in on the life boat. Then the book closes and the State of Alabama says to all of her people, no more soldiers, we are taking care of them, and have taken care of them; no more descendants of soldiers, because we do not want to put a premium on ignorance in our own blood, but you must come up on the question of intelligence and industry, you must come up on the question of property, in order to take part in the conduct of this great government.

MR. SANFORD (Montgomery)—Do you take care of the descendants beyond 1903, or soldiers either?

MR. MILLER—No, sir; the soldiers are all in. Mr. President, this is the permanent plan, and the two plans taken together, when this Constitution goes out to the people it says here is provision for all you soldiers now, and all of you are of good character and understand the duties and responsibilities of citizenship, whether you be black or white. Then close the book, and then it says there is the school house, and there is the appropriation to pay the teacher, and you voters who have been made safe must put your children in the school room, you must teach your children to accumulate. We have made no guarantee to unborn ages of the ballot. We would be traitors to our own blood if we did, outside of their personal exertions. We must put the coal of fire upon the backs of those of our blood when we are putting it upon the back of a black man. We must not remove the incentive from one race and keep it upon another. Much less would I remove the incentive from my own race.

MR. OATES—I would like to ask the gentleman a question.

THE PRESIDENT PRO TEM.—Will the gentleman yield?

MR. MILLER—Certainly.

MR. OATES—Just now I understand you to say that it has been insinuated in the Convention that the present scheme in registration was to enable the black belt counties to make a false registration or perpetuate a fraud?

MR. MILLER—Yes.

MR. OATES—Do you attribute that or any of it to the minority members of the committee?

MR. MILLER—Not one of them, never heard a syllable from a member of the minority report of the committee, but it was made upon this floor and it has been made outside.

MR. deGRAFFENREID—I would like to ask the gentleman a question.

THE PRESIDENT PRO TEM.—Will the gentleman yield?

MR. MILLER—Yes, sir.

MR. deGRAFFENREID—I would ask you if it is possible for any such fraud to be perpetrated, does not this provide that there shall be a list of persons registered and placed in the Probate office, and another list sworn to by the Registrars and sworn to by the Secretary of State. If that be so, how could there be any fraud?

MR. MILLER—Mr. President, this law requires that the Registrars shall make out a list, and file it with the Probate Judge of the county. The Probate Judge of each county is required, and he is paid for it, to take that list and make it out alphabetically by precincts, make it out in duplicate, in well bound books, one he retains in his own office and the other is filed with the Secretary of State. That list filed by the Registrars, and those duplicate books made from that, compose the names of every man who is registered in the county. I will not consume any time discussing the superiority of the white man over the black man. As far as I am concerned I have for a long time been satisfied on that subject, but I think that this article as presented by the Committee on Elections and Franchise is one of the best proofs that the white man is superior. Why, Mr. President, if a stranger somewhere away off should have been sitting in the gallery listening to the debates here, he would have been led to conclude that the question of our superiority was doubtful, it has been so publicly, constantly and eloquently argued. That is a conceded proposition, and the article before us, Mr. President, is a magnificent tribute to our superiority. Here we are assembled, presumed to be the leading men of the State of Alabama in Constitutional Convention assembled. Not a negro sits upon the floor. And so far as that is concerned, we have all power under the limitations of the Consti-

tution of the United States. But when you read this article which has been submitted you will find in all of its analysis in favor of the first proposition that where he was in war we have admitted him as a soldier; where he is a descendant of parents that were in a war no, matter whether a war for us or against us, we have admitted him. We have put the general, noble clause, every man of good character—and who is afraid of that, only the man whose character is in dispute is afraid of that clause. Every man of good character can come in and there will be negroes that will come in under that clause. I lay it down that here in this very article itself, is not only a declaration of the law made by white men, but it is a declaration of the highest law that the white people of Alabama can make, and under it the negro will be treated fairly. The adoption of this Constitution will work a large advantage to the negroes of the State of Alabama. I have a tender feeling for the negro. Every allusion to our obligations to him that has been made in this Convention by distinguished men, eloquently and truthfully made, has found an echo in many a heart where the echo has not been expressed we do regard him, and the adoption of this Constitution will be the best thing for him. In the history of my county, Mr. President, after the war, after 1867, when the negro by the 15th amendment, and admission into politics was brought into active controversy with the white men, why our court houses had a different air about them—when he went to the ballot box against us by thousands in the majority. When he came into the court room the antagonism was there, but since 1880 and some years since when he has subsided, sleeping around us as a volcano without eruption, the court room was a different air. It is better, the laws are more fairly administered, the antagonism has been removed, and when this Constitution has been adopted and the unworthy and the incompetent are cut out he will stand before us as an ordinary citizen without antagonism to the superior race, and we will look with sympathy, we feel the trust that this great instrument has reposed in us by making us in fact and in law the superior as by nature we are. Now we only have it by nature, this Constitution gives it to us by law, and that will create the springing up of a feeling to do justice in all matters, in dealing in the courts, and all his civil rights will be more firmly and cheerfully accorded to him. We hear a good deal about the opposition to this Constitution that we are framing. We hear a great deal and read a great deal in our newspapers criticising this matter, criticising that matter, criticising the length of our stay here, but that is all natural. That is to be expected. I was impressed the other day in a conversation with—I was going to say a distinguished gentleman from Mississippi—but I will say intelligent gentleman from Mississippi, the word distinguished has a promiscuous use. He was an intelligent man, and said while the Mississippi Convention was in session nearly every paper in the State was criticising its delays, its slow movements, criticising this proposition and that

proposition, but he said when they closed the book and submitted it to the people they all came as one man and supported it.

MR. OATES—Do you know how many days they were in session?

MR. MILLER—Three months, I understand.

MR. OATES—Ninety-four days.

MR. MILLER—In session ninety-four days and severely criticised, not only for measures they adopted, but measures they refused to adopt, for the length of time they remained in session. In Kentucky it was the same way, I understand they were in session seven months in Kentucky.

MR. OATES—They were nine months in session in Kentucky, as I was informed by Mr. Walker, who was a stenographer to this Convention until recently.

MR. MILLER—It is perfectly natural for criticism to spring up on the outside—we have it on the inside. A proposition springs up here and we have able and long arguments on both sides. We have antagonisms here, and they go out all over the State of Alabama, through the hearts of the people who participate in these debates and take sides, but when they settle the matter in this hall our minority submit to the will of the majority on whatever proposition it may be, quiet is brought within this great rank of men and quiet grows out, and after the wave of dissent and criticism will come the wave of content and satisfaction, and I say it is my firm belief and my expectation that when this Convention of men such as are here seals the book and sends it forth to the people, just as we subside here so will calm and satisfaction spread out all over the State of Alabama, and our Constitution will be adopted.

MR. SOLLIE (Dale)—Mr. President and gentlemen of the Convention, I am for the "grandfather" clause as it appears in the majority report of the Committee, except that I am more so. I believe the "temporary plan" is too short, and that it should be extended a couple of years. I have, therefore, prepared an amendment so extending it, which I shall offer at the proper time, and which I shall discuss in connection with what I have to say upon the section as a whole.

In the early stages of the debate on this Section I was more anxious to address you than I now am. I felt deeply interested in the "soldier" and "grandfather" clauses, and had run down with care the arguments upon them, and satisfied myself reasonably of their legal validity. Like others who have addressed you, I was anxious to submit the result of my investigations for your consideration; and I was disappointed when I learned that a program had

been arranged which rendered it impossible for me to obtain the floor according to our written rules, which give it to the first to claim it. One by one my own arguments have been made and remade by those who have preceded me, till I have little appetite for threshing the much-beaten straws over again. It were probably as well that I, like some pleaders in chancery, simply adopt the allegations and denials of my co-respondents. I think I shall do so; and as part of my speech I here and now urge that you bring again in review before your minds the very able arguments and reasonings offered already in support of the "grandfather" clause of the Section. No abler efforts were ever made in this hall in support of any proposition. This much done, I might well rest the cause; but I, too, have a pride of individual opinion which I will not surrender till I have contributed such arguments as seem yet left to me in the case.

When Napoleon lectured his army near the pyramids in Egypt he told them that forty centuries looked down upon them. Perhaps so many centuries do not look down upon us; but the attention of a greater people and government; than Napoleon knew is fixed upon us, and the liberties and happiness of a more highly civilized state than his dreams ever saw are entrusted to our charge.

After ceding to us our possessions of the West, Napoleon stated that he had given to England a maritime rival which sooner or later would humble her pride. He builded more wisely than he knew. While we are great in maritime achievements, it is in the science of civil government that the country whose boundaries he extended has made its most marked progress. That essentially military genius would probably stand transfixed in wonder and amazement if he could behold now the ripened product of our peaceful labors of the Nineteenth Century, if he could look upon us as the rising sun of the new century baptizes the magnificent and colossal structures we have erected with its kisses and warms our hearts and enlivens our hopes with its embraces.

But our history records a grievous error. Our fathers made one mistake which has proven a perpetual handicap to our sunny southland and placed it in almost hopeless discord with the other sections of the Union. It was contrary to the principles of freedom and liberty embedded deep in the American heart that slavery should exist in our midst. The negro, the slave, was not indigenous to our country nor kindred to our blood. His presence whether as slave or as freeman, became an element of discord. His enslavement for a time was the only treatment for his existence here. We adopted it. In fact, brought him here that he might become a slave. But in doing so we committed a national sin. The God of the Universe did not counsel it. It was our sinful love of power and gain that dictated it. We might have known that the retribu-

tive hand of the Almighty would rest heavily upon us and our children. Our crime may not go unpunished. I, for one, believe that a national good to the negro has been and will be yet further wrought out as its result. I do not know nor do I seek to learn the final extent of character of that good. He who does all things well will bring it out in His own good time and way. But we are remitted to our own accounting. What shall it be? These veterans whose faces I see can answer that question from their experience. We began the accounting when the blood of our fathers first received the taint of aristocratic indolence, and they began to shun wholesome effort and to rely upon the labor of the slave and feel too proud themselves to work. It was continued in the bickerings which preceded and let to the war between the States. That war was part of it. Our reconstruction was part of it. The shamefully corrupted suffrage of recent years is part of it. Our prostrated and devastated South, our unequal opportunities in the race of progress and the graves of our dead heroes are all parts of the painful accounting we have thus far given for the sin committed. Yet, with all our sins, we of the South were more sinned against by our brethren of the North than sinning. They were our partners in the original sin, but they took advantage of the climatic conditions which brought the negro to the South to wash their hands of him, and then turned upon us to persecute and destroy us for the very crime they had helped us commit. They did not become the worst of known oppressors, for they left life in a small remnant of us and allotted to us conditions under which it was possible for us to prosper. But I challenge all history for an instance of more radical wrong than was their enfranchisement of the freed slave with its accompanying reconstruction measures. Nothing short of the most intense hatred could have led to it. It was as if the victor should stoop above his prostrate foe and inject into his veins a virulent poison that would corrode and stagnate his blood and infest him with corrupting sores all the day of his life. I do not remember the bitterest of the experiences nor the gloomiest of the days that followed, as the older delegates here do, but the spirit of my father, who gave first his fortune and then his life to the Lost Cause, lives in me, and swells my bosom almost to bursting when I remember our wrongs. I am a son of the South and love its weal and deprecate its woes. This Convention is called that we may in a peaceful and lawful way correct the evil as far as possible, and presents to us for settlement for many years to come the relative political status of the white man and the negro in Alabama. A more difficult task was probably never given to a body of men. We stand here hedged about on the one hand by the Fifteenth Amendment to the Federal Constitution; on the other by pledges to our people, to our fathers and mothers and brothers and sisters and our children, which bind our consciences as firmly as the decrees of fate and which are as sacred and dear to us as liberty or life. If we construe the Fifteenth Amendment

as it seems the minority of the Committee would have us do, we almost despair of relief, and the amendment becomes, indeed, a direct and continuing menace to and blight upon our peace, happiness and prosperity, a cup of bitterness upon our lips, a bitter and nauseous pill to our stomachs, an aching and deadly pain in our hearts, and a great bar-sinister upon our lives, reducing and degrading our proud spirits and placing us upon an artificial, enforced and unnatural political level and equality with the slave of all the ages past, the negro.

I agree with gentlemen who have preceded me, that the Fifteenth Amendment contravenes the laws of nature, the lights and teachings of history and the rules and conditions of liberty itself. Would any gentleman say that the proud eagle, the king of birds, would have accorded to him the full measure of liberty to which he is entitled if he was brought down from his giddy heights and made to sort with the snipe? Could it be contended that the lion was free when he enjoyed only the privilege and capacity of locomotion which nature has given to the hedgehog? Can it be contended that we, the proudest and best example and specimen of the world's greatest race; we, the sons of Caucasian fathers, of Saxon and Norman-French lineage, the sons of American heroes, enjoy our full measure and right of liberty and freedom when we have no more than can be enjoyed by the ebon sons of dark and benighted Africa? I tell you, gentlemen, that with existing conditions in Alabama, the Fifteenth Amendment, if construed through the glasses of the minority of the Committee, operates a curtainment of our liberties. Then we crave of you, gentlemen of the minority, that you view us through the spectacles of charity when we exhibit a spirit of unfriendliness to the Fifteenth Amendment in our construction of it. We are disposed to resolve all reasonable doubts against it and in our own favor. But, leaving the moral bearings for a time and coming to the legal points involved, I wish to say, Mr. President, that I am not as entirely clear and positive in my convictions that the "soldier" and "grandfather" clauses are constitutional as I would prefer to be. At least it cannot be denied that no court has ever decided the question, and we must admit that it is close and that the argument are not all on one side of it. Further, I do not share in the sentiment which has occasionally found expression in the slightly sarcastic repartees hurled by some of the advocates of the majority report at some of the leaders of the opposition. I deeply regret that even the heat of debate should have given rise to either the sentiment or its expression, though I believe it to have been only the impulse of the passing moment in each case, and that the shades of forgetfulness should take it to their bosom and out of our memory. As for these gentlemen who believe the "grandfather" clause to be unconstitutional, we know them to be brave men and true. Many of them have already earned and are justly wearing the title of hero. When

I look on the empty sleeve of my friend from Montgomery, Governor Oates, and recall the memories of the long years dating back to my infancy, during which I have watched and admired his remarkable career; when I remember the many deeds of patriotism which his life records, and I see him here in this hall contending like the true man I know him to be for what he believes to be the right, I cannot, I will not, call his motives in question. I believe, however, that he and those holding with him are in error, and must, therefore, differ from them and oppose my vote against theirs.

Their arguments may be reduced to three propositions:

First—They say the "grandfather" clause contravenes the genius and spirit of our institutions and destroys our republican form of government.

Second—They say it violates the fifteenth amendment to the Federal Constitution; and

Third—That the whole of the temporary plan offered by the section is so mutually dependent, the one part upon the other, that the "grandfather" clause, which they assume to be unconstitutional, if left in the section, will render the whole section invalid; that the whole section will fall with it.

The first of the two propositions contained in the first division of their argument, viz: that the clause violates the spirit and genius of our institutions, can have no legal force whatever and may well be passed over without more than passing notice. There is no provision in the Federal Constitution compelling the States to preserve the spirit and genius of our institutions beyond the express or implied provisions of the Constitution itself; and it is so clear that it does not contain any provision which by any stretch of construction could be said to protect and secure the spirit and genius of our institutions in a manner like this "grandfather" clause that it would be an idle waste of your time to attempt to demonstrate to you that it does not.

It is almost equally clear that the clause does not destroy our republican form of government. When the worst that can be is said of it, it is simply the selecting by us of a class of our citizens who shall vote and denying to other classes the right to do so. This practice is as old as the government itself, and was in full force when both the articles of confederation and the Federal Constitution were framed; and has been continued in every State of the Union ever since without ever being questioned by any one. The practice is in fact one of the bedrock principles of our form of government; and, like other well established customs is a part of the Constitution, written between its lines, to remain there forever, or until removed by some amendment to it.

Does the fifteenth amendment remove it? Here comes the real tug of war. We know that it does not remove it generally; for we have various express decisions from the courts of last resort upholding the practice. It does seem to me that the opposition practically yield the point insofar as the constitutionality of the defense is questioned by them when they admit the "soldier" clause to be constitutional. These propositions are so firmly and thoroughly settled that they cannot be gainsaid by any one making any pretensions to being a lawyer:

First—That the right to vote is not a right or immunity, secured to the citizen by any thing in the Federal Constitution preceding the fifteenth amendment; but is a mere privilege which may or may not be conferred at the discretion of the government;

Second—That the right to confer upon the citizen the privilege of voting was not conceded to the general government in the Federal Constitution as originally framed, but was reserved to the States;

Third—That none of the amendments prior to the fifteenth amendment interfered in any way with the absolute right and power of control in the States of the matter of the right to vote.

Fourth—That the matter of the qualifications of the voters was left entirely with the States, with the single exception that the Federal Constitution adopted as is own the qualifications which each State might adopt as the qualifications of its voters; for electors and for respresentatives in the lower house of Congress; and,

Fifth—That the fifteenth amendment did not directly confer the right to vote on any one, and did not interfere with the right of the States to fix and prescribe the qualifications of its voters absolutely at their own will, by whatever arbitrary rule they might choose, with the single exception that the right to vote should not be denied to a citizen or abridged on account of his race, color or previous condition of servitude.

The strongest argument offered by the opposition is that in which they insist that the "grandfather" clause creates a class of voters with given qualifications, and that these qualifications are such that the other classes cannot by any effort or through any possible agency attain to them. Exactly this is true of the soldier provided for. The wars, the fighting in which has qualified him where in the past. No man who did not then, can now fight in those wars. It is as impossible to become a soldier now for the first time in one of those wars as it is to become the descendant of such soldier. If the argument is made that the quality of soldier was acquired by the individual character, whereas being a descendant of a soldier is not, we answer that our suffrage plan is prospective, to operate in future, and not retrospective, operating in the

past, and there is no earthly chance for the other fellow to acquire the particular soldier quality which qualifies; so the principle remains the same.

The lines get shadowy as we follow them and are hard to keep. We must not confound morals with the law of the case. The moral right of the soldier is much stronger than of the descendant; but if the law forbids the exception alike as either, the soldiers higher moral right cannot remove the law's stern mandate.

The opposition concede the constitutionality of the soldier clause. It and the "grandfather" clause stand upon precisely the same footing in the law's eye.

But it is really no valid objection to the "grandfather" clause that it prescribes a qualification which is arbitrary, and which one class has and the others cannot acquire. This was settled beyond all question in the case already read to you in which the woman attempted to enforce her right to vote. As has been well said, she can never acquire the quality of being a man. It is only when the qualification, which may otherwise be arbitrary, operates to deny or abridge the right to vote because of the race, color or previous condition of servitude of the citizen that it becomes obnoxious to the fifteenth amendment.

Then proceeding by the exclusive method, we have as premises all these: The franchise is only a privilege, not a right; it can be conferred by the State only, and the Federal government cannot confer it; and the State may prescribe any qualification or select any class it chooses, provided it does not deny the privilege to any one on account of his race, color or condition of servitude. Then the clause is not objectionable because it is arbitrary or because it creates a voting class. Does it do these and exclude the negro on account of his race, color or previous condition of servitude? We insist that it does not. To begin with, a large number may vote under the clause. Much has been said about the percentage included on the one hand and excluded on the other between the whites and the blacks. I do not believe that the respective percentages are of so much value in the argument. In my opinion, if substantial number of each race is included in the clause that ends inquiry, and the law will be upheld, independently of the other considerations to which I wish later to call your attention.

MR. BEDDOW—I move that the gentleman's time be extended until he can finish his speech.

Leave was granted.

MR. SOLLIE—For a long time I staggered around about this proposition, and it seemed that the whole argument ended with it.

I could see no escape from the proposition that if the practical effect of the clause was to include practically all white men and exclude practically all negroes, it would fall under the fifteenth amendment. And I do not share in the view of some of the very able lawyers on our side which set entirely at naught the Chinese queue case and the others read by the opposition. Nor do I understand that the gentleman from Montgomery, Governor Jones, asserted or believed that these cases were conclusive as adjudications directly on the matter in hand. I think they fully understood that they were rendered on different propositions from the fifteenth amendment. I think they read them as being general declarations of legal principles upon kindred propositions and that by analogy of reasoning they applied to our case. I feel the force of them, and it is not enough to remove my doubts entirely to know that these decisions were made upon the fourteenth amendment or on the Bill of Rights. If the principles of construction there laid down would apply to our case it does not matter that they happened to be enunciated in a different case. I do not think they apply, however, very forcibly to the fifteenth amendment. But grant that the clause does exclude practically all negroes. Must it follow that they are excluded because of their race, color or previous condition of servitude? I say it does not, and if the exclusion is not on either of these accounts it would be all right to exclude every mother's son of them.

Let's review the wars. There were but few negroes in America at the time of the Revolutionary War; yet some of them fought in it, I am told. Some of them fought in each of the Indian wars, and in the war of 1812, and a large number fought in the war between the States. And it is worthy of note that the language of the "soldier" clause is "who fought" and that the descendants clause simply requires that they shall be lawful descendants of soldiers. There is nothing said about lawful enlistments; and I dare say the committee had in mind those negroes who, being body-guards of their masters, actually fought in the wars without being enlisted as soldiers. If there is doubt on that point, I should like to see it so changed as to include Governor Oates's negro, Bill, the body-guard. When the descendants of all these in all these wars are considered, who will say they do not constitute a substantial number?

Now, Mr. President, and gentlemen of the Convention, assuming, for the sake of argument, that the clause does exclude practically all the negroes, I will ask you if it does so because they are negroes or because they and their fathers did not fight in the wars? If they had fought, would the clause exclude them? Was their failure to fight due to the fact that they were negroes or to their condition of servitude; or was it due to the fact that they were not citizens, and did not owe to the Government the same

duty to defend it that its citizens owed? I submit, gentlemen, that we cannot know with that degree of certainty, which it is the rule for courts to demand before setting aside the solemn enactments in the organic laws of a State that the exclusion of the negro in the clause is on account of his race, color or previous condition of servitude; and that the history from which the opposition draw their conclusions does not point with unerring or even ordinary certainty to those conclusions, and that it leaves the matter shrouded in doubt.

Why there was no law, civil or military, which forbade the negro should fight if he wanted to in any of the wars mentioned. He could fight without incurring any pains or penalties or violating any law. If he did not fight, it was either his own fault entirely, or was due to the whim or caprice of his master, who might or might not allow the negro to fight, as he and the negro might agree. There was no irrevocable law or condition preventing the negro from fighting. The conditions were such that fifty or fifty thousand might have fought in each war, and the Government would have had no right to raise its voice for or against it. Furthermore, we have other races than the negro who were at one time not citizens, and whose ancestors did not fight in any of the wars, but who are themselves now citizens. Possibly a few of some of these races may be the descendants of soldiers; but hardly enough to be a substantial number. Now, let's ask ourselves whether these also are excluded on account of their race, color or previous condition of servitude. They are not negroes and were never in servitude in this country. Yet they cannot vote under the grandfather clause. Then we have a number of different races all excluded from the privilege of voting by the same clause. One race steps in and says the history of this country shows that I was a slave; and this law is bad because it excludes me on account of my race, color or previous condition of servitude. The others cannot object on the servitude score. They object on the race score. Yet all who meet the requirement in either of their races may vote. None of the white race who do not meet the requirement can vote under that clause. Many of our race probably cannot trace themselves to a soldier ancestry. Certainly, a substantial number of us cannot. We finish the count by finding substantial numbers of the negroes included and substantial numbers of the whites excluded, and the other races included and excluded in varying proportions, depending upon the number of them naturalized and fighting in the wars.

Now, Mr. President, in the face of all this, I submit that the clause does not disfranchise the negro on account of his race, color or previous condition of servitude; that it prescribes a qualification which is lawful, and that it will stand the test of the courts.

But they say it establishes an hereditary voting privilege to be transmitted from father to son. How many generations will come and go between now and January 1st, 1903? The law will barely be enacted and promulgated before it dies of its own terms. The gentleman from Mobile, Mr. Smith, so fully answered this objection I will not attempt to further answer it. Now, as to the mutual dependency of the several clauses of the section. A State Constitution stands related to the Federal Constitution as a State statute does to a State Constitution; and the rules of construction are practically the same. The rule is that if an unconstitutional clause is found in an enactment, the court will examine and ascertain, first, whether or not the enactment would have been made without the objectionable clause; and, second, whether it can be executed with the bad clause stricken. If the enactment would have been made without the presence of the objectionable clause, and if, after striking it, the remainder can be executed, the bad clause is considered as stricken and the remainder stands. If there were no "grandfather" clause to be had, this Convention would undoubtedly enact this section without it; and there can be no doubt that the section could be executed as well without as with the clause in it. Then, where is the foundation for the fear which our learned friend from Opelika, General Harrison, apprehends for the remainder of the section? We think there is none.

Leaving the law of the case and coming to the policy of the clauses, in my humble judgment the "soldier" and "grandfather" clauses of this section will be the brightest jewels in the crown of honor which we hope to see the people place upon the Constitution we are making when we send it back to them for their ratification. I do not see how we ever could keep the pledge we have made in specific terms without it. We have some white men in our midst who have not good moral character and who do not understand the principles of our republican form of government, and who have not been convicted of infamous crime. But with the good character clause and with the soldier and the grandfather clauses in our temporary plan I think we will get them all who are not idiots or insane. I should pause here to pay a tribute of respect to the labors of the committee who have brought in the suffrage plan, at least as to those portions of it which I agreed to; but my time is shortening, and I have already detained you over long.

Mr. President, there has been a lot of discussion here upon the registration provisions in the Article. I am not quite sure that that question comes within the legitimate scope of argument on this section; and if I were not afraid that those who have made the arguments have done so knowing that the arguments now being made upon it are to be final, I would not follow them into it. But it is possible that it is proper here in connection with the character and understanding clause of this section. So I will notice the registrars as I pass. In itself the character and understanding

clause is certainly unobjectionable. By the plainest and most palpable rules of right, a man whose blood in some of its generations has not been shed for his country and none of whose generations has ever fought for it, ought not to be permitted to vote unless he has a good character and understands the duties of a citizen under government in which he lives.

But touching the registrars: I am not so sanguine and hopeful upon that matter. But I do not agree to the censure of the "Black Belt," indulged by some. This much is sure: The character and understanding clause will give to the registrars a wide range of discretion. Their office will be principally political; and it is not changed by the mere fact that judicial powers are given to them. Great political pressure may be brought to bear upon them. And if they do not give to their work a partisan coloring, it will be because the temptation is not sufficiently strong or because their characters are such that they cannot be led astray.

Political, like other reforms is the fruit of a changed condition of the people's minds. It is not, as a rule, effected solely by legislative enactments. Fraud has become so common in practice among us that I fear we will not find ourselves able to keep from the beginning the letter and the spirit of our reformed laws. To the extent that we get registrars who cannot do this, we run the risk of being injured by them. And should it turn out that instead of doing their best, they should do the worst they could, God knows we would be better off by far with the negro at large as we have him now, than to find ourselves under the dominion of a lot of villianous registrars. I trust then when we come to that part of the Article, the Convention will place around it more safeguards than it now has.

The temporary plan is too short. Our youths cannot get ready in eighteen months. They need more time to get ready. It is utterly impossible for the people of a State to propose in eighteen months for the change contemplated. If the limit is left as it is, we will see many boys coming of age who are of good character, and who understand the principles of our government and are as capable of voting as any one, but who cannot vote because they have not the requisite education or property qualification. The fact is, that I have but little respect for these qualifications when applied to a white man; and, but for the negro, I would never put my name to any Constitution placing on the white man's right to vote any such qualification. The white man was always qualified to vote. He inherits his qualities. Deprive him of education and of property, and place him by the side of any other man on earth, and he would soon have the property and his own fair share of education. It is the intrinsic force and intelligence within him that qualifies him. He is the ripened product of thousands of years of good breeding and refinement, having to begin with

the highest and best qualities given to man. The white man of America has an ancestry which alone vouchsafes his eminent fitness for the exercise of the franchise. The meanest white man in the State is within the saving clause; for, at some time, he had a worthy sire; and his children will look back, not to him alone, but to the great mass of their ancestry, and from it, catch up the inspiration and pride of their race, and move on to honorable and useful life. The white sons of America have in their veins the celestial ichor of the immortals, and their pride and worth cannot permanently die. Let's extend the temporary plan at least two years longer.

MR. BEDDOW—I desire to offer a short resolution.

The resolution was read as follows: "Resolved that 5,000 copies of the speech just delivered be ordered printed for distribution."

The resolution was referred to the Committee on Schedules, etc.

MR. MAXWELL (Tallapoosa)—Mr. President, I do not propose to occupy as much time as the distinguished gentleman who has just taken his seat, and it may be that I will not interest you as he did. In fact, I beg your pardon for presuming to say anything at this late stage of the debate upon a question which has been so fully and so thoroughly discussed by gentlemen of so much more ability to discuss it than I have. I do not hope by anything I shall say to change the mind of any member of this Convention, when he comes to vote. I simply want to record my position in favor of the majority report of the Committee on Suffrage and Elections. (Applause.) I want to tell the members of the Convention what one of your humble lay members thinks of the report, which involves in his conception a question, the most profound and the most grave which has confronted the people of Alabama since the days of 1861 when assembled in this hall, they discussed and passed upon that great question of secession, the result of which has brought about the conditions that bring us together today. I have studied this report, Mr. President, as best I could. I have listened intently and interestedly to the great debates and the logical arguments of those who have preceded me. I have been instructed and entertained. I have been informed. I have been helped to arrive at some conclusions upon the subject. I have thought, Mr. President, what effect the provisions of this report, if adopted by the Convention and ratified by the people, would have on our State politically, morally, socially, educationally—and I have looked at it from an economic standpoint, and from no point of view do I see much harm in it. Indeed, there is such a proponderance of good in it that if there be objectionable features and evil in it they

are lost sight of and are so over-shadowed and swallowed up in the good, that it is beyond my kith and ken to discover it. I favor the report as made by the Committee. Now what are some of the commendable features of this report? It proposes, Mr. President, to purify our politics, by eliminating from the electorate the vicious, the ignorant and the incompetent. It does not propose to set up any social status in our State that has not always existed. It holds up and offers to our people higher aims and loftier aspirations which lead them on to nobler and greater attainments in life. It wisely provides under the permanent plan certain qualifications for suffrage which tend to uplift and elevate humanity. It provides for a more intelligent electorate, and it does this without imposing burdens that are onerous and difficult of attainment by the humblest individual who is not an idiot or insane. It provides further for better economic conditions by requiring greater intelligence and greater virtue on the part of the elector, thereby making him a geater wealth producer when he shall have complied with the conditions precedent to voting, for it is a well know fact that the wealth producing power of a State is in direct proportion to the intelligence of its people, and this report holds out an inducement for the acquirement of some education and intelligence. But, Mr. President, as strongly as these features commend themselves to my judgment and urge my endorsement of the main features of this article, there is another stronger than all of these and that is that the provisions of this report is a complete, and literal fulfillment of our pledge to the people that this Convention would disfranchise no white man. I believe in the fulfillment of promises. I believe a full and perfect understanding ought to be had in every transaction in life, that a man ought to say what he will do and then do what he says. There can be no misunderstanding of such a contract. We went before the people of Alabama and asked permission to hold this Convention with the express understanding that we would frame and submit to them an article on suffrage which would insure white supremacy in the State, and which would not be in violation of the Federal Constitution and which would disfranchise no white man under any of its provisions except for infamous crime. I admit, sir, that at first I in common with others here, felt shaky about our ability to do this and at the same time get the game we came for; but our wise and patriotic committee have solved this difficult and knotty problem and they have done it in a way that commends itself to our heads and our hearts and it will commend itself to the judgment of our people when it is presented to them and they fully understand its workings and its effect. It is said sir, to be the wisest provision on the subject in any of the new Constitutions. It stands as a monument to the wisdom and patriotism of the Committee and they are entitled to the lasting gratitude of our people for their able solution of it, and I believe they will receive it expressed in the adoption

of the report by the Convention and its overwhelming ratification at the polls. Now under its wise and patriotic provisions, Mr. President, the old soldier, whether he followed the Immortal Lee in surrender at Appomattox, and gave up all he had saved his good name, his honor and the undying love of a grateful though conquered people, or whether followed the silent and persevering Grant from Appamattox back to Washington under victorious banners to receive the plaudits of a Union restored; or whether with Scott he marched through the hot sands of Mexico and planted his colors upon the capitol of that city or whether with the chivalrous Roosevelt he stormed the heights of San Juan; whether he be white or black, he and his lawful descendants, as a recognition of his patriotism, are allowed to vote without any other qualifications. This practically takes in all the white voters, but if perchance a few are left out under this qualification, they can come in under the good character and understanding clause, and the pledge is literally kept that no white man shall be disfranchised. Now what about violating the Federal Constitution? Well, Mr. President, some of our greatest and best lawyers here with a confidence equal almost to absolute certainty have said there is no violation, while others of equal eminence and learning have said they have grave doubts on the subject. Those of us who are not learned in the law have looked for the law of the case to the great batch of lawyers of this Convention and we have looked to them not as leaders of one side or the other who under ordinary circumstances might be prompted by their ambition to see their side of the case win out and be influenced and biased in that respect, but we have looked to them as patriots who love their country and its institutions far above their own ambition and their own selfish interests, and we find that they have disagreed. So at last we are to determine this question for ourselves. Mr. President, I believe, in the light of all the evidence I have heard, and after having weighed it as best I could in the light of my own conscience and my own judgment, there is no violation of the Federal Constitution in any of the provisions of the report. Now let us look at the question face to face with our own conscience. If it approves or disapproves, let us act accordingly. It is the highest court to which we can appeal. I do not want any man to do violence to his conscience by voting for the Article if he believes that in so doing, he would violate the oath he took when he was sworn in as a member of this Convention. It is a matter between each of us and our God, and each must decide for himself. As for me, I am clear on the subject and I shall vote for the report. Now what about the negro under the provision of this suffrage report? I do not feel that I am especially, more than others, called upon to plead his cause here, though he has not a better friend upon the floor of this Convention than I am. We are all his friends, I must say we are all specially fond of him—in his place. As home, where I am well

known among them, I am regarded as good authority on every subject under the sun except one, and that is politics. I am regarded as an honest man every day in the year except one, and that is election day. I may argue and reason about politics, but unless the argument has the ring of the silver dollar in it, it is no go. Will any of them be allowed to vote? Yes, it is estimated that 25 or 30 per cent. may qualify under the provisions of this Article. They are put to the same tests that the white man is, and I am glad of that, Mr. President, I am not one of those who want to disfranchise the negro simply because he is a negro. I base my reason for it upon what I conceive to be a higher plane than that. I cannot forget that he did not come upon our shores from his native land of his own volition, but that he came here a slave, a savage slave no doubt, under the providence of God, to prepare him for civilization and to school him for a higher position among men. I cannot forget his faithfulness as a slave and his loyalty to his master's family while he was away fighting the battles of his country to perpetuate him in slavery. I recognize him as a man who ought to have justice accorded to him in the courts, and who ought to have fair and impartial trial when his life, his liberty, or his property is at stake. I believe he ought to be made to comply with his contract, and that those who contract with him should be made to do likewise. I believe that he should have justice before the law and that no law should be enacted that discriminates against him simply because he is a negro. I would not disfranchise any of them who can stand the tests laid down in this Article.

But while I recognize the negro's legal and human rights as being equal to ours, I have never suffered myself for a moment to believe that he is the moral, social or intellectual equal of the white man. He is our inferior in these respects and no amount of legislation and cultivation will ever make him otherwise. I look upon him as the weaker element in our social and political structure and I believe it becomes us as the stronger element to see that such restraints are thrown around him as will curb and prevent him from hurting himself as well as for our own protection. I would disfranchise the ignorant and vicious and incompetent among them for their own good and for the public good, but I would hold out to him as does this Article, the hope that he may, by industry, good character, economy and application, obtain the honors of the electorate. I would not cut him off from hope for the future, for hope once dead in the human breast makes the man the brute. I would not set up for him a higher standard for excellence in order to exercise the franchise than I would set up for the white man, nor would I lower it. I would let it stand as the majority of the Committee have reported it and I would enact just laws for its enforcement. These, Mr. President, are some of the conclusions I have come to after a thoughtful consideration of the majoritty report. Its main provisions have my approval and when the time

comes I shall register my vote that way. I do not wish to say any more. I thank the Convention for their courtesy.

MR. ASHCRAFT—Mr. President, and gentlemen of the Convention, it is perfectly apparent that we have degenerated into mere tolerance of speech-making. The keen interest is gone. At the opening of this debate I really desired to submit some arguments to the Convention. Those arguments have all been made, very much more ably than I could have made them, and therefore I cannot make you the speech that I had intended. It, therefore, seems to me that about the most that I can do is, in a certain sense, to inaugurate a set of ratification speeches, such as we ought to have in the morning under the ten minute rule, which will probably be adopted, and I trust that I may have the same good luck in getting to my subject that a young friend of mine once had. He had been going to see his girl for some time and he was quite timid; he had something which he longed very much to say to her, and which he had been unable to say. The old people had gotten considerably worried, almost as much worried as this Convention is with speech making, in furnishing lamp and coal for the late hours at night. The mother and father had begun to complain at Mary for letting John stay so long, and had really begun to be impatient. One night John was there. It was getting a little late, but in some way they found themselves seated together on the divan and one tender hand had found its way into the clasp of a good strong hand, and just at that inauspicious moment, a sharp voice from the head of the stairs called out, "Mary, is that fellow there yet?" Mary, without withdrawing her hand from the firm, strong grasp, sweetly answered: "No, ma, he's not there yet, but he's getting there." (Laughter.) Now, I want to thank the gentlemen who have spoken and are here for staying to hear us speak this evening. We appreciate very much that a number of those who have spoken are here. Some of those who have spoken are not here, but I presume that they judged our speeches by their own, and determined there was not much to be lost if they absented themselves. (Laughter.)

You have all heard the story of the old farmer who was walking along the road and suddenly met a great big bull dog. The dog came lunging at him, growling and showing his teeth. The farmer had a pitchfork in his hand and stabbed it into the dog. Just at that moment the owner came rushing up and said, "What did you kill my dog for?" He answered, "He was coming at me with an evil intent." "Why didn't you hit him with the other end of the fork?" "Why didn't he come at me with the other end?" Now, the way the minority of the Committee come at these three temporary qualification clauses, reminds me somewhat of that story, for they bring these three propositions to us the wrong end first, and the distinguished gentleman from Wilcox fell into the same

trap. We say when a man comes up to vote that the first question that is asked him is, are you an old soldier? If he says no, then they will say, are you the son of a soldier? If he says no, then are you a man of character who understands the duties of citizenship? That is the way we put it, but they say the question will be, are you a man of good character and when the may says no, they will ask, well, do you understand the duties of citizenship under a Republican form of government? and when he answers no, they will ask him then, are you an old soldier? So they seek to make it appear that the plan is designed to let in soldiers and their sons who are rascals or scoundrels.

Now, gentlemen, that argument procedes from a wrong conception of what really constitutes the true electorate, and the fact that we can only set apart such an electorate approximately, and not man by man. As I understand the theory of our Government, it is that every man within this domain, however humble he may be, or however poor he may be, who may reasonably be expected to discharge the privileges of an elector unselfishly and patriotically, ought to be clothed with that privilege. An electorate less than this would be an oligarchy and against the theory of free government. In other words, we are trying to set apart a class of men who may reasonably be expected to exercise the electoral franchise honestly and unselfishly, and to inaugurate plans which will give the very highest per centage of that class, and the lowest per centage of those who will exercise it otherwise. Now, if you let in the best men and the best men only, you will let in some evil; and if you turn out the worst men, you will turn out some good, for I never yet have seen any man in whom there was no evil, and, I thank God, I have never seen any man yet in whom there was not some good. So then our plan must be one which will bring in the highest average of patriotism, and the lowest average of selfishness. When you apply that rule and ask yourself the question, "What class of men, first and above all others, may be reasonably expected to exercise the electoral franchise honestly?" the experience of mankind from Sparta down to the present day, and the enlightened judgment of the world, answers, "Your soldiers." They know her history and her purposes, and rather than see that history sullied or those purposes thwarted, they have been willing to endure every form of hardship and distress, even death itself. Surely, even though there should be some bad soldiers, this class will present to us the very highest average of patriotism, and the very lowest average of selfishness.

When you have secured that class, the question is, can we further enlarge the electorate? Is there any other class that we can bring into the exercise of the franchise? I stand here, gentlemen, to repudiate the doctrine that any Confederate soldier's son wants to come into that franchise because he is his father's son. I happen to be the son of a private Confederate soldier. I have been

hurt and injured by the proposition argued and pleaded upon this floor, that they will be admitted to the electorate as a matter of pity and in consideration of the deeds of their fathers. I know, gentlemen of the Convention, that the Confederate soldiers fought the battles of their country. They fought them amid the blare of the trumpet, waving flags and roaring cannons. They fought the battles of death and defeat. When they returned they found their homes despoiled, their fields grown up, and their ditches filled. They found too strong young hands that helped to fight another fight—a fight against poverty; a fight that lacked all the pomp and splendor of war. That fight was made amid funeral dirges and in the shadow of widows' weeds. How about those sons who fought that fight? Ask your experiences like you do about the soldier. I appeal to your experience and observation.

By some strange fatuity of the Caucasian race, the great body of that race is crowded into the hills and the mountains of your State. If you doubt how that battle has been fought by the sons of Confederate soldiers, I ask you to go where the ditches were filled; go where the briers grew in the corners, and the fences were rotted down. See there now the vine-clad hills; see the beautiful valleys. (Applause). See the growing cities, hear the hum of the factories, and ask yourself who it is that fought, not the battle of defeat and death, but the battle of victory and of life. (Applause). If, as the sons of Confederate soldiers, we have proven ourselves worthy; if we have demonstrated that as a class we may safely be trusted to patriotically exercise the privilege of electors, then we ask you to let us in; if we have not proven ourselves worthy of it although we belong to a race which subjugated the forests, tamed or drove out the wild beasts, built cities, built schools, churches and homes, and multiplied opportunities for education; although the blood of heroes and martyrs runs in our veins, if we have not proven ourselves worthy and cannot come in on our own merit, then make us stand another examination. Stand us over, if you please, with the foreigner who has kissed the foot of monarchs. Stand us over if you want to with that race which was subjected by the forests, and in whose veins runs the blood of cannibals and fetish worshippers.

If you are still unconvinced of our patriotism as a class, then examine us along with that race which learned the arts of civilization only when chained in slavery; but, gentlemen of the Convention, we trust that we have not been weighed in the balance and found wanting.

You have been told the story of the brave negro that fought by that one-armed hero's side (Mr. Oates); you have heard the pathetic story told by the distinguished Chairman of the Suffrage Committee (Mr. Coleman of Greene), of how the faithful negroes protected his home. You have heard from our distinguished

President the story of the noble young Confederate soldier who snatched up the flag and carried it forward into the thickest of the fight; but today, if I were an orator, if I were clothed with the power of sweet speech, I would tell you of the story of the little Confederate boys, their mothers' milk barely out of the blood, their bones yet in the gristle, who followed the plow and pulled the brier hook. (Applause).

Gentlemen, I know them. I have seen their hands stiffened and cracked and bleeding from exposure and toil, as they fought the long winters through in the lonely places. Gentlemen, can you read only those deeds of courage written in lamp-black and lightning? It may be that in the years that are to come, their victories will not be sung, but you, gentlemen, are here today enjoying the fruits of their victory; and, year by year, we shall demonstrate to you, that we constitute a class worthy to go down by the side of our fathers on the electorate. (Applause).

Gentlemen of the Convention, if you have decided that soldiers form a class that will furnish you a high average of patriotism and a low average of selfishness, and if you have concluded that the sons of soldiers will also furnish you a high average of patriotism and a low average of selfishness, it may be, and I believe that we can still enlarge the electorate. Again ask what are the experiences of mankind. Others may not possess the high qualifications to which I have already referred. The man who is of good character, who understands the duties of citizenship, under a republican form of government, will also furnish you a high average of patriotism for the faithful discharge of duty, and low average of selfishness. But remember that class must be selected, and its merits must be passed upon by a Board of Registrar. This Board of Registrars will be made up of men, and you will not get a perfect class even for such a board. The best Board of Registrars that you can provide will bring in some bad men, and will bring in some good men, but according to our experience and observation, is there any other plan by which we can hope to enlarge the class of those persons who will have the highest average of patriotism and the lowest average of selfishness?

My good friend from Russell (Mr. Banks) asked with a great deal of real pathos if we were going to deal with the negro in such a way as to degrade him. Gentlemen of the Convention, those who say that the purposes of this Convention and the desire of the white people of Alabama is to disfranchise the negro, do violence to the real definition of terms and injustice to a brave and generous people. It is unfortunate; it is regretable, that the term negro has, in a certain sense, become synonymous with selfishness and self-gratification, and it is aimed at the uncontrollable desire to gratify appetite. If the negro were as patriotic as the white man; if the negro had shown as high an average of noble qualities as the white

man, we would have no Convention here today. Those stories which you heard from the distinguished gentlemen moved us all to tears. I saw strong, brave men in this Convention shedding tears as those instances were cited, and I say to you, that a people who are thus moved to reverence the noble actions of the negro can feel no unkindness to him. We are here to do the negro good, just as we are to do the white man good. That is our patriotic purpose here. It is unfortunate that we sometimes use rash words and that we sometimes say one thing when we mean another. But the fact is, the great body of the people of Alabama are willing to allow every negro man who has demonstrated by his course of conduct that he has a high sense of patriotism, to exercise the elective franchise. Our purpose here is to exclude from our electorate only those vicious, ruinous and awful conditions that we have been subject to, and to say that the right to vote shall be given to every man who may be expected to do so honestly. Then, how can that injure the negro? Suppose, as some of our friends say, it will let in some bad fellows to let the soldiers' sons vote. I ask is it going to injure the negro not to let in bad negroes also? How can it injure a negro man to say to him, if you be honest, if you be virtuous, you may come in and share the privileges of a glorious free country with us. Does that invite him to evil? Does that invite him to degradation? Does it not offer him an opportunity and an invitation which never yet has been offered to him before? Today he is disfranchised. The best of his race have no voice in our government. Tomorrow when this Constitution has been ratified by the people of Alabama, the best of his race will have a voice and he will have an opportunity to place himself along by the side of patriots and to be loved just as the soldier who fought with the one-armed hero is loved. He will learn to know his place and fill it well. No man yet on this earth has known his place and filled it well who was not loved and honored and respected.

Gentlemen of the Convention, I thank you for your attention. (Prolonged applause.)

MR. ROGERS (Lowndes)—Mr. President, the Committee on Suffrage and Elections consists of twenty-five members, twenty-one of whom are able lawyers learned in the law and four others of the number, who are not learned in the law. Four of these able lawyers say that the grandfather clause is unconstitutional. The other seventeen able lawyers say it is constitutional. The legal features have been ably explained by both sides. Taking counsel from the multitude of wisdom and believing that it is not a proper thing to ask a man to sign his own death warrant, for we have got to submit this Constitution to these people who already vote, I heatily favor its adoption, as it will help to accomplish the purposes for which this Convention was called.

Coming from the county of Lowndes, where there are 4,762 whites and 30,891 blacks, or 7 to 1, or more negroes to the square mile than in darkest Africa, I am heartily in favor of a measure that will bring to our relief 20,000 white votes in the State for our redemption from ultimate ruin. The majority report embodies the best and most practicable ordinance and I trust that it will be adopted. History repeats itself. I have seen in this historic hall thirty negroes at one time, members of the Legislature, selling their votes for a drink of whisky or a mule, and enacting laws for us that inflicted millions of dollars of indebtedness on the State of Alabama and which we are now paying and will have to continue to pay for fifty years more as we have for the last twenty-five years. Under the present Constitution they can come again. All they need is courage and leadership, all that we have to prevent it is the indomitable pluck of Anglo-Saxon manhood. No white man who knows why this clause was adopted in going to offer sentimental objections to it, they are too level headed; and they are in favor of white supremacy as far as the fifteenth amendment will permit them to go. For a third of a century the negro has voted in Alabama and always votes solidly against the interests and welfare of the State. I would rather have a military despotism than to be ruled by negroes and barbarism.

Alabama with 51,540 square miles, contains 1,001,152 whites and 827,307 blacks; in thirteen central counties of the state, in one of which this capitol is situated, embracing 9,786 square miles, or one-fifth of the area of the State, the most productive portion of it, there dwell 373,311 negroes and 100,000 whites, or three-sevenths of the black population and one-tenth of the white population; 444,000 blacks and 900,000 whites (in round numbers) live in the other fifty-three counties of the State containing 41,754 square miles. In eight of these fifty-three counties the negro holds the balance of power and in only five counties he cuts no figure. Consider these facts and see what a grip he has on us. Restrain him and treat him kindly and justly as God intended that he should be, he becomes a useful citizen. Remove restraint and he reverts to barbarism and lust.

We have been told that white supremacy in Alabama is assured. White supremacy, Mr. President (which means the rule of intelligence) prevails in the black belt of Alabama by methods repugnant to our feelings and justified only by the intolerable alternative of a tame submission to the rule of an inferior servile race. Adopt this suffrage plan and peace and order will be assured under conditions fixed by law, and racial conditions will adjust themselves like the law of gravity or of water seeking its level.

In my judgment this is the last opportunity that Alabama will ever have to redeem herself by force of law from the curse inflicted on us by malice and hatred. A returning sense of justice seems

to pervade the Union and now let us remember that "there is a tide in the affairs of men, which, taken at the flood, leads on to fortune." Let us turn from all impracticable schemes and act wisely and pass this measure and carry it to the people and explain it to them from the mountains to the sea and our beloved State will be redeemed.

THE PRESIDENT PRO TEM.—The gentleman from Barbour, Mr. Williams.

MR. WILLIAMS (Barbour)—Mr. President, there is some mistake about that. I did not know I was on the list. I might say I was anxious to get there to get there at one time, but I never landed, and I will not disturb the Convention with any remarks upon the subject at this time.

MR. HOWZE—I move that the Convention do now adjourn.

Leave of absence was granted Mr. Harrison (Lee) for today.

Upon a vote being taken the Convention adjourned.

CORRECTIONS

Fifth-fifth day, in Mr. Spear's speech: Fourth page, middle of sixth column, change "Have courts" to read "some courts have."

Fourth page, sixth column, change word "remedy" between words "any," and "that" to read "injury."

Fourth page, sixth column, near bottom, change word "belongs" to "applies."

Fourth page, seventh column, near top, change "children know it," to "children have noted it."

Fourth page, seventh column, change sentence, "the thirteenth, fourteenth and fifteenth amendments that have been pinned to the beautiful Goddess of liberty from time to time," to read. "The thirteenth, fourteenth and fifteenth amendments are the brightest jewels that have been pinned on to the beautiful form of the Goddess of Liberty."

Fourth page, seventh column, change words: "He cannot appeal to a jury" to read, "He cannot appeal to a beat jury."

In fifty-sixth day:

First page, second column, near bottom, change words "thus to legislate" to "for us to legislate."

First page, third column, near bottom, change "three years" to read "two years."

First page, third column, change sentence beginning "the descendants" to read "the number of white persons and their descendants who have been subjected to involuntary servitude are as many in number as the negro descendants," etc.

First page, third column, near bottom, change "publican" to "plebian."

In speech of Mr. Martin, second page, seventh column, after "there is one thing you cannot do," add "you cannot make a Constitution."

In same column should read, "to take the Constitution that we propose in one hand, and our commission in the other."

In same column should read, "that it was to the best interests of the black man," and further down strike out "man who carries by his side an empty."

In first column, third page, should read "but I verily believe," and further down read "now there is another clause." Further down in same column read "they owned but little property.

In second column, third page, read, "long after you have been called."

FIFTY-EIGHTH DAY

MONTGOMERY, ALA.,
Tuesday, July 30, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by Rev. Mr. Marshall, as follows:

Our Father who are in heaven; we thank Thee for Thy watchful care, and we thank Thee that Thy mercy and Thy love have been extended to us all the days of our lives. We praise Thee this morning that Thou hast given us the health and strength to assemble here, and we pray Thee that Thou wouldst give us an appreciation of Thy blessings and the privileges which Thou dost confer upon us, and especially do we ask Thee this morning that Thou wouldst be with us in the deliberations of this day. Bless each and every member of this convention of the people of Alabama assembled, and we pray Thee that the deliberations and actions of this day may be well pleasing in Thy sight and may be such as will be for the best interests of the people of the State, in the settlement of this, we believe, the greatest question that comes before this body. We pray for Thy guidance. Uphold us by Thy

strong arm. Give us grace and strength that we may rightly discharge every duty that is placed upon us. Go with us through this day, through all life, and at last in Heaven save us, we ask for Christ's sake, Amen.

Upon the all of the roll ninety-eight delegates responded to their names.

The report of the Committee on the Journal was read, stating that the journal for the fifty-seventh day had been examined and found correct, and the same was adopted.

MR. HEFLIN (Chambers)—I move that the privileges of the floor be extended to late Senator R. L. Hipp.

The motion was carried.

MR. PORTER—I notice in looking over the stenographic reports of my remarks upon Friday on the question of the Fourteenth and Fifteenth amendments, on the second section of the fourteenth amendment they state "could not exclude." I stated they "could exclude." I ask that the word "not be stricken out.

THE PRESIDENT—The stenographer will make note of the correction.

MR. OATES—I desire to report the ordinance on the legislative department as correctly enrolled and ask that it be read and passed.

THE PRESIDENT—The gentleman from Montgomery asks unanimous consent to submit the article on legislative department.

MR. REESE—I rise to a question of personal privilege.

THE PRESIDENT—Will the gentleman state the question of privilege.

MR. REESE—In the proceedings of this Convention on last Friday, I made a motion that the rules of this Convention be suspended in order that a resolution might be put upon its passage. At the time that I offered that resolution, there was quite a considerable amount of disorder in the hall, and I could not hear what was taking place on the other side of the Convention. On the day after I saw the stenographic report of this Convention, and in it there appears the remarks of the gentleman from Montgomery, for whom I sincerely entertain an admiration and regard, in some respects, greater than I do for any man in this Convention. He is reported as saying, "I thought you would shut me off." I had no purpose in the world in doing anything of that sort. Had I had any idea that the gentleman from Montgomery had the slightest personal interest in the matter, I should not have made the point of order that was made. The effect of the point of order that was made. The effect of the point of order that I did make, Mr. Presi-

dent, was not to shut off the debate upon the resolution. The motion then was to suspend the rules and after the rules were suspended the gentleman from Montgomery had ample right to debate that motion or resolution. I desire in justice to the distinguished gentleman from Montgomery, the greatest military hero living in Alabama, I believe today, that I would never for a moment keep him from saying anything in this Convention that he desired to say.

MR. ROGERS — In my speech of yesterday there was an omission, it should be reported "in eight counties of the fifty-three the negro population and the white are very nearly equal, and in thirty-one he holds the balance of power."

THE PRESIDENT—The stenographer will make note of the correction.

MR. SAMFORD (Pike) — In reference to the report of the Committee on Legislative Department, I will state to the Chair that the Committee on Engrossment has made its report, and at that time I asked that it lie on the table until the Convention could take it up.

THE PRESIDENT—It seems to the Chair the report would not be in order at this time, except by unanimous consent. The Chair would suggest to the distinguished gentleman from Montgomery that the report of this committee would not be in order just at this time, as the regular order would be the call of the roll of delegates for the introduction of ordinances.

MR. OATES—I am perfectly willing for it to lie on the desk.

MR. SMITH (Mobile)—The Rules Committee instruct me to report the following resolution:

The Secretary read the following resolution:

Be it resolved that all debate upon the report of the Suffrage Committee during this, the 30th day of July, 1901, each speech shall be limited to ten minutes, and that at 12 o'clock noon the previous question be considered ordered; but after the previous question is ordered a representative of the majority and of the minority report may each discuss the question for twenty minutes, the representatives of the majority report having the right to close.

MR. SMITH—The Committee makes that report owing to the fact that it was understood there were several delegates who desire to speak briefly, and that under the rule, as it stood, they would not have an opportunity to speak at all, and it was for the purpose of avoiding that closing out of some, that the resolution was introduced.

MR. SANFORD (Montgomery)—That applies to the debate on this fourth section.

MR. SMITH—Yes, sir, that applies to the debate now going on as to this section.

MR. ROBINSON—Is it on the amendment or the section that the question will be order?

MR. SMITH—On the question pending, as I understood, on the fourth section.

MR. ROBINSON—The previous question on the section?

MR. SMITH—Yes on the section and amendment.

MR. ROBINSON—Mr. President there is an amendment I would like to offer if it applies only to the amendment offered by the minority of the committee. I have no objection, but if it applies to the whole section, I don't think the Convention ought to adopt it. I am satisfied there are amendments which will be offered and which will be acceptable to the Convention, and we have discussed the minority report for several days, and other amendments ought not to be cut off.

MR. OATES—I want to say as to that particular part of that section that has been under discussion, I have no objection that this should apply at all, but as to some other parts I gave notice before we entered on this discussion that I have an amendment to offer to the first subdivision, and while I did not wish to consume a great deal of time on that, perhaps ten minutes is pretty limited —but if it applies to the whole section, I would desire to see it modified.

Mr Cunningham here took the chair.

MR. SMITH (Mobile) — After conferring with the Rules Committee again under the objection that has been made, the Rules Committee will ask leave to withdraw the report which has been made.

No objection being made, and the report was withdrawn.

MR. SMITH—The Rules Committee instructs me to make a report.

Resolved, That hereafter the sessions of this Convention shall be as follows: Meet daily at 9 a. m., adjourn at 1:30 p. m.; meet at 3:30 p. m. and adjourn at 7 p. m.

MR. PRESIDENT—The question is upon the adoption of the resolution.

MR. HOWZE—I move to amend that by striking out 1:30 p. m. and inserting 1 p. m.

MR. BOONE (Mobile)—I move to lay the amendment on the table.

MR. HOWZE—I have the floor, and I would like to make some remarks.

THE PRESIDENT PRO TEM.—The gentleman from Jefferson has the floor.

MR. REESE—Mr. President, I would like to hear the resolution read.

The Secretary again read the resolution.

MR. HOWZE—It does seem to me that the time fixed for adjournment at 1 o'clock is the most proper that we could have. I think it would suit the house-keepers and the families where we reside.

THE PRESIDENT PRO TEM—Will the gentleman from Jefferson suspend for one moment?

(The President here resumed the chair.)

MR. HOWZE—From the information I can gather, the dinner hours extends in a large number of the boarding houses from 1 o'clock to 2:30, and it does seem to me that we should consider the convenience of the people with whom we live in that respect, and it is only cutting off half an hour from this long time we are called upon to work here these hot days, and I think a laborer anywhere should have at least two hours' rest in the middle of the day these hot days, and I hope the amendment will be adopted and that we will adjourn at 1 o'clock instead of 1:30.

Upon a vote being taken the amendment was adopted.

MR. SOLLIE—I wish to amend the resolution as amended by making the afternoon session to commence at 3 o'clock instead of 3:30, so as to have four hours' session in the evening.

MR. ROGERS (Sumter)—I move to lay that on the table.

Upon a vote being taken the motion to table was carried.

THE PRESIDENT—The question is on the resolution as amended.

Upon a vote being taken the resolution as amended was adopted.

MR. FLETCHER—I move to suspend the call of the roll of delegates for the introduction of ordinances and resolutions, and the regular call of the standing committees be dispensed with and that the Convention take up the special order which is under consideration.

Upon a vote being taken the motion was carried.

THE PRESIDENT—The special order this morning will be the consideration of the Committee on Suffrage and Elections.

MR. SENTELL—Mr. President and gentlemen of the Convention, I did not intend to make any remarks on this subject, and if I had intended to make any lengthy remarks I would not do so now since the subject has been so thoroughly discussed from every standpoint, but as this is one of the most important subjects with which we have to deal, and as it is the one about which the people we represent are mostly interested, I feel it would be my duty not only to vote upon the question, but to express my views upon it as well. As I said, in the minds of the people, all other questions considered by this Convention fade into mere minor matters compared with the great question of suffrage and election. We were elected and sent here almost solely for the purpose of settling this one great question, and as there have been but few speeches upon this question from members representing that section of the State from which I came, it might not be improper for me to say something as coming from what is known as the white counties of the State, or the Piney Woods of the State. Those counties are largely white counties, and they are largely in agriculture, but they are intensely interested in this great question of suffrage and elections, because the negro in that section has become a menace to good government. He has become a drug upon the market, as was ably said by one of the gentlemen upon this floor the other day; it is a question in general election of buying the negro vote in our section. Well, now, we want relief, and we must have relief from that condition of affairs. I believe that the majority report of the committee solves this question. In my judgment it is the very best solution of this question that could be gotten up, and while there are some features of it that I do not entirely agree with, I believe, that in the main it is the solution of the question. That it will give what we want in the white counties, that it will give what the people in the Black Belt want, and will also settle the question in the hill counties of the State.

Now I shall not undertake to discuss nor to prove the constitutionality of this act, as was so ably and unanswerably done by the distinguished President of this Convention, and other members on the floor sufficient for me to say that I believe that it is constitutional. That I am satisfied on that question, because it is well settled that we are not forbidden to disfranchise the negro or any one else, upon any other ground except upon the ground of race, color and previous condition of servitude, and we are not disfranchising him upon this ground in this act, but we are disfranchising them because they are not fit to vote, and I want to say here that we do not desire to disfranchise the negro or anybody else, upon any ground of race, color or previous condition, but we

want to disfranchise all who are incapable of exercising the power to vote. Nor shall I undertake, gentlemen of the Convention, to prove the constitutionality of this act by the laws of nature, as was so satisfactorily done by the distinguished gentleman from Jefferson, but I want to say upon this question, that the laws of the nature have a great deal to do with the solution of this question, and that we will be willing to undertake here to settle it by the laws of nature, that we will settle it rightly. These great laws have demonstrated the fact that the white man is the superior, and that the white man is the only race that has ever shown the capacity to govern himself and the capacity to govern others. Now it is a fact that the negro as a race, has never shown this capacity, and I am sorry to say that the little education that he has gotten does not help him along this line. It is fact and a deplorable fact, so far as experience in our section goes, that the educated negro is the worst that we have to deal with. It seems that his education does not benefit him along this line. There is another question that I want to mention just here. Does the majority report on suffrage and elections meet the wishes of the people who sent us here? In my judgment it does. We are under one sacred pledge to the white people of this State, and that is that we will disfranchise no white man. Now does this report carry out that pledge? I claim that it does. For sure no white man will be deprived of the right to vote under this report. Now there is a temporary plan and a permanent plan. The temporary plan is to last until 1903, and then the permanent plan comes in. Under the temporary plan, the question of property qualifications and the question of educational qualifications cut no figure at all. It is a question whether you can vote under the provisions laid down under this section that we are now considering. Old soldiers in any of the wars can vote regardless of what other qualifications they have, then those who are sons or descendants of old soldiers can vote regardless of other qualifications, and if they cannot come in under any of these, they come in under the next subdivision, which is good character, and an intelligent understanding of republican form of government. So that lets in every white man, and if carried out properly and according to the intentions, no doubt it will eliminate all of that element—the ignorant class of voters which now give trouble. So I say this majority report does solve this question, and it does give to our people what they want, along this line. Mr. President, I do not care to carry into this discussion any more of the race question than is absolutely necessary, but it necessarily comes into it to some extent, and what I shall say in regard to the race question, and to the races, I mention only incidentally, but it is a fact, that it is not education that gives a man the capacity to vote, correctly and rightly, and it is not the ownership of property that gives a man the right to vote intelligently. It is the capacity to understand the

right use of the ballot, it is the capacity for self-government and the capacity to govern others. Now the negro himself will be a great deal better off, and will fare a great deal better in this country under the intelligent rule of the white man than he would if he were permitted to exercise any control in that government himself, because the white man as I said before, and especially the higher class of the white race, the Anglo-Saxon race, is the only race that has ever shown any capacity for self-government, and that it shown by the fact that wherever you place these people, whether few or in large numbers, they at once begin to improve their conditions, they at once begin to take in the surrounding circumstances, and to better their condition, and to bring law and order out of confusion and disorder. It is a race instinct, it is a race inclination and they always exercise that wherever they are. On the contrary, the negro has never shown such capacity, he has never exercised it, and I am sure never will. When you cut him aloose, from the friendly influences of the white man, he invariably goes backward. It is not his race capacity or inclination to build up and improve his condition. So I say they will be better contented, when they once understand that the white man is the ruling power in this country, that he is exercising that power exclusively. Mr. President, it was said a few days ago by some gentleman on this floor, that the white people owned the lands of the State. That they owned the railroads of this State, that they owned the store houses and the mills and the factories and they hold all the offices, and he might have added with consistency "and the white people are going to do the voting in this State." Mr. President, there is no need of any confusion on this question. They might as well look the matter square in the face. I for one say, and I believe I represent my people, when I say it, that the negro has not the capacity for exercising any control in the government of this country, because the power to vote is the power to control. The use of the ballot is one of the greatest and most sacred powers exercised by any citizen of this country. If we allow this class to vote, then we allow them that far to govern in this country, and as I said, I do not believe that the negro has the capacity for self-government, that he has a capacity for governing any one else, and ought not to vote at all, but under the Fifteenth Amendment, it would be impossible for us to exclude the entire race, so we have to respect, to some extent at least, the Fifteenth Amendment, but I cannot regard the Fifteenth Amendment as was done by one gentleman upon this floor a few days ago, who pronounced it a jewel. I prefer, Mr. President, to term it an abominable crime, because it was a crime against the civilization of the age and against the white people of the South. It organized in prejudice, the sole purpose of it at that time was to humiliate our beloved Southern people who were already crushed under the iron heel of war, and I shall never re-

spect such an amendment though we may be forced to obey it in the law. Now, Mr. President, as I said, the negro has his place, and the white man has his in this great age, and there is no need of any conflict, no need of any confusion; the white man is destined to rule, and he will rule; he will make the laws, he will execute the law, and he will do justice not only to him, but to the inferior race as well. In this great industrial age, and when there are thousands of acres of land untilled, cities to be built, inexhaustible stores of riches lying under ground, that have never been touched—there are constantly being developed new powers of invention and forces of nature which must be applied to the development of the great civilization which we now enjoy. In this great industrial development, the negro has plenty of room and plenty of space for the full exercise of all the powers and all the capacity that he has, and it has been shown and proved that in the exercise of his powers and his capacities in this great industrial world, he has attained the best results, and there is room for him there. He may remain among us in peace, in prosperity and in happiness. He can acquire property, he can enjoy his rights here as a citizen, and live peaceably and if he does well he will be applauded and respected by his superior, the white man, and if he does ill, why he will suffer the consequences. Now, Mr. President, as I said, I don't care to detain the Convention long; I only want to express my views upon the question, and I say now the question is before us, we are called upon to settle it, and not only the people of the United States and of the civilized world are watching the settlement of this question, and to see what the Constitutional Convention of Alabama will do with this great question. In view of that fact, the great responsibility rests upon us to settle it rightly, and to settle it justly. I believe that we are capable of doing so. The people to whom we belong, the race to which we belong, have solved every question that has been presented to them, not only solved it, but solved it justly to themselves and justly to their inferiors. Gentlemen, I believe we will solve this question directly, and I believe the adoption of that majority report reaches that conclusion and that solution. Now the question is before us, and as the votes draw nigh let us settle it, and settle is rightly, and forever.

Mr. Watts took the chair.

MR. MURPHREE (Pike)—I have committed some reasons for the vote that I shall give here to paper, and I ask that it be included in the stenographic report.

THE PRESIDENT PRO TEM—I understand the gentleman does not care to have it read.

MR. MURPHREE—No, sir; it is just an argument of mine.

THE PRESIDENT PRO TEM—Do you want it read?

MR. MURPHREE—I don't care whether it is read or not.

MR. HEFLIN (Chambers)—I move that it be included in the stenographic report.

MR. MALONE—I move that it be read.

MR. MURPHREE—I don't object to its being read.

THE PRESIDENT PRO TEM—The question is upon the motion of the gentleman from Chambers that this paper be included in the stenographic report.

MR. MALONE—It will take but a few minutes to read his remarks, and the gentleman's voice is weak, I move that it be read by the Clerk.

MR. HEFLIN—If I understood the gentleman's request, it was that it be included in the stenographic report.

MR. MURPHREE—Yes, sir, that was my purpose, but I have no objection to its being read.

MR. HEFLIN—I accept the amendment, Mr. President.

Upon a vote the motion was carried.

The Clerk read as follows:

MR. MURPHREE—I wish to submit the following as some of the reasons why I shall support the minority report.

If there is any one thing which this Convention should regard the most important it is that the provisions of the Constitution we are now about to adopt on the suffrage question should be such as will stand the test of the courts. I believe it is conceded that the majority report could not be successfully attacked, and that the State and Federal courts would declare all its provisions, save one, not in conflict with the Constitution of the United States.

As regards the constitutionality of the second subdivision of section four, familiarly known as the grandfather clause, there exists grave doubts, in the minds of some, as to its constitutionality. These doubts are not the result of hallucination, but on the contract are engendered and supported by the opinions of many of our most learned men in the law, not only here in this Convention, but elsewhere in the Southern States. The minority report is signed by four of our number, who are known for their legal ability, who give it as their opinion that said provision is violative of the Fifteenth Amendment to the Federal Constitution. Ex-Governor Thomas G. Jones, who is acknowledged to be one of the best constitutional lawyers in the State says the same thing. Senators Morgan and Pettus are of the same opinion, and many others of our ablest men of the South agree with them on this point.

As the minority report truthfully says, that 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. The majority of the committee seem to have some doubts as to the validity of the scheme they propose, which is made manifest by 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. I understood Mr. Smith of Mobile, in his able address in support of the majority report, to say that the grandfather clause was unnecessary, as the other provisions would effect the purpose desired without it.

It does seem to me that it is unwise for this Convention to incorporate in our organic law a provision so uncertain and doubtful as to its constitutionality and thereby hazard the success of our suffrage plan. If perchance the courts should declare our work unconstitutional then the people's money, say $70,000, will have been spent and no good accomplished in that of regulating the suffrage. Why take this risk when we can get along without it? I shall vote for the minority report. If it is voted down I will then accept the majority report as being the best I can do under the circumstances.

MR. WINN—When this question of the grandfather clause was first submitted, I was under the impression that to support it would be in violation of my oath of office to support the Constitution of the United States, but after I had been taught by the able and lucrid argument of Judge Walker, the difference between personal rights and political rights, I felt that I had tended been enlightened, and under the argument and splendid speech of our honored Chairman, my judgment, my opinion was formed and crystallized. The ground as to the argument, pro and con, upon this question, has been amply and ably covered by the best men, and the most capable on this floor, on either side of this case. Therefore, I shall not undertake to rehearse any of the arguments. I did want to say, however, that with a conscience void of offense towards God or man, I now heartily and fully accept the majority report of this Committee on Suffrage. In it, I find no conflict with the constitution of the United States, which I have sworn to support, no points therein or friction, between the laws of its provision, and that of God, and it will with the other provisions in the ordinance, accomplish the chief purpose for which this Convention was called into existence. It will endure to the uplifting and betterment of both races, all alike will rejoice, the negro as well as the white man, the negro who is capable of voting will rejoice that the vicious and densely ignorant are eliminated from

the electorate of this State. I had heard nothing said on this floor as to the grand old Confederate soldier, that has distressed or pained me except once, and once I heard the contemptuous expression applied "the old Confederate hoodlum." My God, that man had no appreciation of what he said, he had no appreciation of what those men—even those he so designated—he had no idea of the nobility of their lives, and that they had sacrificed their strength and their vitality until they were wrecks, upon the altar of their country. Mr. President and delegates, I protest against any such appellation to any Confederate soldiers. Look at that poor old tottering gray headed man that he called a hoodlum. Ah, he may be addicted to the drinking of whiskey, he may be addicted to the morphine habit, but do you know, his history? Look at him in 1861—proud, the member of a family that stands as high as any in this Southland, he steps forth a lad of 18 in the flush of his early manhood, strong with enthusiasm, he dons the Confederate uniform, see him as he kissed that weeping mother and sister. See him as he turns and looks into the ranks of the defender of his country, turning his back upon the comforts and luxuries of a happy home and goes to meet the hardships of the march, the dangers of disease, and the terror and carnage of the battle field, see him as he faces undauntedly the very mouth of the cannon, as it belches forth the flame of hell and the missiles of death. Anon he is lost to sight, now we see him again, borne on a litter from the field, mangled and bleeding to the hospital. See him as he suffers there, but at last, under the care of a surgeon, and the gentle touch of Dizie's Maidens, slowly he returns to life. Then see him as his life current begins to throb again, leap back to the front, eagerly taking his gun, and again into the hell of battle. Again and again, he falls wounded. At last, the resources of the country exhausted, the Confederates have worn themselves out whipping the invaders during that long four years. The war is over, and he with a remnant of the army, see him as he returns to a desolate country, a desolate home, property gone, home gone, health gone, and it may be that every now and then, he is racked with pain. Morphine and whiskey his only ease, and because he now and then driven to desperation by constant pain, seeks that relief, you call him a hoodlum. No don't do it, he is now my brother, a noble life, wrecked upon the alter of his country. It occurs to me that he who could use that expression, as applied to the lowliest Confederate soldier, he can find in this broad land, however dissipated he may be, that if he had been at the Crucifixion of the Savior, he would have been the one that would have reviled Him, he would have seen nothing of his glory and power in the past, and would have been incapable of seeing and comprehending its effulgance in the future. He that was called a hoodlum is my brother. In 1861 I enlisted for the war in the Barbour Grays under that splendid gentleman and per-

fect captain, Blackmon, serving twelve months as a private and three years as a surgeon, and did my duty in that four years' service, and it is the proudest record of my life. Yes, I am a Confederate soldier, the grandson, and the great grandson of Revolutionary sires, and I am not ashamed, gentlemen, that at one time during the Revoluntionary war, the nose with the hangman's rope was about both their necks. This was in the native State of South Carolina. They had been active in the service of their country, and when they were captured by British soldiers their death was determined upon, but thanks to the ability of a good old preacher, who preached the same as some of our preachers to this day, praying a long time, the preacher met the procession going to the gallows, and recognizing them, said those are my members, and I wish to talk and pray with them before execution. The request was granted, the preacher talked and prayed but before he said amen, he being familiar with a plan for their rescue, the soldiers of the United States appeared and they were saved. Upon this ground, gentlemen of this Convention, as a Confederate soldier, and being the grandson and great grandson of these sires, I shall demand my right to register as a voter. Talk about the soldier being humiliated, to ask registration along this basis. No, it will be his pride. I can see my four well educated, proud, bouyant boys, grown young men, I can see in my mind's eye when they walk up to the registrar's office and demand to be registered, because they are descendants of a soldier. I can see their cheeks mantle with pride. There is no trouble about humiliating the soldier. The soldier's record is the proudest record of his life. The younger men in this Convention cannot see the glory, the terror, and the trials and dangers of those by-gone days; but let me tell you, gentlemen, even the enemy's praise was wrung from them. Professor Andrews, the distinguished scholar and renowned educator, and captain of artillery in Grant's army, in his lecture on the life of R. E. Lee, after giving the lines and plans of the battle at Coal Harbor, pausing, he exclaimed: "Where can you find troops comparable to that thin gray line; search the pages of history, you can't find it." Years ago it was my pleasure to attend a meeting of the Medical Association of the State of Alabama in the city of Mobile. Well there the kind and generous big-hearted city and profession gave the association an excursion to Point Clear. On the return trip there was a banquet. On our return from Point Clear the face of the waters were disturbed by the breeze to that extent that the boat rocked some. After the banquet we gathered in a group talking and enjoying the occasion—there had been lots of good things at the banquet—beer, champaign and anything you wanted to drink. Doctors rarely ever take anything of that kind, but do occasionally, on excursions I did not see but one doctor under the influence of stimulants and it came to him like a stroke of lightning, in a moment's time he was under its influence. Remember we were all standing and rocking, the boat caused us

frequently to change our positions in order to keep our equilibrium. All of a sudden he staggered back and dropped his hat, got it up with a terrible effort and brought himself back into the circle of the group. He says, "Well, gentleman, I have decided that about the best thing I can do is to keep the motion of the boat." I think that is our position today, brother delegates. We are assembled here from all over the State as brothers, and now, when our labors shall be finished let us all as brothers join hands without doubting and carry out finished work before our masters, the people, for approbation. The best we can do is to take the motion of the boat.

MR. GREER (Perry)—Mr. President and gentlemen of the Convention. It is not my purpose to discuss nor to spend but $32.50 of the State's money in time.

I will also say, barring a few minor amendments, I am now ready to vote for the entire measure as reported by a majority of the committee. I simply desire to call the attention of the members of this Convention, Mr. President, to a few features of the discussions from the standpoint of one who mingles with the masses of the people, and defend them so far as my county and district is concerned, against misrepresentations, intended or implied, made upon this floor and by some of the press of this State, that the records may show they were not allowed to pass unrefuted.

It has been stated upon this floor by one who not only bears the honor as delegate from the State at large in this Convention, but who occupies the position of chairman of the great and dominant party of this State, that "this Convention comes not in response to the demand of the people of Alabama for white supremacy, but in answer to the demand for honest elections. The time has not existed in the political history of the gentleman from Madison (Mr. Walker) and mine when the Democracy of the State need appeal for white supremacy, and there never will come a time when there be danger of negro domination in Alabama. Will you substitute for our present magnificent system of fraud, long tried and well established, a commission established from a central office in Montgomery? The whole scheme is not in favor of fair elections. I will not question the motives of those who presented it, but I declare by the majority of this committee permits the most infamous frauds that were ever planned in Alabama. They provide for a Committee on Registration. They provide means for limiting the membership of the Registration Board. They will register them for this year, and every negro that registers may be over 45 years of age, and be voting 45 years hence. I do not say that they will do it, or that they intend to, but I say that the scheme permits them to do it. I say there are counties in Alabama where it will be impossible to do it, and I say there are counties in Alabama where it will be entirely practicable, and the chairman of

the committee is not ill advised as to some of the counties in which it would be practicable to do it."

Now, Mr. President, there is not a gentleman on this floor for whom I have a more friendly feeling than for the speaker who used the language quoted, yet I must admit my surprise on hearing such broad assertions coming from so able a delegate and chairman of the Democratic party of Alabama. He boasts of "our magnificent fraud" in the one breath and in another speaks for record that the document drafted and passed by twenty-five of the most learned lawyers in the confines of the State after weeks of study and arduous labor, as a scheme and a fraud. He goes so far as to designate by implication where it is practicable to perpetuate this fraud, and the intimation while not in words is that the scheme was concocted for such perpetuation.

As I said in the beginning, I shall not attempt to discuss the technicalities of the provision. I have confidence in the ability and respect the honesty of the whole committee and accept the report at its face value. I simply wish to refute, sir, that my constituency have joined hands in the reconstruction of the organic law of this State with other than honest motives I hail from a section, sir, where the negroes are as numerous as the plovers in Texas and the pickaninnies rollick among the magnolias like monkeys in a cocoanut forest. A section where the cotton bloom is the emblem of prosperity, education and refinement and in the sinewy muscles of the black man love's labor is found and not lost. I represent a people who in working out their own political salvation have worked out the salvation of the State. Then to question the honesty of this people at an epoch in our history when permanent white supremacy is in easy grasp is like smiting the breast that nursed you. I speak by authority when I tell you the Democrats of the Black Belt have tired of the notoriety that they are their brother's keeper and theirs is the home of ballot-box stuffing and political thievery. I tell you honestly and candidly, if this Convention should disfranchise the negro even at the sacrifice of representation in Congress and at home, my people will rally to your flag and ratify your action.

It has been said by a delegate, we need have no fear of negro domination in Alabama. I tell you, we people of the Black Belt do fear such domination. While it is true peace and harmony exists between the races, and the negro is no longer a factor as against the social and political interests in the Black Belt, with the probable and almost certain formation of two strong political parties in this State as one of the results of the new constitution we are now framing, and he is again allowed the free franchise as under Republican rule, without restriction, history will repeat itself and the spirits of the sires now resting in death will witness the shot-gun they once carried, in the hands of their children, and

sentries regularly walking their beats to protect our homes and our firesides. And, if their noble spirits can reason as in life, they will picture anew in their mind the prison cells in this city, the flashing bayonets of negro soldiery and the harsh command of negro officials as they closed against them the dungeon door, with no Angel of Mercy like unto him who unshackled the Apostle, have a brave and defiant manhood.

Strange, but true, that with all the honors and reputation achieved by the Black Belt in war, in statesmanship, in letters poetry and song, we are best known to the people of the State—yea, even to the Chairman of our party, by our political notoriety. Members of this Convention have almost wept with joy when they would tell us how anxious they are to relieve us of the negro incubus forgetting the fact that for a quarter of a century the Black Belt has piloted the old Democratic ship from among the breakers on divers occasions and saved her from wreckage. They fail to conceive how the negro can be disfranchised except when we need him, and good will, good cheer and prosperity reigns supreme in the Black Counties, while it takes dollars and limited social equality to vote him in the white counties. It is an art, gentlemen, learned only by experience, one fraught with danger—a "magnificent system" that can not be inherited or perpetuated. It is an achievement of faith with the evidence not seen. It is Christianity, but not orthodox. It is prime but humane. It is wrong but right. It is justice but injustice. It is life instead of death. That this subordination will continue, we do not believe. Even in the election of the delegates on this floor, through our sheriff it was learned that a threat had been made that an effort would be made by the younger negroes to concentrate their forces and control the election. It was purely out of fear they did not attempt to put their plans into execution. Nightly meetings were held and this Convention discussed, and while none become sufficiently emboldened to tell their secrets, it was plainly seen that under a proper leadership they would have entered the contest even at the risk of certain bloodshed.

Aside from these conditions, we believe the time has come to eliminate this iliterate vote and teach the youths of our country that the ballot is sacred and should and must be protected and defended against any and all efforts to pollute. While we appreciate the fact that the time was when, to protect our homes and families, it was necessary to pursue another course, that time has passed, and, with due reverence for the fathers for their bravery and chivalry, the Black Belt is now ready to about-face and lend her aid not only to purify the ballot, but to leave no mark of unfairness upon her escutcheon when the voice of the white people is expressed at the polls. When such is the sentiment which permeates a section that has stood as a stone wall in upholding white

supremacy, oftimes marching almost into the jaws of death, as did the four hundred, is it fair or just to question our motives or charge us with infidelity? This is the time of all times, Mr. President, for unity of action among the white people of Alabama, without regard to political fealty. No white man, who is a white man, should be placed in position by any act, word or deed, by this Convention to have his hair dishevcled and his good temper disrupted by unweighed words that might create discord. This Convention should not go out of its legitimate province to unfairly criticise and impugn the motives, and, perchance, weaken the chance for the success of the cause we were called here to promulgate.

Now, in conclusion, let me say, there may be no fears that the Black Belt will not sustain the action of this Convention. Like the soldier on duty, she knows not how to disobey orders when her party speaks. She appreciates the wisdom and learning of many who compose this Convention and has confidence, despite the chaff that has been blown, that when the work is completed the fundamental law of this State will be worthy of endorsement. Her people are those of culture and refinement, the opinions of some newspapers to the contrary notwithstanding. Her colleges are found at every county seat and her public schools almost as numerous as the readers of The Birmingham Age-Herald. We long for an influx of white people to take advantage of our fertile soil, healthful clime and popular schools. This influx will come when it is known for certain that there need exist no fear from our negro population.

I believe, Mr. President, that the action of this Convention means not only a new era for Alabama, but marks the beginning of a new era for the civilized world. The flag of the nation now floats above many isles of the sea. Our commercial interest extends throughout the civilized globe, and I believe the time will come when the progressive strides of the English-speaking people will encompass the globe, and our principles of free government will be embodied in the laws of every nation—yes, when America herself shall be bounded on the east by the rising sun, bounded on the south by the Terredelfuaga, bounded on the north by the auoroborealis and bounded on the west by judgment day.

MR. BULGER—It is not my purpose to undertake anything like an elaborate argument at this time, but simply and briefly to give some of the reasons for the position I occupy on the report of the Committee. On account of the magnitude and widespread importance of the pending question, the Convention has acted wisely in providing that every delegate shall have an opportunity to express his views. On this floor we have all the political parties, both State and national, represented—the Democrats, the Republicans, the Populites and those few who yet have faith in the free silver and the gold standard doctrine. I believe it is right and

proper that we have an expression of the views of all of those gentlemen. We are not making a Constitution for any particular section or any particular party. We are making a Constitution for all the people of Alabama. At the very threshold of our efforts to solve this great problem with which we are confronted, we met with two proposition, plain and simple. Is the grandfather clause constitutional? Is it right? Will it stand the test of the Supreme Court of the United States? Will it stand the test of our own conscience? These questions, my friends, must be answered; they must be answered today. When the hands of the timepiece that hangs on this historic wall have pointed to the hour of twelve, each man on this floor, for himself, must answer Yea, or Nay. In passing upon a great question like this time and labor should not enter into the consideration. The Committee is hopelessly divided. They have so announced by presenting to this Convention two reports—The minority and the majority reports. Both of these reports are backed by ability, by patriotism and by honor. The majority say that the grandfather clause is constitutional and right. The minority say that the grandfather clause is unconstitutional and wrong. What is a layman to do? There are one hundred and thirty members of this Convention who are not members of this distinguished Committee. My friends, we are confronted with the necessity of investigating for ourselves. Unlike the distinguished gentleman from Jefferson, who addressed this Convention in the outset of this argument, I have the profoundest confidence in the patriotism and in the honor of every member of the Suffrage Committee. I am not surprised that this Committee, after six long weeks of research and thought and consideration, have presented to this Convention an article on the suffrage that has not only attracted the attention of the people of Alabama, but of the people of the whole country. I say I am not surprised that men like them should write an article on the suffrage that has attracted the admiration and approval of the people of Alabama. This committee does not come from any one place. The members of it come from the cities and the country; they come from the Black Belt and the hill countries; they come from the mountains of North Alabama and the flat lands of South Alabama. They come from every section of the State; they are not confined to one occupation. On that Committee we have lawyers and doctors and merchants and bankers and farmers. No wonder they have written such a report. In support of the position of each side—of the majority and of the minority reports—they have not only entertained this Convention with their argument, their logic and their oratory, but they have presented to us decisions upon this great question. I, for myself, have taken the time and the trouble to investigate every one they presented. I believe that four of the cases presented by the advocates of both the majority and the minority reports settle the question about which we have been talking so long. The case of Minor

vs. Happersett in 21st Wallace, the case of the United States vs. Cruikshank, and the United States vs. Reese in the 92 U. S. Reports and the late case of Williams vs. The State of Mississippi, in my humble judgment settle this question as to its constitutionality. They all decide the fundamental principal upon which this clause must stand or must fall. They say that the Federal government has no power to regulate the right of suffrage in the States. Non-constat, the States have the right to regulate their own suffrage. Then we only have to read the fifteenth amendment which puts a limitation on our right to regulate suffrage. It says that no citizen of the United States shall be deprived of the right to vote "on account of race, color or previous condition of servitude." There are three reasons, there are three limitations that you shall not deprive a citizen of the United States of his right to vote, because he belongs to the African race; you shall not deprive him of his right to vote because he is a black man. You shall not deprive him of his right to vote because he has been a slave, but it does not say anywhere that you shall not deprive him of his vote if he is a man of bad character or if he is a man who fails to understand the obligations of a citizen of the United States. If I were on the Committee on the Harmony and Order of the Constitution, I would reverse the report of this Committee just a little. I would put the good character and understanding clause first. I would measure every citizen who offers to vote by that clause. We all agree that that is constitutional. Then I would make an exception of the old soldier and the descendants of the soldier. I would write the grandfather clause next. Now, is it constitutional? Are we prepared to answer that question today? For myself I am. I am ready on that proposition to answer yea. Then we go a step further. Is it right? Can I answer yea on this proposition and satisfy my own conscience. If I can then I have discharged the duty—the important duty, the main duty, the most prominent duty I was sent here to discharge. We have fixed the suffrage clause.

Right here, in this historic hall, forty years ago, your fathers signed the ordinance of secession, picked up their hats and walked out of the Union, and the tocsin of war was sounded from the rock curbed coast of New England across the country to the Rio Grande. The patriotism of the North rallied around the Stars and Stripes; the heroism of the South rallied under the Stars and Bars of the Confederacy, and they waged for four long years the most bloody war recorded in ancient or modern times. The brave men of the South laid down the plow and the hoe; they went to the battle front for what they believed to be a great underlying principle of our government, and they poured out their blood like water. They followed Lee and Jackson four long years through blood and smoke and fire from Sumter's coast where the first shot was fired to the famous apple tree where Lee surrendered. Those are the

men I would exempt from the understanding clause. I would build a monument here today when the roll is called to those heroes of the Confederacy that would last longer than time. The good women of Alabama, out yonder on Capitol Hill, hard by the cradle of the Confederacy, have erected a monument, looking toward the skies, which will tell future generations of the patriotism, and the heroism and the courage of the soldiers of the Confederacy. (Applause.) It is built of marble and stone and steel. I would write one in the Constitution and I would build it of principle and when this old historic building has passed away and when that marble and stone and steel that stands out yonder is unknown, that principle will continue to live. Great men and great statesmen live; great men and great statesmen die, but great principles never die. (Applause.) I would build a monument like that to those heroes of the Confederacy, and I would do it without regard or without comparison to the inferior race in our country.

For thirty years the negro has had a fair and a full part as a citizen in Alabama. He has proven himself incapable of local self government. At every election he is the subject of barter and a sale. If you let him alone and let him vote his sentiments and his free will, he will vote against the white man and against the interest of the country. There are only two ways by which you can control him. You must either buy him or steal his vote. I am opposed to either. I would rather eliminate him from politics and let the white men of Alabama control Alabama.

MR. HANDLEY—That is the doctrine.

MR. BULGER—It is better for the white man; it is better for the negro, and it is better for the country that it be done. I would give him a fair and an impartial trial, when his life or his liberty or his property is involved.

I like the grandfather clause because it is a white man's clause. I like it because it practically permits all white men to vote, and it practically denies all negroes to vote. The grandfather clause my friend is not an experiment. It is in the Constitution of the State of Louisiana, and against the protest of both of their United States Senators, against the protests of many of the prominent newspapers in Louisiana, against the protest of more than half of the Representatives in Congress, yet the people in Convention assembled wrote it in the Constitution and it went back for their ratification, and by a large and overwhelmingly majority the people of Louisiana say it is right.

The people of North Carolina put it in their Constitution against the protest of both of their United States Senators, against the protest of their members of Congress and many of their newspapers, and the people of North Carolina say it is right. The people in this country are the power. When they speak, United

States Senators, Congressmen and newspapers are in the minority. Make a Constitution that guarantees to the people a free vote, a fair count and an honest election, put a clause in it that redeems the pledge of the Democratic party in Convention assembled, that we will disfranchise no white people. Go to the sovereign people in Alabama on an honest platform like that, and the opposition to the grandfather clause can no more be in the way of its ratification than the tiniest bush can stand in the track of a mighty storm. (Applause.) You must have the tolling masses; you must have the good people of Alabama behind you; you must have the men who make the cotton and the corn; you must have the men who built the magnificient cities in our State; you must have the men who lay the brick and the mortar. You must have the men who build the roads and put down the ties. You must have the men who stand at the throttles of our factories and our railroads and great enterprises; you must have the men who are behind the great engine of progress that has made Alabama the greatest State in the Union, to ratify your Constitution. You must have the endorsement of the people, the lawyers cannot do it, the merchants cannot do it, the politicians and the states cannot do it. If this Constitution, my friends, is ever ratified it must be done by the common people of Alabama. If the minority shall succeed in striking out the grandfather clause they will have been successful in striking out the white man's clause, and this Convention would be deprived of the great opportunity of going to the people of Alabama on a question of ratification with the magnificent declaration that we provided for the old soldiers of the Confederacy.

Now, my friends, I am admonished that my time is out. It is a difficult matter to run a speech on a great subject like this, right up to the minute in thirty minutes. I thank the gentlemen of this Convention very much for the attention they have given me. Up to this time in this long and heated debate, I have been content to listen to the distinguished gentlemen on this floor. I have been especially interested in the speeches of the gentlemen who argued along with the President of this Convention, the legal position. I have been especially interested in the speeches of my friend here from the county of Randolph and my friend from Tallapoosa, who have presented the business side of this proposition. Now, Mr. President, I thank you again for this opportunity to express my views to this Convention.

MR. LOMAX—When I heard that there would be a minority report on the Committee on Suffrage and Elections I hoped that in that minority report which, in my judgment, struck down the best feature of the report of the majority, that there would be some suggestion of a remedy, some intimation of a scheme by which we could accomplish the great purposes for which this Convention is assembled, and in that hope I was disappointed. The report of

the minority contained nothing but doubts as to our future, prophesies of evil, predictions of disaster and forebodings of calamity, and with those predictions and those prophesies and those forebodings they offered to this Convention nothing which in the judgment of any candid man could meet the situation in which we are placed, or could accomplish the purpose for which we are assembled.

This great movement which has taken place already in Mississippi, Louisiana and in North and South Carolina, this great movement in which today the people of Virginia and of Alabama are acting, must have been founded upon some great cause that needed a remedy. The States which I have named have already acted. Alabama and Virginia will act, and those States that have not done so will act hereafter, and they will act because they believe that the time has come to put a stop to frauds in elections; because they are unwilling to continue a system which makes perjury honorable and bribery a badge of distinction, because they are unwilling to impose on posterity the awful incubus under which we labor, and which is honeycombing the morals of our people with fraud and perjury, because they desire their children to be reared in an atmosphere of moral purity, because they wish to establish a purified electorate, and to decree a perpetual reign of virtue and intelligence, and when they have so acted, they will be sustained by the moral sentiment of the world and no power of finite intelligence will dare to disturb their decree.

Now, what are the objections that are urged to the plan of the majority of this Committee? These gentlemen expressed the opinion, one of them at least, very doubtfully, my distinguished colleague from Montgomery (Governor Oates) that what is called the grandfather clause is unconstitutional. That is a misnomer as has already been said. It is not a grandfather clause, but they have succeeded in fastening that name upon it, and therefore I will so consider it. I do not propose or purpose or intend to go into a legal argument upon this proposition, but from my reading of the decisions and from what I have been able to gather in the course of this debate it is my opinion that this clause is not unconstitutional. The proposition it seems to me is this. That unless it is plainly written in the letter of the law, or plainly established in its administration by the agencies of the State, that a discrimination is made because of race or color, or previous condition of servitude the clause must stand as constitutional. No court can look at the letter of this law. No court can look at the manner of its administration, if it is administered as it is proposed to be done, and say that there is written either in its language or in its administration any discrimination against any man because of his race or his color or his previous condition of servitude, and therefore it stands to reason under the great weight of authority that the clause is not unconstitutional.

It has been said that this is a great scheme on the part of the Black Belt—I do not mean merely upon the floor of this Convention, but in public press—that this is a great scheme on the part of the Black Belt to perpetuate itself in power in Alabama. Who, gentlemen of the Convention, started the call for a Constitutional Convention? It came from the Black Belt of Alabama. They wanted relief from the terrible situation in which they had been for twenty-five years, they wanted to stop fraud in elections; they wanted to put an end to those influences which were corrupting the morals of their people, and they persisted in that call until, by the direction of the sovereign people of Alabama, you are here in convention today, seeking relief from fraud, begging that the incubus of perjury be taken off their shoulders, urging a purified electorate. We are told here that, when this Suffrage Committee has reported it is a scheme on the part of the Black Belt to perpetuate the methods which have heretofore always prevailed, and to entrench themselves in power, and it is said, that as a part of that scheme we have put in that grandfather clause to temporarily catch the votes of the white counties, knowing that it will be stricken down by the Supreme Court of the United States, and that therefore they will be excluded from suffrage under the permanent plan of the Committee, when the registration has taken place under this grandfather clause, with the other clause in it that permits registration because of good character and the understanding of the duties of citizenship. I ask you, gentlemen of the Convention, what court can determine that the men who are permanently registered as voters, were registered under the grandfather clause, or the clause of good character and understanding? It is impossible for that to be determined by any court, and therefore the men who come into our registration under this grandfather clause will be permanent voters and there is no court in the world that can strike down their rights. But it is said that it creates a permanent and hereditary class. It is not hereditary, because no man secures the right to vote by reason of the fact that his father had it, and it is not permanent because the man upon whom it is conferred must soon pass away. It is said in further objection to the clause that it will insult the white men who cannot read or write—that it will insult the sons of Confederate soldiers who cannot read and write—to make them come into the electorate under such terms. Insult them by saying that because your father went forth to die in glory with Sidney Johnston, or to live in immortality with Robert Lee you shall have the right to vote? They will wear that right, gentlemen of the Convention, as proud a distinction as you old men wear upon your breast the bronze badge of courage put there by the women of the South. (Applause).

We are told that the adoption of this plan will make capital timid and check immigration. We heard before this Convention

met, and I read it in an article prepared by my distinguished friend from Montgomery (Governor Jones) that capital was timid, that industry halted and immigration stopped at the doors of the State where the suffrage was subject to manipulation. We come into this Convention and we offer a plan that forever stops manipulation of the suffrage, and we are told that if we do that thing, capital will become timid, that investments will stop and immigration will fail to seek us. Where is the country, and when in history did it ever occur that capital was timid of entering a State where the reign of virtue and intelligence was made permanent and eternal? When did it happen that immigration ran away from the borders of a country where an electorate was established of the highest morality and the strictest virtue? That is the object sought by this Convention. That is the object that will be attained by this Convention, and I deny that proposition that such things will come to us as the result of our action.

They tell us further that Southern representation in Congress and in the Electoral College will be cut down if we abandon universal manhood suffrage. California, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, Pennsylvania and Vermont do not have today universal manhood suffrage. Can they strike down the representation of Alabama because we abandon universal manhood suffrage, and let these State retain their representation? And suppose they do? Suppose our representation is reduced. I submit to you, gentlemen of the Convention, that reduction in representation is a small sacrifice to make for pure elections and the supremacy of virtue and intelligence. (Applause). Ah, but they make more dire predictions than that. The distinguished gentleman from Lee told this Convention that it might happen in the event that this suffrage clause was adopted, that Alabama would again be reconstructed. Strike down a Southern State by reconstruction; destroy its form of government; make its every bond, State, county and municipal absolutely without value; paralyze its industries; close up its furnaces and factories, and reduce it to the condition of a conquered province, because that people have risen in their manhood and said that fraud and perjury shall disappear forever from its limits? Will they do it? Ah, gentlemen, even if they dared attempt it the voice—the still but potent voice—from Wall Street that sent the flag to Porto Rico, but held up the Constitution when it undertook to follow the flag, will say to those people that attempt it, "Murderers, stay thy hands!" and it will be stayed.

We are told further, gentlemen of the Convention, that if we establish this plan, the negro will leave the South, will leave Alabama. Where will he go? Will he go to Mississippi, to Louisiana, to South Carolina or North Carolina? He will be met upon the threshold of those States with the precise condition that he oc-

cupies in Alabama. Will he go to Illinois? Some of them went there but yesterday, and they had to be guarded in their cars with shot-guns, until the engine could fire up and bring them back to the South. (Applause). Will they go to Africa? The failure of the Nineteeenth Century was the Republic of Liberia, and, however much of philanthropic money there may be north of our borders, there is not enough to establish a colony of 10,000,000 beings and maintain them until they learn the arts of free government. They will not go. The old negro upon the Southern plantation and his son cares nothing for the right of suffrage. The majority, and a vast majority of them, are content to stay where they have stayed since they were born, and are content to labor so long as they are met with justice and fair dealing, and those who may want to go, who may feel upon them the awful responsibility which declares that they must participate in government, if they go and leave the others, they will establish rather a period of happiness and contentment than a period of distress or disaster.

But we are told, Mr. President, that if we adopt this scheme, these Registration Boards will destroy the rights of the people I have been surprised at the distrust which has been evidenced in this Convention of the people and their officers. When we had the Executive Article up, it seemed to be the supreme purpose of the Convention to hedge around the Governor and the State officers with legislation, upon the theory that they were all not entitled to the trust and confidence of the people. When the Legislative Article came around, we found the same distrust the men selected by the people to represent them in the making of laws, and, when we come to this Election Article, the same spirit of distrust comes up, and says we cannot trust these men to be fair; we cannot trust these men to be honorable. Is republican government a failure? If we cannot trust the Executive Department if we cannot trust the Legislative Department, if we cannot trust the men who are to manage this registration, then popular government must be on its decline, because the people must have gone so wrong that they select men for public office unworthy of the great trust imposed upon them, and we are ready, if that be true, to adopt the suggestion that came but a few days ago from Australia that our government in America had failed and that it was best for us to once more accept the sovereignty of the British Empire. I do not believe that free government is a failure. The very movement that produced this Convention shows that men are capable of self-government. Here when after the war these people had been stricken down, their right to vote had been taken away, the thirteenth, fourteenth and fifteenth amendments had been passed for the purpose and with the object of putting the black heel upon the white throat,—these people here said you have undertaken to tie us down by every means that you can, but by the blood of our Caucasian ancestors who fought and secured this land in which we live, we

will rule it by the shotgun or by fraud. For twenty-five years they have ruled it. By the same token they could have ruled it for twenty-five or fifty years more, and yet because that fraud was wrong, because they did not want their children to grow up in that atmosphere, because they wanted to establish purity in morals in public and private life, these people rising "from the stepping stone of their dead selves to higher things," declare that with all this power we will have a Constitutional Convention, and take away the possibility of fraud in Alabama forever, though it means our own defeat. (Applause.) Tell me that with such a people free government is dead? Tell me there is no patriotism in men like that, and I tell you, gentlemen of the Convention, it took patriotism like that which sustained Washington and the Continental Army amid the gloom and despondency and snow and ice of Valley Forge, and made possible the splendid triumph of Yorktown. It took a patriotism like that which sustained the men of 1812, who, notwithstanding the disasters that laid waste their country and devoted their capital to the flames, enabled them to hurl back from the soil of freedom the red cohorts of British invasion. It took a patriotism like that which sustained Zachary Taylor and Jefferson Davis upon the historic field of Buena Vista and sent Scott in triumph to tread unchallenged the halls of the Montezumas. It took patriotism like that which sent Pickett to the top of Missionary Ridge, and enabled Hancock to hold those historic heights at Gettysburg. A patriotism such as that must live forever, and keep free government alive so long as the people are true to the principles of their country and the traditions of their race.

Now, gentlemen, I am not here, and we are not here, to disfranchise the negro race alone, we are here for a higher purpose and a nobler end. That purpose and that end is to establish pure elections in Alabama. I was born in this State; I expect to die within her borders, and I wish to contribute all that I can or have to her welfare and her prosperity, and I feel—I feel it in my very bones—that when I have voted to put upon the people of this State the plan of the majority of this Committee, I will have done all that man can do to insure her peace, prosperity and power. (Applause.) When this Constitution shall have been ratified by the people, we will have assured the supremacy of virtue and intelligence in our great State, we will have stricken down forever fraud and corruptions in elections; we will have driven from the field of politics all temptations to strife and eradicated all elements of discord along racial lines, we will have softened, graced and ennobled the spirit of party, and driven the bandit propensities skulking to their dens, we will have builded anew the foundations of morality and truth in public and private life, and laid broad and deep the beginnings of an elevated and high-minded citizenship, devoted to the arts of peace, drinking deep at the fountains of knowledge, alert and vigorous in the upbuilding of a great State, wherein

there shall be found a population of millions of moral beings, engrossed in a proportion far beyond that of any other in the world, in the toils of agriculture and manufacture and commerce, and the music of whose unnumbered industries shall beat a quick-step to the world's progress, and in the era of peace, prosperity and power that will come to us, our people can exclaim with truth and with thanksgiving, "At last! At last! the dangerous, troubled night is o'er and the star of peace returned." (Applause.)

MR. SMITH (Autauga)—The hour has about arrived for the closing of this debate, and it is now my time to present my views. This is the Alpha and the Omega. Autauga County is the first alphabetically at the head of the list of counties, and if I should consult my pride I would say that it is in every respect first, but I gracefully yield this position to the honored old Chairman of the Suffrage Committee, and if he desires to close the argument, we would yield likewise the position to him.

Mr. President, it seems to me, sir, that this question has been discussed from every imaginable standpoint. It has been discussed from the legal and constitutional point; it has been discussed from a moral and a natural standpoint, and ably so, and by some from a very unnatural standpoint, so I shall only undertake to make a few scattering remarks.

Fellow delegates, I feel that a medal should be awarded to the President of this Convention for selecting twenty-five noble and learned men from this body, who have in my opinion given us under the existing circumstances the best solution of this entire suffrage plan that could be originated by men. Like brave men they fearlessly entered the old ship of state and have guided her through the breakers down the narrow channel, four of whom, however, through caution, have said with some doubt in their own minds that there was danger ahead. Not so say the majority of the crew, and I feel, sir, that they will soon land here into a haven of peace, virtue and prosperity, and then all the honest and good men of this nation will rise up and call them great.

Mr. President, if we do not lock horns—and I do not think we will—with the Constitution of the United States, then, sir, I feel that we should honor the old soldiers and their descendants. Rich are the treasures America has given the world; wonderful the countless ore and inventions and discoveries with which she has enriched mankind; beautiful the masterpieces of her art, but the most glorious jewel in the crown of her brow is that of her heroic sons who have fought and died for what they thought was right. Now, gentlemen, if you want to honor the memory of those who struggled. Could you take their vote today what would be their answer, louder than the roaring of the artillery? "If you would honor us, honor those for whom we died." Mr. President,

we see that our Northern friends have made it a special privilege that appointment to office must go to their old soldiers, or to descendants of their old soldiers, and they also contribute largely to their financial wants and we have nothing of this to give, therefore, Mr. President, I thank God for this opportunity of showing our appreciation and gratitude to those who wore the grey.

Mr. President, it seems to me that Congress, though they may be composed mostly of Republicans, would give us a helping hand when they find that we are trying to establish virtue and honestly in our State.

I have patiently listened to the various discussions on subjects pertaining to our fundamental laws, and I have tried to vote intelligently on all questions, and I feel that every principle of government pertaining to the great interest of our State has been properly guarded by the friends of every measure. But, Mr. President, I have heard statements made here which have gone down in history and out to the world by some men of this Convention that make my heart sad. Yet we are bound to admit that their statements are, to a great extent, true. The distinguished chairman of the Executive Committee said that mob law was on the increase, and it was brutalizing and misleading the young men of our country, and the other distinguished statesman assails the grand jury system, and desires that the Judges shall arraign the criminal as if the Judge, as well as if all of us, were not particeps criminis to the great evils that spread over our Southland.

Mr. President, I beg these gentlemen to take their hands off of the Sheriff and grand jurors of our State, for they know when the fountain-head is poisoned, the stream is likewise affected. The question is, who poisoned the fountain-head?

Now, Mr. President, I cannot hope in going over ground so often trodden to offer anything remote from common observation and thought; but I do say, sir, that the fifteenth amendment of our national Constitution, and the advocates of social equality are responsible for these great wrongs, not only in the South, but in every other State in this Union. Yes, gentlemen, I dare say that the Force Bill would have been placed on our people had the advocates of this measure not been uneasy, through fear, that they would have met the fate of the Thracian King who fed his horses on human flesh and afterwards himself became the victim of the unnatural appetite which he had stimulated.

I hold, Mr. President, we were bound under these existing circumstances, in order to protect our firesides, our homes and our families, to do things which, within themselves, will work a change. And I feel, sir, that at the beginning of this, the twentieth century, that the God of Creation has permitted Alabama to call her sons together on this occasion to begin this great reform. I

say, sir, that the Republican administration, which added the fifteenth amendment to the Federal Constitution, caused a dark cloud to spread over our political sky, equal to that which Byron has so vividly depicted as coming over our material world:

"When the bright sun was extinguished, and the stars
Did wander darkling in the eternal space,
Rayless and pathless, and the icy earth swung
Blind and blackening in the moonless air:
Morn came and went and came, and brought no day,
And men forgot their passion in the dread
Of this, their desolation.
And all hearts
Were chilled with the selfish prayer for light."

And we have for more than a quarter of a century struggled under this political cloud, with a people whose morals are today, in my opinion, worse than they were twenty-five years ago, notwithstanding they are being educated at the expense of our people. And it is the young negroes that give us so much trouble. This is not confined to the South, but alas, in the North and West. There is no doubt, Mr. President, that the learned statesmen, though Republicans, lost their reason on account of passion, when they permitted a race, which sustained the relation of slaves to those who founded our government, and who had heretofore controlled its affairs; and their admission to equal participation in the administration of its affairs, was something never known to the history of the past, and it has shown to the world, that "virtue and intelligence are the only security of republican institutions, and that a government which does not represent the property and ability of her States, has not stable foundation.

It it a well known fact, as the great statesman, scholar and orator, Bourke Cochran, said in this city, that the fifteenth amendment is a failure. Notwithstanding all of these known facts to history, our Southern States are compelled to call a Constitutional Convention in order, in some way, to get rid of this great evil, so we can protect the negro as well as ourselves; and I sincerely hope that a new morn will, e'er long, unbar her gates and dispel the dark clouds that overhang our political sky; for it seems now, that office and place are bought and sold as things in the market.

In promoting the aims of the ambitious, the arts of the demagogue are more potent than the virtues of the statesman. These are melancholy truths—facts to be lamented—but they should not cause us to despair of the future. In accommodating ourselves to the changes and turning them to best account, the great difficulty is to disengage ourselves from the past, especially the recent past and take hold of the present, to grapple with its issues, to march up to their lines, and in the contest of ideas to extract the truth and put it to use, practical use.

I hear good men in this Convention, doubting the ratification of the Constitution to be framed here, because of some, comparatively speaking, little, insignificant matter. God forbid that this feeling should rest in the bosom of any good man in this State. Anyman who loves his children, and who wishes to raise honest boys, who wishes to have pure elections and good government, and who wishes to stop this wholesale confession that Alabama is almost in a state of anarchy, by assailing the grand juries and sheriffs of our State, will not hesitate for one moment to do all in his power to accomplish this end. And I hold that no man, saves he who feels that his fate is fixed to be a slave and his children after him are to inherit his condition, such a man has no incentive to use his faculties, except to provide mainly for the wants of his lower nature. He, and he alone, can afford to oppose a Constitution which will bring our State to honor and glory.

Now, gentlemen, with pure hands, let us gather together the broken fragments of the grand old temple that our fathers erected, and from these sacred relics rebuild its columns and arches, and again raise its proud dome, towering to the skies, to stand in all coming time a fitting memorial of their skill and patriotism, and an enduring monument to virtues of the illustrious dead!

MR. COLEMAN (Greene)—Mr. President, the hour is approaching at which we will be required to take a vote, according to the resolution which has been adopted by this Convention. There are several gentlemen who desire to place themselves upon record upon this question. I move that the rules be suspended (expressions of dissent.)

THE PRESIDENT—The gentleman from Greene will proceed to state his motion.

MR. COLEMAN (Greene)—I move that the rules be suspended and that the vote be taken at 1 o'clock today, and that speakers be limited in their speeches from now until that time to not exceeding ten minutes.

MR. PILLANS—That requires a suspension of the rules, Mr. President.

THE PRESIDENT—The question will be first upon the motion to suspend the rules.

A vote being taken the Convention refused to suspend the rules.

MR. COLEMAN—I regret very much that a number of persons have not had an opportunity to express themselves upon this great question, so that the members of this Convention from other portions of the State might have an opportunity to know the sentiments of the people whom they represent. As the rule requires

that the vote shall be taken at 12:30, I propose in the mean time to exercise the right, and that which is expected of me, to consume the next ten or fifteen minutes. I do not expect the delegates of this Convention to fortify the legal propositions which have been stated before you, which have been discussed with so much ability, and which it seems to me, to any unbiased mind, have been conclusively established. I propose, however, in this short time, which I have, in my own common sense, and commonplace way, to supply some material for argument, if it should be required in the discussion before the people, upon the ratification of this Constitution. While the illustration of the delegate from Jefferson was homely, and perhaps beneath the dignity of the subject, inasmuch as it has been commented upon more than once in this Convention and carries upon its face that which would deceive or mislead, I will use his homely illustration by way of defining what I understand to be meant by the phrase "You cannot deny or abridge the right of suffrage to any citizen because of his race, color or previous condition." Now if the delegates will remember, the homely illustration was that of the sow and the pigs, making a crack by which the pigs could escape, and the sow would be confined, and he ask you if that was not a discrimination. Of course it was, but the vice of the gentleman's argument was this: He did not state the whole case. The question is, why was the sow confined in the pen, and why were the pigs permitted to run at large? If the sow was confined there because she was a sow, it was a discrimination on account of her race, but if the sow was confined there on account of her vicious habits, it was a discrimination because of her habits, and not because of her race. The proposition presupposes that there was somebody in control of the sow, and I venture to assert that if you will go to the owner and ask him the question, "Why did you confine her in that pen?" he will tell you that it was because of her predatory habits, that she visited the poultry yard or got into the melon patch, and they were compelled to confine her in the pen. That is a simple illustration of the law. That is what is meant by denying or abridging the right to vote on account of race, color or previous condition; but it makes no difference whether she was a black, razor-back or a red sow. I intended to elaborate these questions somewhat at length, but the gentleman cited from the Stringfellow vs. Ivey case, to show you the danger that when an improper consideration was framed in a law that the whole might be stricken down, and he was even more unfortunate in his illustration. The case of Stringfellow vs. Ivey was this. When a man sells lands, he has a lien upon that land for unpaid purchase money, but no lien upon personal property for the unpaid purchase money. Mr. Stringfellow purchased from Mr. Ivey a piece of land and agreed to pay him so much money and a stock of goods, in a lump sum. No it not being paid, a bill was filed to enforce the vendor's lien. The courts held that the lien could not be enforced, because the con-

sideration consisted of land and personal property. There had been no agreement as to the value of the land, and the value of the personal property.

And, herefore, the court could not tell how much was due for the land and how much was due for the personal property, but the court held, and have always held, that even though the consideration consisted of a sum if one note had specified how much was to be paid for the land and how much to be paid for the personal property, the courts would have upheld that for the land, and discarded that which was for the personal property. I mention this to show you that in the writing of this section under consideration, we have carefully guarded against every legal danger of having the law stricken down. I desire to simply call your attention to the law upon this subject. When part of a statute is unconstitutional, if that which remains is complete within itself, and capable of being executed in accordance with the apparent legislative intent wholly in accord with that which is rejected, it must be sustained (65 Ala.) Now, those gentlemen admit that the understanding clause, as we will designate it, is constitutional. They admit that the soldiers' clause is constitutional. This proposition says that if that be true, that even though you strike out the descendant clause, the whole of the remainder of the fabric would stand, and be sustained by the courts. I do not make this argument because of any apprehension that any part is unconstitutional, but simply to show you the falsity of the argument they have presented. There is not a proposition adduced here to sustain them. They have been overthrown by argument, and even upon these simple propositions they relied on so much there is not a decision or principle of law that sustains them. I will read you only one more line, and that is upon what courts have declared to be the law where you deny the right of suffrage upon the ground of race, color or previous condition. I say it is one which may be exercised to the full limit if the abridgement is made not on the point of race, but upon the point of characteristics of the parties excluded. Here is the case: 170 U. S.—the last opinion upon this subject. This is the Mississippi case. The court says: "Restrained by the Federal Constitution from discriminating against the negro race" (that is the Mississippi Convention) "discriminates against its characteristics, and the offences to which its criminal members are prone." No exception is made to it. "But nothing tangible can be adduced from this," says the court. 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." Could anything be plainer than that? "And the means of it were the alleged characteristics of the negro race, not the administration of the law by officers of the State." I do not see, delegates, what may be said in addition to what has been said. The whole argument that the Constitution is in danger if

any part of it should be declared null and void is without any support either by authority or reason. When you say you put a standard to which the negro cannot attain, and our legislation is confined to his characteristics—and it is certainly confined there—the very latest exposition of the Supreme Court of the United States sustains us in that position. But the gentleman has cried "fraud." I will ask him to rise in his seat if he is here, and tell me what court, and at what time a court has ever declared a statute to be void on account of fraud, much less the organic law of a State. Fraud enters into transactions between parties, but you heard the principle discussed here time and again in regard to the Shelby County case, that they had no relief, because the statute could not be attacked as fraudulent, and by your vote that proposition was sustained, and I assure the delegates of the Convention, as a proposition of law, it is sound. The apparation that they are trying to draw up here melts away in air when it is exposed to the light of the decisions and principles of law so long established in this country. I do not know what to say, gentlemen. The honorable delegate from Jefferson County has told you that he was one who took a solemn oath before high heaven that the white man should rule, and we have heard the delegate from Montgomery County complain that the acts of the kuklux were not sufficient to satisfy him, and that he time and again in order that the elections might be carried, even by fraud, encouraged the managers. And yet an officer upon whom high honors were conferred, and he, time and again—and I class my friends sitting there in the same category (applause), whose consciences are disturbed by the provision that we must support the Constitution of the United States and, therefore, they cannot see their way clear to vote for the report of the Committee. I have read, and I don't say it with any purpose of disparagement, of a certain class of people of whom it was said that they would "strain at a gnat but swallow a camel." I do not know what more could be said to convince these men. We do know that on a certain occasion a man was found in a very hot place, and he desired that he might be sent back to earth, that he had five brethren there to tell of the place, but he was told that if they did not believe what they had heard, they would not believe though one came from the dead. (Applause). The Good Book tells us there were five brethren. I wish there were only five here; but I can count four of the minority report, and I can count my friend over there, and on the same side is the delegate from St. Clair County, who, in this Convention, said that one of the brightest stars in the crown was the fifteenth Amendment. I do not know how they will like that kind of company. (Applause). I was shocked to hear a man claiming pride in being a white man, say that he regarded the Fifteenth Amendment as one of the brightest jewels in the crown, or one of the brightest something, that was pinned to the Constitution—

I don't remember exactly the language now. After hearing him say that, fellow delegates, I was not surprised to hear him afterwards say that he feared neither man, hell nor the devil. If there was no other reason for calling this Convention here, and no other reason for ratifying this Constitution, it would be sufficient for me to work for it in order that so many of his constituents might be eliminated from the suffrage plank as to retire the gentleman entertaining those sentiments. And I hope those living in that community will preserve the record of the man who could endorse the Fifteenth Amendment in Alabama in view of all that we have gone through. I will not express my opinion of him. (Applause.) Mr. President, I believe as strongly as I stand here, not only the fraud, the violence, the bloodshed, but I believe not one of our fair women has ever been assaulted in this land but that the infamous act may be traced to the fifteenth amendment. And I feel shocked as I remember that only a few weeks ago, a fair young lady in the gentleman's own county was the victim of an assault from one of these black fiends. That is my opinion of one of the effects of the fifteenth amendment. I wish that I had time. The gentleman from Pike, sitting over there, had his speech here, in which he stated that Senator Morgan and Senator Pettus held that this provision was unconstitutional. I say that he cannot find one line in anything that they have said, or written which sustains him in that proposition. On the contrary, it has been expressly admitted by one that it was constitutional, in a public speech, and he has never retracted it. I take this occasion to say to this Convention, that no longer than yesterday, the senior Senator, General Pettus, told me out of his own mouth that "When you met, I did not see how you were going to keep the Democratic pledge and not violate the Constitution," but he says, "I assure you that you have performed the difficult task." And he told me, Mr. President, if it was necessary, he would not only support this clause that we have under consideration now, but if necessary he would go into the country upon it. I wish to read a short extract from a letter of Senator Morgan. The gentleman who has the letter is within the halls of this Convention, but has not had the opportunity to address you. "The counting of the electoral vote of Louisiana and Mississippi is a silent admission of immense value with reference to the power of the State to regulate the negro vote." Think of that! Mississippi and Louisiana have already been counted—and that was the last we have heard from Senator Morgan. I am sure that the gentleman from Barbour——

MR. LOWE (Jefferson) — Will the gentleman yield for a moment?

MR. COLEMAN—I haven't much time—

MR. LOWE—I just wanted to move to extend the gentleman's time indefinitely.

MR. LOWE (Jefferson)—Will the gentleman yield a moment?

MR. COLEMAN (Greene)—I am nearly through.

Mr. Lowe (Jefferson)—I move that the gentleman's time be extended indefinitely.

MR. COLEMAN (Greene)—I will not accept it after the action of the Convention. I am not so eloquent or as interesting as many of those who have gone before me, but I am stating facts that may go before the people to satisfy them, and to correct errors which have been made here upon this floor. There sits the delegate from Barbour (Mr. Merrill) perhaps as intimate with Senator Pugh as anybody upon this floor or elsewhere, and I speak by his authority, as he has not had an opportunity to address you, that Senator Pugh finds no fault with this clause enfranchising the soldier and his descendants.

I thank you gentlemen. My time has expired. I have had no opportunity to deliver the argument intended, but I have given you in a common way this statement of facts and illustrations, which I think will enable the common people to better understand the questions which will arise before them.

MR. LOWE (Jefferson)—If the gentleman will yield a moment, I would like to move that his time be extended, inasmuch as the time of those who have preceded him has been extended.

THE PRESIDENT—The Chair will state for the information of the gentleman from Jefferson that the gentleman from Greene himself submitted a motion that the time for taking this vote be extended,——

MR. LOWE (Jefferson)—I am not speaking of the time for taking of the vote, but in order for the gentleman to conclude his remarks I move that his time be extended.

MR. COLEMAN (Greene)—I do not desire it, and shall not accept it.

THE PRESIDENT—The Chair will state that under the resolution offered by the gentleman from Jackson, as amended by the resolution offered by the gentleman from Jefferson, that the present order will be the taking of the vote. It is equivalent to ordering the previous question and the question will be upon the amendment offered by the minority of the Committee.

MR. LOWE (Jefferson)—I move a suspension of the rules, in order that the gentleman from Greene may conclude his remarks.

MR. REESE — Will not the gentleman from Greene, the Chariman of the Committee, if it is equivalent to calling the previous question, not have the right to conclude the argument?

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

MR. SAMFORD (Pike—At the inception of this debate I offered an amendment striking out the last few words in the last line of the first clause. I have become convinced that the amendment ought not to be made at that place, if at all. I therefore ask unanimous consent of this Convention to be permitted to withdraw that amendment.

THE PRESIDENT—The gentleman from Pike asks unanimous leave to withdraw his amendment, is there objection?

There being no objection made, the amendment was withdrawn.

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the minority of the Committee.

MR. ROBINSON (Chambers)—I move to lay the amendment embodied in the report of the minority of the Committee upon the table.

MR. COLEMAN (Greene)—Upon that I call for the ayes and noes.

The call for the ayes and noes was sustained.

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the minority of the Committee. The minority report moves to strike out subdivision 2 of Section 4 of the report of the majority. It is now moved to lay the amendment offered by the minority of the Committee upon the table. As many as favor tabling the report of the minority will say aye, and those opposed no, as their names are called.

Upon the call of the roll, the vote resulted as follows:

AYES

Messrs. President,	Burnett,	Cunningham,
Altman,	Cardon,	Davis, of Etowah,
Ashcraft,	Carmichael, of Colbert,	deGraffenreid,
Barefield,	Carmichael, of Coffee,	Duke,
Beavers,	Carnathon,	Eyster,
Bethune,	Chapman,	Fitts,
Blackwell,	Cobb,	Fletcher,
Boone,	Coleman, of Greene,	Foster,
Brooks,	Coleman, of Walker,	Gilmore,
Bulger,	Cornwall,	Glover,

Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Hodges,
Hood,
Howze,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Hale,
Jones, of Wilcox,
Kirk,
Knight,
Ledbetter,
Leigh,
Lomax,
Long, of Butler,
Long, of Walker,
Macdonald,
McMillan, of Wilcox,
Malone,
Martin,
Maxwell,
Miller, of Wilcox,
Moody,
NeSmith,
Norman,
Norwood,
O'Neal, of Lauderdale,
Opp,
O'Rear,
Parker, of Cullman,
Parker, of Elmore,
Pearce,
Pettus,
Pillans,
Pitts,
Proctor,
Reese,
Reynolds (Henry),
Robinson,
Rogers, of Lowndes,
Rogers, of Sumter,
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Sentell,
Smith, Mac A.,
Smith, Morgan M.,
Sollie,
Sorrell,
Spragins,
Stewart,
Tayloe,
Thompson,
Vaughan,
Walker,
Watts,
Weakley,
Weatherly,
Whiteside,
Willet,
Williams, of Barbour,
Williams, of Elmore,
Williams, of Marengo,
Wilson, of Clarke,
Wilson, of Washington,
Winn,

TOTAL—109

NOES

Bartlett,
Beddow,
Cofer,
Dent,
Eley,
Ferguson,
Foshee,
Harrison,
Jones, of Montgomery,
Kirkland,
Kyle,
Lowe, of Jefferson,
Mulkey,
Murphree,
Oates,
O'Neill (Jefferson),
Porter,
Reynolds, of Chilton,
Sloan,
Smith, of Mobile,
Spears,
Waddell,
White,

TOTAL—23

ABSENT OR NOT VOTING

Almon,
Case,
Espy,
King,
Lowe, of Lawrence,
Miller, of Marengo,
Morrissette,
Palmer,
Studdard,

PAIRS

AYES

Locklin,
Browne,
Burns,
Craig,

McMillan (Baldwin), Davis, of DeKalb,
Jenkins,

NOES

Banks, Howell,
Graham, of Talladega, Renfro,
Byars, Phillips.
Freeman,

So the motion to table was carried.

MR. DENT (Barbour)—I desire to make an explanation. I paired last week with Mr. Almon from Lawrence. I thought he was present this morning. The pair only applied to this vote for last week, and he said positively that he did not want the pair to extend beyond Monday. If he was here he would vote aye, but I think I am discharged from the pair, and that is the reason I voted, but I desired to make that explanation in the hearing of the Convention.

MR. OATES—I desire to offer an amendment to Section 4.

The amendment was read as follows:

Amend Section 4, first subdivision, after the word "States," in line ten, strike out the semi-colon, insert therefor a comma, and add the words "and did not desert from such service."

MR. ROBINSON—I desire to offer an amendment.

THE PRESIDENT—The pending question will be upon the amendment offered by the gentleman from Montgomery, and upon that he is entitled to the floor.

MR OATES — Mr. President, I do not intend to consume much time in support of my amendment, but desire to state a few facts to which I ask the attention of the delegates. No man honors more highly than myself the soldier who performed his duty, and especially when he performed it, as many of our soldiers did in the war between the States, most heroically; but we should not lose sight of the fact, that notwithstanding the great gallantry of many of our soldiers, that there are others who wore the uniform and were enlisted as Confederate soldiers, who did not make for themselves such a record, but upon the contrary deserted from the service. It is said in the report, the provision to which this amendment is offered, "those who honorably or faithfully served," and the conclusion, it is claimed, is deducible therefrom, that any man who may have deserted his colors at any time, could not have thus served. The language employed is not that he should have served honorably and well, during the whole prior of his enlistment, and it is a consistent with the language used that a man may have served well for a time and then have deserted and gone over to the

enemy. I have personal knowledge of the facts in some cases, and have heard of them in many more.

I will not undertake to detain the Convention to listen to the details of many of these desertions. I know of many more than I will undertake to describe, but I will mention a few by way of illustration. Two young men from the county of Dale, who were in my company, and both of whom served remarkably well until in 1863 when one of them deserted, and the next seen or known of him was that he was in the ranks of the enemy wearing that uniform and fighting on the other side. His brother continued in the ranks and was as good a soldier as any of the Fifteenth Alabama, and was present and surrendered at Appomattox. When he returned home, I happened to be in Newton when those brothers met, having not seen each other in a couple of years, one in the old dingy Confederate uniform and the other in the Union uniform, and when they met, instead of embracing each other, as brothers, they went to fighting, and that enlisted the old Confederates present on the one side, and those in blue on the other, until a considerable battle ensued, and the latter took to the woods. Now do you suppose that Sam Woodham, the man who served through and surrendered at Appamattox, would esteem it any honor to him to give that brother equal rights and benefactions in this matter, the same as himself?

MR. REESE—I desire to ask the gentleman a question for information.

THE PRESIDENT—Does the gentleman from Montgomery yield?

MR. OATES—Yes.

MR. REESE—In 1861 there was a large number of officers that left the United States army and navy and entered the Confederate service, and they were marked as deserters on the muster roll of the United States army and navy. Now, how would your amendment affect that class of officers? (Applause).

MR. OATES—I think that my friend, the delegate from Dallas, is mistaken. They were not marked as deserters, and he cannot find any such record in the War Department, not one. Every officer, of course, as officers, took the oath to support the Constitution of the United States——

MR. REESE—I think if the gentleman——

MR. OATES—I yielded to the gentleman for a question, but not for an argument.

MR. REESE—I wanted to ask another one.

MR. GATES—They took an oath to support the Constitution of the United States as officers. Every man who takes that oath, takes it impliedly so long as he continues an officer. Now the penalty which Congress affixed to those who had taken that oath, and were in the army, was the same as was applied to every man who had been a member of Congress from the State of Alabama, or any other State, and entered into the War of Rebellion, so called, but it was never deemed a violation of that oath.

MR. BURNETT—I desire to ask under your amendment, in the case of these two brothers from Dale, where one deserted and joined the Federal army, if under the constitutional provision, as framed by the committee, this brother who joined the Federal army would not be entitled to vote because he was on the Union side? How would your amendment reach him? That is what I desire to ask.

MR. OATES—That shows the defectiveness of this provision. I admit if he had served well in the Union army, though a deserter from the Confederate army, he would have the right to vote, but at the same time I want to see that amendment put in there for this reason. I do not wish, however, to pass by and beyond the question just asked me by the delegate from Dallas, for I had not finished it.

These officers were never regarded as having sworn falsely to the extent of being deserters, and were never so mustered. They were, under the fourteenth amendment, prohibited from holding any office, until their disabilities were removed, just as I said in the case of any man who had been in Congress, from any of the Southern States, and then engaged in the Rebellion afterwards.

And in respect to this case, I admit that the brother who deserted and served in the Union army might get in, notwithstanding my amendment, but that is not all. There are many others who deserted who did not join the Union army, many of them, more than is supposed by a good many people. Any man who will take the pains to examine the muster rolls now on file in the Adjutant General's office, will see that notwithstanding our regiments from Alabama in the main were as gallant as any, that the list of deserters from each regiment was from one to two hundred men. Now, do not tell me there are no deserters in Alabama, when there are the muster rolls showing that to be the fact. Well, now, a good many of them did not go on the other side and fight in the Union ranks——

MR. WILLETT—Mr. President——

THE PRESIDENT—Will the gentleman from Montgomery yield?

MR. OATES — When I finish the sentence, but not in the midst of it. They did not go into the Union army but some of them lay out in the woods until the moss grew on their backs to keep them from fighting. Now do you want to benefit that kind of men? What compliment is it to the good soldier that you should extend an equal benefaction to the man who deserted his colors? I will answer the gentleman's question now.

MR. WILLETT—Will the gentleman not admit that it is an historical fact that when General Lee evacuated Richmond, that the Virginians, who had made the best soldiers in the Confederacy, deserted the ranks, because they defended Virginia and went home to their families, and if a Virginian should come into Alabama, who fought up to the evacuation of Richmond, would not this amendment of yours disqualify him as a voters in Alabama?

MR. OATES—Yes, I presume it would, and I never, during the time I have to live, give my vote to extend such a benefaction as this to any man who deserted his colors in the hour of trial. (Applause.)

No man honors more than I do, the true soldier, and, sir, especially those men who when the great brain of Robert E. Lee could plan no more, when Johnston's cunning could give no further hope, and there was nothing that could avert the surrender, nothing whatever, except omnipotence, yet there were bands of these soldiers, ragged and dirty and living upon half rations, the heroes of an hundred battles, who were still ready to fight and to die for Dixie, and even when General Lee surrendered seventeen thousand muskets, surrounded by two hundred thousand men, then, many of these old heroes shed tears because the great Lee had seen it was necessary to surrender, for they preferred to fight on to the death. Now it is impossible for me to describe in fitting terms such heroes as those. Gentlemen, there are many hard cases, I admit, but men who deserted their colors are not esteemed and honored by their government. Those of the Federal army are never given pensions nor are their widows or their children pensioned. How is it here in Alabama? Have you upon your pension rolls down here a single deserter? Why the very law of the State of Alabama requires proof that a man served faithfully through, and if a Virginian, or any other man, saw proper to desert his colors, let him take the consequences. I want to see this amendment adopted, even though in its operation it will not exclude any. If I knew it would not exclude a man, yet I would still want it. I want it to be on record so as to show that in extending this benefaction to the soldiers, we mean real soldiers, honorable men, who were devoted to their country and who fought all the way through.

Now I will mention another case which I saw proper to mention to the Committee, when I offered this amendment in Commit-

tee. Take the case of one man who belonged to my own company, who fought for three years, as bravely as any man ever did. I had personal cognizance of the fact that he served well and faithfully, and was never wanting in anything. He was not a coward, he was a brave man, and he deserted and went to the enemy; and when I saw him again he was in a blue uniform, and belonged to the First Florida cavalry regiment, and was fighting on that side. Now, it cannot be said, under the language, of this provision, that he did not serve honorably in the Confederate army, for he did for three years. (The gavel fell.)

I do not want to detain the Convention, but I would like to say a few more words. I will content myself—

MR. REESE—I move that the gentleman's time be extended.

THE PRESIDENT—Does the gentleman move that the Convention remain in session?

There were expressions of dissent.

MR. OATES—I will be content, sir, to introduce as a part of my remarks, and not even ask the Convention that they be read, but that they be printed as a part of my remarks, some conclusions which I wrote down last night as to my position in regards to this matter. There is nothing in these conclusions that reflects on anybody, but they are complimentary to a good many.

The matter being submitted to the Convention, leave was given for the remarks to be included in the official report, as follows:

First—The Convention was called for the purpose of reforming the suffrage and thus to secure honest elections. Does any delegate deny this proposition? All concede this premise.

Second—The only way to accomplish this purpose, which is a laudable one, is by disfranchising some who are now voters—the densely ignorant and corrupt.

Third—But the majority of the Committee on Franchise and Elections say that they are tied down by the platform so that no white man shall be disfranchised and this they will strictly obey; therefore, the conclusion is inevitable that this Convention will disfranchise none but negroes.

Fourth—We all took an oath to support the Constitution of the United States which says that no State shall disfranchise any man because he is a negro; which then will you observe and keep your oath or the platform? I intend to keep my oath. Every man is the keeper of is own conscience. There is no way to obey literally both the oath and the platform, and wherein either must

yield, with me it is the platform—not my oath, for that is sacred.

The nearest we can conform to the requirements of both is to fairly apply the same tests to both races. No complaint would be heard from any negro or the friend of any negro to such tests. Would any white man complain of it as unfair or shrink from a comparison of his qualification and fitness to vote with those of a negro? Apply the same tests of qualification and fitness and some white men would be disfranchised and this would not be unjust but consistent with it, for some white men, I am sorry to say are utterly wanting in character and fitness for the exercise of the trust which is confided to a voter. I am glad to say that there are few of them compared with the negroes.

Under a fair test, applied alike to each race, not more than one-fourth of the negroes would vote, while not more than one-hundredth part of the white men would fail to come up to the standard of qualification. The selection of soldiers and their descendants is not a fair test for to every negro soldier and his descendants there are five thousand white soldiers and their descendants.

While enlistment and faithful service as a soldier is highly honorable and patriotic, it is not a uniform and certain test of fitness and qualification for the exercise of the franchise, for many, after faithful and honorable service for a time, deserted their flag and fought on the other side. No general was braver or fought harder for American freedom than Benedict Arnold, and thereafter he deserted to and fought on the British side. There were in the war between the States many similar cases of lower rank or without rank. No Government pensions a deserter nor the widow or children of one. No man nor country honors a deserter. Then why use him in the count but for the purpose of making all voters white men?

While I have great respect for the high character and ability of the majority of the Committee on Suffrage and Elections, I am not ashamed of my associates who signed the minority report. Men of civic renown and large experience in public and private affairs; one of them at the age of 16 followed the immortal Forest through scenes of blood, another, the youngest and among the bravest Brigadier-Generals of the Lost Cause, while the third sat on his horse as complacently in the smoke of battle as in his pew at church while his guns hurled torments of destruction into the ranks of an invading foe. And while those who agree with us are few, they are high men who have the courage of their convictions. I am proud to number among them my colleague who preceded me in attaining the highest honor which the State can bestow, and who, on the staff of the gallant Gordon, rode with him through the jaws of death, even in the last wild charge he made, not the least dismayed though the world wondered. Gentlemen, you may,

by your votes, turn us down, but, like truth crushed to earth, we will rise again.

The hour of 1 o'clock having arrived, the Convention stood adjourned until 3:30 p.m.

AFTERNOON SESSION.

The Convention met pursuant to adjournment, there being 116 delegates present upon the call of the roll.

Leave of absence was accorded to Mr. Stewart of Perry for this evening, tomorrow and next day.

THE PRESIDENT—The special order for this evening will be the consideration of the report of the Committee on Suffrage and Elections. When the Convention adjourned the gentleman from Montgomery had not consumed all of his time.

MR. OATES—I do not resume for the purpose of consuming much time, but I find a question or two propounded to me, one of them in writing, that I desire to answer. One question is whether the amendment if adopted would apply to deserters from either army. It certainly would. If a man was in the Union army and he deserted from that army, it would apply to him the same as if a man deserted from the Confederate army. It don't matter which army he deserted from it would apply to him. Then, there is another question that is not understood, the operation and effect. Some say, well if your amendment be adopted that excludes deserters from registering or voting, and that it is contrary to the platform, which declares no white man shall be disfranchised. I say the amendment which I offer does not touch the question of qualification. It simply requires deserters to show their qualification and does not allow the claim of being a soldier to exempt them therefrom. That is the whole operation of it. Now, the amendment that I offer would have the effect of not exempting from the duty of showing that they were qualified, in that they did not desert, or coming in under some other clause. In other words, Mr. President, I do not want to see a clause like this go out in the Constitution when it is certainly susceptible to misconstruction. I hear that the majority of the Committee expected specially to extend this benefaction to deserters, hence they used this language, but it does not say who honorably served the period of enlistment. If a man goes in as a soldier and serves through one battle, he honorably serves, but it don't say continues to do so during the period of his enlistment. He may have honorably served and then taken to the woods the balance of the war, or, as some did, go into the army of the enemy and serve on that side. The amendment I offer is no encumbrance to the section at all, it just

adds down at the latter part "an did not desert such service." If that be the meaning of the Committee not to extend this benefaction to the men who deserted. I find also that some of the delegates are not well informed about the extent of desertions. Every old man will certainly recall, when I mention the fact, that along about the last of the war President Davis issued several proclamations of amnesty and pardon to try to get men to come back to their colors. Why one of the great causes of our failure was the number of men that took to the woods, but a comparatively small number went to the enemy. The most of them were tired of fighting, they wanted to get away from the bullets and the danger. It seems to me it is a much higher compliment to the soldier who served faithfully and truly to his colors during the period of enlistment or all through the war. It is a greater compliment to say we do not thus highly esteem a man who deserted, because then it is not honoring the man who served faithfully throughout to put him on equality with the deserter. No one knows better than the people of the wiregrass counties down here what they suffered from deserters. One-half to three-fourths of the 1st Florida Cavalry Regiment was made up out of deserters from our army, and they were raiders and depredators through all these counties, and some towns were captured and looted. I remember Skippersville. When they made an assault upon Newton in force, and our one-armed friend, the President of the Board of Convict Inspectors, Judge Carmichael, after he had given his right hand to his country in my own regiment, was at home, and he and Parson Calloway gathered a few boys with guns and hid out and fell upon those men and repulsed them. That kind of thing was going on down there, citizens were killed, and these Florida cavalrymen were regular marauders. It was not honorable service on their part. They kept that whole section of country in dismay, the people absolutely startled and the women and children frightened on account of the depredations of those fellows, made up mostly of deserters. There were a Captain Sanders and a Captain Morgan and one Newton who committed so many depredations that the citizens did not endure them down there, and they died violent deaths. People there have a feeling recollection of these things, and to have a deserter in arms against them depredating upon them is not pleasant to a citizen, and he is apt to have a sharp recollection of them. I could bring forward a great many cases, but I do not choose to do it. I don't want to consume the time. I tell you if you do not know the extent of desertion to go to the Adjutant General's office and go over the records and count them up, and you will find that my statements of this morning is literally true, that the desertions generally ranged from 100 to 200 from a regiment. I will say in justice to one regiment that was in the brigade in which I served, the 4th Alabama, that perhaps it did not have quite 100 deserters. It was the only regiment that had more

men killed in battle than died by disease. In the regiment in which I had the honor to serve, with whose record I am perfectly familiar, it was in more battles than any regiment from the State—thirty-nine battles. Its rolls will show there were in the regiment from first to last officers and men, 1,649, that there were killed in battle 311 men, wounded 542, 456 died of disease and 191 deserted. Now, there is the record of as fine a regiment as ever fired a gun upon any battlefield. None surpass it. Have you imagined what those men who still survive would feel to see that the Constitution of Alabama had without distinction extended to soldiers the right to be registered, vote and made no difference between the good soldier and the man who deserted, took to his heels and laid out in the swamps until the moss grew on their backs? It is a familiar term "moss-backs" used down there during the war.

MR. CHAPMAN—I would like to ask a question. You are asked what position this would put the old officers of the army and navy in who left the service of the United States and entered the service of the Confederate States. I will ask you if it was not a rule, in fact, almost invariable, that they sent in their resignation before they entered the service of the Confederacy?

MR. OATES—The men educated at the naval and military establishments of the United States are educated gentlemen, all of them, and men of high sense of honor, and I am satisfied that every men of them sent in his resignation, and I have today learned that the naval register published during the war and possibly the army register, designated some of those who had resigned as deserters or dishonorably discharged. Dishonorably discharged is a different thing for they are not technically deserters, and while those officers are all pretty well dead and gone, scarcely any living that would never reach them. They were not deserters any more than was any man who had taken an oath to support the Constitution of the United States as a civil officer and then went into the war of the rebellion, so called, and they have never been esteemed as deserters. If the register was marked thus it was really not with the approval of the Government. The Government of the United States today does not regard any of those officers as deserters, who in obedience to a sense of duty and attachment to their States, resigned their position and went into the Confederate service.

MR. DENT—Mr. President, I fully sympathize with the object sought to be accomplished by the distinguished gentleman who has just taken his seat, but it seems to me that the words used in this Section cover all the cases that have been alluded to by the distinguished gentleman, "honorably served." Surely a man who deserted his colors did not serve honorably. I know something, Mr. President, of the sacrifices, the endurance and the courage of

Confederate soldiers. I hope I will not be considered as egotistic in saying that I derive that knowledge not from hearsay, not from history, but from four years and three months actual service in the State of Alabama and in the Confederate service. I want to say another thing of the soldiers of the Confederacy, that many of them were men of character and education and intelligence. Many a private in the ranks would compare favorably with many gentlemen in this Convention as to their intelligence and ability. They understood the situation of the Confederacy, and however it may have been in other fields, and in other armies, I know that after the battle of Chickamauga where the Southern general failed to secure the fruits of his victory, there were plenty of men in the Confederate service who recognized right then and there that we were engaged in a hopeless struggle. When they charged in that battle they charged with an enthusiasm and courage that never was excelled on any battle field. I do not care when or where it was fought. While they stood by their colors and fought after that time it was with sullen courage and without hope of success, and I tell you it required the highest sort of patriotism and the highest sort of courage to remain true, under the circumstances, and I honor them the more because they did remain true under those conditions and circumstances.

I want to state an incident that happened in my own command, and I would ask the distinguished gentleman what he would do with an exceptional case of that kind. If the Convention will pardon me a moment while I indulge in the personal reminiscence. When we crossed the Tennessee River, when Bragg fell back from Shelbyville, Tenn., and reach Chattanooga, I had a man in my command, a good soldier, a faithful soldier, always at his post, always ready for duty, who came to me and stated that he had received information that his wife and children had been plundered and robbed by Federal troops, and that they were suffering and on the point of starvation. He procured some money from me to send to his family. A day or two later he received a letter—when the knowledge first came to him it was by information—and this letter from his wife gave the conditions and her surroundings, how she had been treated, and she appealed to him to come home and make some provision for her and the children. I was so interested in it myself that I made an application for a furlough for ten days, and did not send it through the regular channel, but went in person with the application to see if I could not procure a furlough for him. I did not succeed. When I came back and told him, I could see the effect which it had upon him. I think it was the very next morning we were ordered from Chattanooga down towards Bridgeport, to a little place called Taylor's store, to act with the brigade of General Patton Anderson. This man came to me and called me off and I had a long talk with him. I could see that he was disturbed and had something on his

mind. He referred repeatedly to the condition of his family and how much he felt for them and how anxious he was, not knowing exactly how they had fared since he had received the letter. While we were talking he handed me back the amount which he had gotten from me a day or two before. Where he got the money I do not know. When we parted we had been talking a long time, and I told him that we had better get some rest as we had to move the next day. He grasped me by the hand and said, Captain I will never forget you, you have been wonderfully kind to me. Next morning at roll call that man was gone. Now I tell you gentlemen, you may look upon that as a desertion, technically it was, but who of us would have better stood the test?

I want to tell you the further history of that man. I had to report him as a deserter. I made inquiry to find out what became of him and I was told that he went back and arranged about his family, saw them cared for and then afraid to come back to join his command, he joined John Rody's Cavalry and fought with that command through the remainder of the war. What would you do in a case like that? Technically he was guilty of desertion.

MR. SANFORD (Montgomery)—Absent without leave.

MR. DENT—Yes, that is true, as my friend suggests, and yet technically it was desertion. I do not defend deserters. The gentleman who spoke referred to the deserters down in the lower edge of Dale and Henry county and on the Florida line. He says himself that it was not honorable service that they were in, that is the very language he used. If it was not honorable they do not come within the province of this clause of the report of the committee. They did not serve honorably and I tell you, Mr. Chairman, I am not afraid to say it if I was a member of the Board of Registrars and a man sought registration on the ground that he was a Confederate soldier and was a deserter he would not get a vote of mine to get his name placed on that roll of honor, I don't care whether he fought on the other side or not. I go further, if a man was a Confederate soldier, a Southern born man whose home family and associations were all here, and he deserted our flag and fought on the other side, I would not consider him an honorable man from the standpoint of service on the other side.

I know of some other cases. At the battle of Missionary Ridge a large part of my command was captured. One, by some means or other, I never understood how, was exchanged and got back to his command just before the surrender. He told me of this treatment in prison at Camp Douglas, somewhere upon the lakes. He said he could not have suffered worse, to use his own language, if he had been in hell itself; that they tortured and punished prisoners there to force them to enlist in the Union service, not to fight us, but the Indians. He told me that a member of my

command had succumbed under that treatment and thinking it was a matter of life and death, to save his life he took the oath of allegiance, stipulating that he was not to come South but to fight against the Indians in the Northwest. What would you do in a case like that?

MR. OATES—Do you desire my answer? In the case of your man who left and went to fight Indians to have his life, I would register every one of them. If I was on a court martial I would acquit every one of them, because they were not deserters but absent without leave.

MR. DENT—I was satisfied that the gentleman would make that statement.

MR. OATES—But what would you do with the mossbacks so called?

MR. DENT—I would not register a soldier, not one of them under this clause, who did not serve honorably. I am in sympathy with the object to be secured by the distinguished gentleman, but it seems to me we can leave it just as it stands and accomplish what he wishes, without being personal and so specific, because I think the effect is the same, and if we adopt it that is the construction which this Convention puts upon this clause that it is when a man served honorably and he did not serve honorably unless he served to the end or was honorably discharged.

MR. OATES—Then it does not hurt to put that in there.

MR. DENT—I think we had better leave it out. I don't know how the members of the committee feel about it, but I am perfectly willing to let it stand as it is, because I think it covers the ground.

MR COLEMAN (Greene)—Let it stand as it is.

MR. DENT—If anybody disagrees with me, I hope it will be understood as the construction of the Convention, that a man did not serve "honorably" unless he served through the war or was honorably discharged.

MR. LOWE (Jefferson)—May I ask the gentleman a question?

THE PRESIDENT—Does the gentleman from Barbour yield to the gentleman from Jefferson?

MR. DENT—Certainly.

MR. LOWE—Will the gentleman state why he is not willing for the clause to be specific, why it should be left open for construction instead of putting it so plain that anybody can understand it?

MR. DENT—I think it is specific enough, I have no objection to the word if the Convention desires it. I thought that was the conclusion to which the Committee arrived.

MR. LOWE—I understand that he has no objection to the amendment except that the amendment is too specific.

MR. DENT—Not that it is too specific, because I think the purpose accomplished.

MR. O'NEAL (Lauderdale) — I fully sympathize with the high sentiment expressed by the gentlemen from Montgomery, but I am opposed to his amendment. This question was fully consired by the Committee on Suffrage but after careful investigation we deemed it proper to leave the clause just as it was reported. Nearly forty years have elapsed since the civil war. Passions engendered by the great contest have subsided. If it be true that there were Confederate soldiers who deserted the cause of the South and enlisted in the armies of the North, they have, no doubt since that time, repented in sack-cloth and ashes, in humiliation and sorrow for that terrible and unpardonable sin.

MR. LOWE—Will the gentleman from Lauderdale pardon me.

MR. O'NEAL—In a moment.

MR. LOWE—I want the gentleman to specify a man of that character.

MR. O'NEAL—I decline for the present. I will answer in a moment. Suppose a man had deserted and since that time had led an upright and honorable life and reared a family, are we at this day to open the wounds of the war, to bring humiliation upon him and his family? We have in this State a statute of limitation, a statute of repose, a statute of stale demands,——

MR. OATES—I would like to ask my friend just at that point if although it may be described repose, do you think it ought to be a reason why he should be equally honored with the man who has served faithfully?

MR. O'NEAL—I will answer that in time. I stated we have a statute of repose, after a lapse of twenty years, the courts presume every transaction is closed, they will not open any cause, they will presume a grant of land, a will or deed, or anything to quiet titles or to quiet human transactions. Now I say that if there was a man who deserted, let us throw over the sin the broad mantle of charity and forgive. I am opposed, Mr. President, to writing in the Constitution of Alabama the word "deserter." If any Confederate soldier deserted and joined the armies of the

North, I ask you could he have served honorably in the Confederate army?

MR. LOWE—The gentleman has referred to the deserters from the Confederate army who have repented in sack-cloth and ashes. Does he know of a deserter from the Confederate army who repented in sack-cloth and ashes?

MR. O'NEAL—I don't know one who did desert, thank God in my end of the State they are few and far between.

MR. LOWE—I would suggest that they more likely repented in postoffices and fine linen.

MR. O'NEAL—They may. I say if a man deserted the Confederate army and joined the army of the North he cannot have honorably served in the Confederate army. What did he do when he deserted—committed a crime against the laws of war, punishable with death and to say that a man could have served honorably who had deserted. I concede where a man was in the Confederate army and joined the Federal army some time afterward, after his desertion have served honorably in the Federal army, but if there be a man who served in the Confederate army and wants to claim he was a soldier in the army of the North and wants to open up his degradation and shame, let him do it, but I am unwilling after this long lapse of time to reopen this thing. I will lead to crimination and recrimination. How are you going to try it? Suppose an honorable man is charged with desertion, his comrades may be dead, there may be nobody to prove that he was discharged. The muster roll might be lost. Why should we open up these questions, I am unwilling to put the word "deserter" in the Constitution. I want to say to the gallant Confederate soldiers of Alabama that we presume in the fundamental laws of the State that you all served honorably in the Confederate army and if a half dozen of you or a few of you in hours of distress forgot your duty, and went back to help your wives and families when you ought not to have done that, we say we blot out your sin with the tear of forgiveness. You take Lee's army at the close. Read Cook's account of it. They say from day to day these men received letters stating their wives and children were starving, they had no money to send them, they could not leave, and they were put in that terrible ordeal, their wives and children without a protector and they unable to furnish them supplies, and if under that terrible stress some deserted, would you brand him today for it after these long years, and say that he is unworthy of casting a vote as a soldier? Leave it to the registrar, they can decide the question. The war is over.

MR. LOWE—You say leave that to the registrars?

MR. O'NEAL—Yes, the law leaves that to the registrars.

MR. LOWE—Would you say leave your rights to vote to registrars to be appointed by commission from Montgomery?

MR. O'NEAL—Yes, I would say that.

MR. LOWE—I just wanted that distinctly understood.

MR. O'NEAL—I would say to the registrar in the fundamental law that you must permit any soldier who serves honorably, and am willing to trust that registrar to see whether or not that soldier deserved it or not.

MR. LOWE—Would the gentleman be willing to be tried before a jury when he had not right to challenge a juryman? Would you be willing to say that a jury system should be established in Alabama that denied to the defendant the right to challenge a juryman?

MR. O'NEAL—I don't think the case is at all analagous.

MR. LOWE—Would you be willing to have your right to vote passed upon by three men whom you had no right to challenge, appointed by a partisan commission?

MR. O'NEAL—We are not on that question yet. This article says if that Board of Registrars deny to a man the right to vote he has a right to appeal to a court and jury of his peers for vindication. If you abuse that power, if you take advantage of your position to act unjustly and wrongly we open the courts of the land to you for appeal and for redress. What more can the gentleman ask than that. We have got to trust somebody. When you go before the Board of County Commissioners or Tax Board do you challenge them? You have no right to challenge, you have a right to appeal. Mr. President, the day has passed to reopen these old wounds and old sores, this is the day of reconcilliation, a day of peace, a day of reconcilliation between the sections. The last words of the great Captain of the North on his dying bed prayed for reconciliation between the sections, the last words that graced his dying lips and gave benediction to his dying hours was peace and good will between the sections, and thank God today we can say to the people of the North in the language of Webster: "Standing hand in hand with hand clasped in hand, we should remain as we have been—citizens of the same country, members of the same government—united now and united forever."

Mr. President, I therefore move, in view of these facts to lay the amendment offered by the gentleman from Montgomery on the table.

Upon a vote being taken the amendment was laid upon the table by a vote of 92 ayes and 10 noes, on a division.

MR. ROBINSON—I have an amendment to offer.

The following amendment offered by Mr. Robinson of Chambers was read:

"Amend Section 4 by inserting after the word 'upwards' in the second line, the following words, 'and those who will become 21 years of age before the 1st day of January, 1905.'"

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Chambers.

MR. ROBINSON—I am satisfied if this Convention understands that amendment they will adopt it. I am in favor of this majority report, and I want to rub off all the rough places that appear in it. That amendment when incorporated in this Section will read as follows:

"Sec. 4. The following male citizens of this State, who are citizens of the United States, 21 years old or upwards, and those who will become 21 years of age before the 1st day of January, 1905," shall be registered.

Mr. President, that does not extend this temporary plan. This board of registrars, if that amendment is adopted, will go out on the 1st day of January, 1903, and the only effect of that amendment is that the young men who become of age after the 1st day of January, 1903, and who become of age before the first day of January, 1905, shall register before the 1st day of January, 1903, although they cannot vote until they become of age. Now, Mr. President, this is a remarkable change in the history of suffrage and elections in the State of Alabama, and the sole purpose of that is to give these poor young men who are now 18 years of age and who cannot go to school—who are laborers—at least three years to prepare themselves for the permanent plan which provides strictly educational and property qualifications without any conditions to it at all, and the practical effect of that is to let these young men, before they arrive at the age of 21 in 1905, register under this temporary plan, where they would not need the stern requirements of an educational qualification. Now, what harm can that do? Can any delegate here raise objection to it? Don't you want to throw the strong arm of protection around these poor young men who have not had the opportunity to go to school? They cannot go to school in the day time and prepare themselves. They must do it at night around the fire that is made of pine knots. Now, that is the simple effect of that amendment, and there is many a father in Alabama who would come under that temporary plan, but, with the stern rule that would cut off his boy, will say, "I will vote against a Constitution that does not give my boy the privilege to register when he is not in position to meet the stern rule of this permanent plan."

That is simply this amendment. He cannot vote under the first Section until he becomes 21 years of age. It has been said

that he would have four years before the next general election. That is not true. There will be an election for President of the United States in November, 1904. Every Judge of the Supreme Court, every judge of the Circuit Court, every Chancellor, every Probate Judge, and all the county officers will go out of office in 1904, and we have got to hold an election in 1904 to fill the places of those men. Now, I ask this Committee if they cannot extend this provision to take in the poor boy and give him time to acquire an education by which he could meet the stern rigors of the rule under this permanent plan.

MR. COLEMAN—Mr. President and delegates of the Convention, it seems to us that every boy who is 18 years of age, has three years within which to qualify himself under the "reading and writing" provision. It appeared to the Committee that was long enough. We desired to put the franchise upon a high standard, and we desired to eliminate from it everything that would invite criticism or suspicion. Any man can have until he is 21 years of age. We have a provision in there that those who are nineteen and a half years of age, because they have until 1903 to vote, a year and a half after this time, and they will be able to register by that time, and surely boys of 18 years of age ought to be able to qualify themselves to read and write within three years. We saw no necessity for it. We think it would invite unjust criticism upon our provision here to insert anything authorizing boys of 18 years of age to register in order that they might become entitled to vote. I do not desire to take up time by discussing these various amendments that may be offered. Most of them have been fully considered by the Committee, and I therefore move to lay the amendment upon the table, and ask for the previous question.

MR. SOLLIE—I will have to ask for a yea and nay vote, Mr. President.

MR. LOWE (Jefferson)—I ask the gentleman from Greene to yield for a moment. I wish to rise to a question of personal privilege.

THE PRESIDENT—Will the gentleman state the question of personal privilege?

MR. LOWE—It is, sir, that it has been charged upon the floor that I have accused the Black Belt, and I desire to answer that proposition. I ask the gentleman to withhold his motion and I will yield to him to renew it.

MR. COLEMAN—The gentleman is not speaking to a question of personal privilege.

THE PRESIDENT—It seems that the question to which the gentleman desires to speak is not a question of personal privilege.

It would be a legitimate argument upon the question before the Convention.

MR. LOWE—It has been charged against the speaker as Chairman of the Democratic State Committee, and I hope the gentleman from Greene will not insist on his motion.

MR. COLEMAN—I think, Mr. Chairman, that the question of personal privilege can be made at almost any time, but it seems to me that it has no pertinency to the amendment proposed here.

MR. LOWE—I will yield to the gentleman to renew his motion and I will not consume more than three minutes of time of the Convention.

THE PRESIDENT—The gentleman says he will not consume but two or three minutes. Does the gentleman yield?

MR. LOWE—I was about to say that I ask no further indulgence. The disposition of the majority has been made plain. I think when we are dealing together, the majority of this Convention will need the minority. The majority of white people in Alabama always need the minority. There will be a time, Mr. President, when discussions will arise when the limit of debate will be merely the patience of the people. There will be a time when the discussion will not be arbitrarily limited as to one man, and unlimited time accorded to another——

MR WEATHERLY—I arise to a point of order. The gentleman is not addressing himself to the question of personal privilege to which he arose.

THE PRESIDENT—The gentleman does not seem to be addressing himself to the proposition before the Convention.

MR. WEATHERLY—It is merely by the indulgence of the gentleman who moved the previous question.

MR. LOWE—And the gentleman withdrew it. I am reminded again of the allusion Randolph of Roanoke made to the man who sat in one of the early General Assemblies and was demanding the previous question and making points of order, and he said it reminded him of——

MR. COLEMAN—I yielded simply on the statement that the gentleman arose on a question of personal privilege and would consume only a few minutes of time in making it.

MR. LOWE—The gentleman displays his usual generosity, and I will confine myself to the question of personal privilege.

MR. BURNETT—I rise to a point of order. When the gentleman from Greene yields to the gentleman from Jefferson to dis-

cuss this matter, he has no power to limit the discussion or to direct what the gentleman from Jefferson should say.

MR. LOWE—The gentleman from Greene withdrew his demand for the previous question.

THE PRESIDENT—And yielded three minutes to the gentleman from Jefferson at his own suggestion to discuss a question of personal privilege.

MR. LOWE—The chair and the gentleman from Greene have consumed a considerable part of that three minutes, and I should like to consume the remainder of the three minutes. I want to say that there is no man who sits on the floor of this Convention who has a higher regard for the Democracy of the Black Belt than I have. I say when any man has accused me on the floor of this Convention, whether it be the President of this Convention or any member of this Convention, of assailing the Black Belt, that he has said what is untrue, unjust and unjustifiable, and I am willing to stand upon the remarks I have made on that question. I deny the right of the Black Belt to assume a monopoly on all of the rascality in Alabama. There has been more rascality in primary elections and in other elections in the white counties of Alabama, than has ever been contemplated in the Black Belt counties. The supremacy of the white man has never been in danger in Alabama except in these counties where the negro was in the minority and the bone of contention. It has only been when the white men divided and when there was a scramble for and purchase of negro votes that white supremacy has ever been in danger in any county in Alabama, and you propose now to eliminate not all the negroes for there will be at least 30 per cent of the negro vote registered in the first year, and there will be an increasing number registered every year thereafter, and you provide for elections so that it will absolutely necessary to——

MR. COLEMAN—I insist upon the point of order. The gentleman is not addressing himself to the question of personal privilege.

MR. LOWE—I assume I have a right to speak to the main question. The gentleman seems to be sore about this matter. But all of us remember that there have been counties in Alabama that wherever men who claim to be good Democrats have led the negro cohorts against the white people——

THE PRESIDENT — The gentleman from Greene yielded three minutes to the gentleman from Jefferson. The gentleman from Jefferson has the floor, and it is a matter of honor with the gentleman from Jefferson whether he consumes more than three minutes. It seems to the chair that he cannot displace the gentleman under thirty minutes.

MR. LOWE—I certainly shall not yield my sense of honor to the President of this Convention. He has shown an unfairness to me in the past, and I shall be the judge and keeper of my own conscience under the rules of the house. I wish to say, Mr. President, that I have devoted several of the best years of my life working for this Convention merely for the purpose of securing fair elections in Alabama.

I trust that the day when I have public duties to perform is early passing. I have not sought a public place. I did not seek the duties now devolving upon me, and I accepted them with misgivings. I trust that in the very near future I may lay down every obligation that I owe to the public and devote my time and attention to domestic matters. I look for the coming of that day. There is nothing that the people of Alabama can offer me in a public way to which I aspire. If I did, I might have followed the lead of the majority here today and the combinations into which they were willing to enter. Thank God, I have not been built or construed on that plan. I speak now for the people in the same spirit that actuated me when, during the last three or four years I have attended State Conventions, to purify the ballot in Alabama and make possible fair elections. There is no man in this Convention who knows who will for a moment question the truth of what I say. There is no man who knows me who will doubt that I believe what I say today. My friend, the gentleman from Hale, said today that I referred to the report of the committee as a scheme. The term "scheme" carries no obloquy with it. I meant the "plan." I say it is a plan that renders possible infamous frauds in Alabama, the most infamous ever perpetrated in Alabama, because they will be written in your Constitution. The gentleman from Greene, who was willing to cut me off, is the author of the anti-pass resolution and the anti-pass resolution has been compromised. I impute no unworthy motives to anyone. I invite you to consider the facts. What will be the limitation? I have listened and I have read in vain to see where, under the plan—I will not call it a scheme any more because it seems to be obnoxious. I will call it a plan—and I appeal to you now in the last hour that you have a right to consider it—I appeal to you in this hour—this moment—before you vote and I ask you what remedy you offer under this plan? What remedy is offered under this plan? I say to you that there is no remedy for the obtaining of honest and fair elections in Alabama offered under this plan. I say to you that it is not true that you will ever achieve fair elections under the plan submitted by this committee. I say to you that the plan permits of fraud, and any plan that permits of fraud, invites fraud. It does not eliminate the ignorant vote. It does not eliminate the negro vote. I ask in view of the conditions that confront the people of Alabama. I appeal to you to raise the standard of citizenship so that only he who is willing to contribute

his share of the burden shall be able to participate. I do that, prompted by my belief in manhood suffrage, in order to meet the peculiar conditions that confront us in Alabama, but they bring us a plan here that would, in the course of three or four years, put into the population of Alabama, not all white men, but a very large per centage of the colored vote, and when the white men shall have divided, as some of the leaders of this movement have in the past advised them to do, and as many more have hoped they would do, when, I say, the white people in Alabama shall have divided as some of the leaders of this Convention have advised them to do, and as many more have wished they would do, the negro is the balance of power in Alabama.

Mr. Jenkins took the Chair during Mr. Lowe's remarks.

MR. COLEMAN — I arise to a point of order. Under the rules, I think the delegates have a right to speak to the main question and the gentleman has certainly addressed the Convention on that question before. The question now is upon the amendment offered by the gentleman from Chambers. If the gentleman from Jefferson claims the right to consume the time allowed him he ought to be confined in his remarks under the rules to the amendment.

THE PRESIDENT PRO TEM.—I was not aware of such a rule. The gentleman will confine his remarks to the amendment.

MR. LOWE — I am delighted to see, I am delighted to see that the brave gentleman, the Chairman of the Committee, from Greene, who is able to stand the punishment, is getting sore. I am not speaking for applause. The applause comes from the other side. We knew where the majority is. We know that in the making up of this Committee twenty-five of the strongest members of this Convention were placed upon it, and we know also, that the organization of the Convention itself was against us with all of its power. But now is the last time I will have an opportunity to speak in protest to you men before we go to the people. Why, sir, the distinguished President of this Convention said upon the floor the other day that I said that I did not wish the ratification of this Constitution. He said that I had assailed the Black Belt. I challenge him now to show a line or a letter in my speech to that effect, and he had evidently studied it carefully, because he devoted a good deal of attention to me. I challenge him to show where there was a line in my speech that assailed the Black Belt or threatened the ratification of this Constitution. But he chose to put me in company with that grandest of Americans, in my conception, old Edmund Pettus. I am willing to live by him, and I am willing to die by him. There is no man in this Convention, from the President of the Convention down, who will ever occupy his seat as long as that old man lives. And there is

John T. Morgan; he put me in company with John T. Morgan. He will not himself, perhaps, and there is no man on this floor, who will aspire to Morgan's place as long as Morgan lives.

THE PRESIDENT PRO TEM—I suggest that the gentleman confine his remarks to the question.

MR. LOWE—If the Chair rules me out of order, I will submit, but I will accept no suggestions from the Chair. I will accept the rulings of the Chair. I will warn the President of the Convention that the time comes when every man speaks his own opinion. I am willing to be put in company with those two great old men whose lives measure the history of Alabama and who have contributed their blood on every battlefield where the soldiers of Alabama have gone to the front, and whose public service is recorded in the archives of the nation. And it will not lie in the mouth of a newcomer to assail either one of them. I would not have cared to have been criticized, but I dislike to be misrepresented. I tell you, Mr. President, that the people of Alabama are in revolt against your infamous registration system. I tell you that the people of Alabama who for years have been struggling for fair elections and looking forward to this Convention, are in revolt against your good character clause. You may believe it or not. I am saying to you now what I was denied the right to say behind closed doors, and the highest duty of a citizen is to speak the truth in public assemblies, let it hurt who it may. I do not want to serve my State, and the threats fall lightly upon me, for he who has nothing left to hope, has nothing to gain. The people of Alabama have honored me beyond my deserts, and I would be false to them in this hour if I did not speak the truth to you and the truth to them. I am not afraid of the threats that go forth from this Convention.

Mr. President, briefly, in conclusion, I want to say that it would have been the pleasure of my life to have been in accord with the majority of that committee. I would rather have been in accord with them than in opposition. It is true that not a change in our old organic law has passed here that my vote was not recorded in the negative, and a man gets tired of being in the minority. I would have been glad to have been in accord with the majority of this committee on the main question for which this Convention was called, but, Mr. President, the report of that committee showed me so plainly that it was not the purpose to promote fair elections, but that it was the purpose to perpetrate fraud in Alabama forever. Now, how can that be rendered possible? You take a few of the politicians and then all of these fellows who have never been in politics at all, simply business men, and put them in company with politicians, and the shrewd politician gets the ear of the business man and the business man thinks that he

is providing to save the people forever, especially when the champion of it has worn the ermine.

THE PRESIDENT PRO TEM.—The Convention will be in order.

MR. LOWE—I do not need the gavel. I only wish those to listen who want fair elections in Alabama. I never said that the black belt could perpetrate fraud. There has been more fraud perpetrated in an hour in white counties in Alabama than has been perpetrated in a year in the black belt of Alabama. There are no subdivisions that mark honesty or decency in public or private life. I want to say to you that in Dallas county they have fair primaries, absolutely honest and fair. I want to say to you that in Morgan county they have dishonest primaries, absolutely dishonest and unfair. I speak to you the truth as I know it, as it has been my duty to ascertain it. I say to you that frequently in Madison county—the county in know the Hale county primaries are absolutely rotten and contemptible. I know the Hale county primaries are always honest and fair. They shall not falsely impute to me an assault upon one geographical section of my State. Gentlemen, what I ask you to do is simply to make honest and fair provisions for honest elections in Alabama. I am a believer in manhood suffrage.

THE PRESIDENT PRO TEM.—The gentleman's time has expired.

MR. BROOKS—I desire to offer an amendment.

MR. COLEMAN (Greene)—A motion for the previous question was pending and I yielded to the gentleman from Jefferson with the understanding that the motion would be renewed.

THE PRESIDENT PRO TEM.—Does the gentleman renew the motion?

MR. BROOKS — I will ask the gentleman from Greene to yield to me for one moment.

MR. LOWE (Jefferson)—The gentleman from Mobile recognizes my obligation to yield the floor to the gentleman from Greene.

MR. BROOKS—I ask the gentleman from Greene to yield for one moment—

MR. COLEMAN—Merely for the purpose of offering it.

MR. BROOKS—I ask the gentleman from Greene to yield a moment until the amendment is read.

MR. BOONE—Don't do it. Don't do it, Judge.

THE PRESIDENT PRO. TEM.—The Chair will rule that the gentleman from Mobile (Mr. Brooks) has the floor.

MR. BROOKS — It makes no difference to me. I do not care.

THE PRESIDENT PRO TEM.—Does the gentleman move the previous question?

Upon a vote being taken division was called for, and by a vote of 75 ayes and 11 noes the main question was ordered.

MR. SOLLIE—I now call for a yea and nay vote.

MR. deGRAFFENREID — There was a motion before the house to lay upon the table the amendment offered by the gentleman from Chambers. The gentleman from Greene moved to table the amendment offered by the gentleman from Chambers.

MR. COLEMAN (Greene)—I demand the previous question upon the motion to table and upon the section.

THE PRESIDENT PRO TEM—And after that the Chair does not think any other motion would be in order.

Mr. Reese sought recognition but failed.

THE PRESIDENT PRO TEM — The ayes and noes have been called for, is the call sustained?

The call for the ayes and noes was sustained.

MR. REESE—I rise to a parliamentary inquiry; what is now before the Convention?

THE PRESIDENT PRO TEM.—A motion to table. The gentleman from Greene moves to table the amendment offered by the gentleman from Chambers to Section 4. The Secretary will read the section and amendment.

MR. REESE—I do not desire the reading of the amendment, but I understood the Chair to state that a motion had been made to table, and a motion for the previous question.

THE PRESIDENT PRO TEM.—The motion was made to table the amendment, and the ayes and noes were called for on motion to table.

MR. REESE—I make the point of order that the two motions cannot be put together, a motion to table and a motion for the previous question.

THE PRESIDENT PRO TEM. — The motion for the previous question has been acted upon and there is only one motion before the house, which is a motion to table, and the ayes and noes have been called for.

MR. SAMFORD (Pike)—I rise to a point of order. After the previous question is ordered on the section and amendment a motion to lay upon the table is not in order.

THE PRESIDENT PRO TEM.—A motion to table is always in order, the Chair will so rule. The question is on the motion to lay on the table the amendment offered by the gentleman from Chambers. The Clerk will call the roll, and those in favor of tabling the amendment will say I, and those opposed, no, as their names are called.

MR. LONG (Walker)—I ask for the reading of the amendment.

The amendment was read as follows: "Amend Section 4 by inserting after the word 'upward' in the second line, the following words: 'And those who will become twenty-one years of age before the first day of January, 1905."

MR. HEFLIN (Randolph)—I understood the motion to be to table.

THE PRESIDENT PRO TEM—The Chair will state that it is to table the amendment, and those favoring the motion to table will signify it by saying I, and those opposed by saying no.

Upon the call of the roll the vote resulted as follows:

During the call of the roll:

MR. BROWNE—I am paired with the gentleman from Talladega, Mr. Graham, but I do not know how he would vote on this proposition if he were here, but I would vote aye.

MR. BYARS—I am paired with the gentleman from Dallas, Mr. Burns, upon the main question, but I understand he would vote aye on this proposition, and I will also vote aye.

AYES

Messrs. President,
Altman,
Ashcraft,
Banks,
Barefield,
Bethune,
Blackwell,
Boone,
Bulger,
Byars,
Carmichael, of Colbert,
Carnathon,
Chapman,
Cofer,
Coleman, of Greene,
Coleman, of Walker,
Cunningham,
deGraffenreid,
Eyster,
Ferguson,
Fitts,
Fletcher,
Glover,
Grant,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Harrison,
Hinson,
Hood,
Howze,
Inge,
Jones, of Wilcox,
Macdonald,
McMillan (Wilcox),
Knight,
Merrill,
Miller (Wilcox),
NeSmith,
Norwood,
O'Neal (Lauderdale),
O'Neill (Jefferson),

Opp,
O'Rear,
Parker (Cullman),
Pettus,
Pitts,
Proctor,
Reese,
Rogers (Sumter),
Sanders,
Sanford,
Searcy,
Selheimer,
Smith (Mobile),
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Weatherley,
Williams (Barbour),
Williams (Marengo),
Wilson (Washington),
Winn,

TOTAL—64

NOES

Bartlett,
Beddow,
Brooks,
Burnett,
Cardon,
Carmichael, of Coffee,
Cobb,
Davis, of Etowah,
Dent,
Duke,
Eley,
Foshee,
Gilmore,
Graham, of Montgomery,
Grayson,
Handley,
Heflin, of Randolph,
Henderson,
Jackson,
Jenkins,
Jones, of Bibb,
Kirk,
Kyle,
Lomax,
Long (Walker),
Lowe (Jefferson),
Malone,
Martin,
Maxwell,
Moody,
Murphree,
Oates,
Parker (Elmore),
Pearce,
Phillips,
Porter,
Reynolds (Henry),
Robinson,
Rogers (Lowndes),
Samford,
Sloan,
Smith, Mac. A.,
Smith, Morgan M.,
Sollie,
Sorrell,
Spears,
Spragins,
Tayloe,
Thompson,
White,
Whiteside,
Williams (Elmore),
Wilson (Clarke),

TOTAL—53

ABSENT OR NOT VOTING

Almon,
Beavers,
Browne,
Burns,
Case,
Cornwall,
Craig,
Davis, of DeKalb,
Espy,
Foster,
Freeman,
Graham, of Talladega,
Heflin, of Chambers,
Hodges,
Howell,
Jones, of Hale,
Jones, of Montgomery,
King,
Kirkland,
Ledbetter,
Leigh,
Locklin,
Long (Butler),
Lowe (Lawrence),
McMillan (Baldwin),
Miller (Marengo),
Morrisette,
Mulkey,
Norman,
Palmer,
Pillans,
Renfro,
Reynolds (Chilton),
Sentell,
Stewart,
Studdard,
Willet,

So the motion to table the amendment was carried.

The question recurs upon the section reported by the Committee. The Secretary will read the section.

MR. WATTS—I suggest that it is not necessary to read the section again.

MR. LOWE (Jefferson)—It is Section 4, Mr. President.

THE PRESIDENT PRO TEM -- The question is on the adoption of Section 4.

MR. LOWE (Jefferson)—As I understand Section 4 has three subdivisions, and I ask a division of the question.

THE PRESIDENT PRO TEM.—A division has been called for. The Clerk will read the second sub-division. The question will be on the second subdivision, and upon that the ayes and noes have been demanded, and the call has been sustained.

MR. LOWE (Jefferson) — May I ask what disposition was made of the first subdivision.

THE PRESIDENT PRO TEM.—It was amended and adopted.

MR. COLEMAN (Greene)—My motion was for the previous question upon the section not upon the subdivisions. That motion was carried. Now I do not know enough about parliamentary law—

THE PRESIDENT PRO TEM.—The Chair thinks when a division of the question is called for, if it permits of division that the delegates would have a right to the division.

MR. KNOX—I would suggest if the previous question has been ordered on the section, that there is no room for the rule for a division of the question to operate. You could not take it up by paragraphs, and you could not take it up by sentences. It is all one question. The question is on the adoption of the section, and it seems to me if the previous question has been ordered on the section, the question would be upon the adoption of the section vel non.

THE PRESIDENT PRO TEM.—The Chair will rule that the question is on the adoption of the section as a whole.

MR. CHAPMAN—The third subdivision has not been read yet.

THE CLERK—Not yet.

THE PRESIDENT PRO TEM.—The Clerk will finish the reading of the section.

Subdivision 3 was read as follows:

3. All persons of good character, and who understand the duties and obligations of citizenship under a republican form of government.

THE PRESIDENT PRO TEM.—The question now recurs upon the adoption of the section.

MR. OATES—I call for the ayes and noes on the adoption of the section.

MR. LOWE (Jefferson)—I would suggest to the gentleman from Montgomery that I have asked for a division of the question.

THE PRESIDENT PRO TEM.—The Chair will state to the gentleman from Jefferson that the previous question has been ordered as to the whole section, and the Convention will have to reverse that decision before it can be taken up by subdivision. The ayes and noes have been demanded and the call has been sustained, and as many as favor the adoption of the section will signify it by saying aye and those opposed by no as your names are called. The question is on the adoption of the whole section.

MR. LOWE (Jefferson)—I ask for a ruling. I asked for a division of the question. I do not see why the sub-division cannot be voted on separately under Rule 37.

THE PRESIDENT PRO TEM.—The Chair is not familiar with Rule 37 and will ask the gentleman to read the rule.

MR. COLEMAN (Greene)—The Chair has ruled upon this question and no exception was taken at the time.

THE PRESIDENT PRO TEM.—The gentleman from Greene, as the Chair understands it, demanded a division of the question, and the Chair does not want to be in error.

MR. LOWE (Jefferson)—I will ask the Chair to refer to Rule 37 on page 13. "Any delegate may call for a division of the question when the sense will admit of it." I called for a division of the question, but failed to get it. I think this is so clear that the Chair cannot refuse it.

THE PRESIDENT PRO TEM.—The Chair would like for the gentleman from Jefferson to the rule on the previous question——

MR. LOWE (Jefferson)—I have asked the Chair to refer to page 13, Rule 37. That is all I care to say upon that subject.

MR. CHAPMAN—A parliamentary inquiry. If my memory serves me correct as to the action of the Convention, by a separate vote a day or two ago we adopted and passed upon the first subdivision of Section 4, embracing wht is known as the soldiers'

clause. Since that time the Convention has been discussing the second subdivision, and I think that the ruling of the Chair and the action of the Convention heretofore was that each subdivision of this section must be separately passed upon, and then the section as a whole passed upon. If I am correct in that, then there should be a separate vote now on subdivision 2, then on subdivision 3, and then on the section as a whole.

MR. REESE—The previous question has been ordered on this section, consisting of a number of subdivisions, and the only question is the adoption of the section. Rule 37 says that where the sense of a proposition will admit of it a member has the right to demand a division, and as a right, the Chair must accord it to him. The fact that the previous question has been ordered cuts the figure in it. This section is composed of independent subdivisions, and the sense of each one of them admits of a separate vote upon each subdivision, and it appears to me to be clear that if any gentleman demands a division, he has a right to have each subdivision voted on independently, because striking out one subdivision would not affect the balance of the section.

MR. CHAPMAN—I move that we take up subdivision 2, or the second subdivision of Section 4, and vote on it.

MR. KNOX—The rule to which the gentleman refers, it seems to me, does not apply. Such a construction would require a great many votes on every section, for every section that we adopt may be capable of a division into as many questions as there are sentences in the section. I have no objection to a division of the question, but it seems to me that the rule cited does not extend to this kind of a case. It might be that the Convention would have preferred to have taken it up and considered it by paragraphs. If that motion had been made it would have been in order to have voted upon it by paragraphs, but where the previous question is ordered on the section, it seems to me that without a reconsideration of the vote whereby the previous question was ordered, that the question cannot be divided up into different votes.

MR. LOWE (Jefferson)—I merely desire to read the rule again. I desired to read the rule the other day but I was ordered to set down. Rule 37: Division of the question: Any delegate may call for a division of the question when the sense will admit of it. There is no allusion there to the previous question.

THE PRESIDENT PRO TEM.—It is clearly the opinion of the present occupant of the Chair that the point made by the gentleman from Jefferson is correct and the Chair so rules. The Chair corrected his ruling before upon the suggestion of the gentleman from Calhoun, but the Chair will rule now, as the matter comes up for decision, that a division is in order, and the question will be

on the next subdivision. We have adopted the first subdivision by a vote, and the second one is now to be voted upon.

MR. deGRAFFENREID—When did we adopt the first subdivision. We never have voted upon the first subdivision.

MR. O'NEAL—We merely voted upon the minority report, and that was laid upon the table.

MR. deGRAFFENREID—The minority report was laid upon the table just as we adjourned.

Mr. Reese sought recognition.

THE CLERK—The first part of Section 4, down to the first subdivision has been adopted, as amended by the amendment of Judge Coleman and Mr. Samford. The subdivision is before the house.

THE PRESIDENT PRO TEM.—The question recurs upon the first subdivision. Those in favor of the adoption of the first subdivision will say——

MR. LOWE (Jefferson)—I demanded the ayes and noes upon the adoption of each subdivision.

THE PRESIDENT PRO TEM.—The ayes and noes have been ordered.

MR. PILLANS—The call for the ayes and noes has not been sustained yet.

THE PRESIDENT PRO TEM.—The Clerk informs the Chair the call for the ayes and noes was submitted to the Convention, and the call was sustained.

MR. HEFLIN (Chambers)—I rise to a point of order. You cannot demand the ayes and noes on all the subdivisions, but you must demand the ayes and noes on each paragraph as you come to it.

THE PRESIDENT PRO TEM.—The point of order is sustained.

The ayes and noes have been demanded, is the call sustained?

MR. LOWE (Jefferson)—If the vote is on the first subdivision, I do not insist upon the call for the ayes and noes, but I do not understand the ruling of the Chair. I have no information that the first subdivision has ever been adopted.

THE PRESIDENT PRO TEM—It has not been adopted, we are voting on that now.

MR. LOWE (Jefferson)—Although the Chair states so, I have no information, and do not believe that the first subdivision has ever been adopted.

THE PRESIDENT PRO TEM—The Chair just stated to the gentleman from Jefferson that it has not been adopted.

MR. LOWE (Jefferson)—I do not ask for the ayes and noes on the first subdivision.

THE PRESIDENT PRO TEM—The call for the ayes and noes is withdrawn.

MR. PILLANS—I rise to a point of order. I demand that the question be put and that this House proceed with its business in order.

Upon a vote being taken, the first subdivision of Section 4 was thereupon adopted.

THE PRESIDENT PRO TEM—The question recurs upon the adoption of the second subdivision.

MR. LOWE (Jefferson)—And upon that I call for the ayes and noes.

MR. SAMFORD (Pike)—The first clause of this Section has not been adopted. There are four clauses in this, the first being that which says the following male citizens of this State, who are citizens of the United States, 21 years old or upward, who if their place of residence shall remain unchanged, who have at the date of the next general election, the qualifications as to residence prescribed in Section 2 of this Article, 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. That is the first paragraph——

MR. MACDONALD—That has been adopted.

MR. BLACKWELL—I will ask if the Clerk's record do not show that has been adopted?

MR. SAMFORD (Pike)—I ask if the Secretary's record shows that paragraph in this Article has been adopted.

THE CLERK—Here is an amendment offered by Judge Coleman that was adopted, and that is all the record shows that is attached to this report.

MR. SAMFORD (Pike.)—That is the point I make. You cannot go and adopt the first subdivision, without adopting what may be termed the caption. That has never been adopted, and the records do not show that it has been adopted.

THE PRESIDENT PRO TEM—The Chair will state to the gentleman from Pike that the Clerk has sent for his Journal and will verify the statement.

MR. WILLIAMS (Elmore)—I move the adoption of the first clause, and the first paragraph of that Section.

Upon a vote being taken the first clause of the Section was adopted.

THE PRESIDENT PRO TEM—The question now recurs upon the first subdivision. As many as favor the adoption of this subdivision will signify it by saying aye.

MR. LOWE (Jefferson)—Which Section is that?

THE PRESIDENT PRO TEM—The first subdivision. The question now recurs upon the adoption of the second subdivision.

MR. BAREFIELD—You have not announced the vote upon the first subdivision of the Section.

THE PRESIDENT PRO TEM—The first clause was adopted, and we have just voted upon the first "division."

MR. BAREFIELD—But the Chair did not announce the result.

THE PRESIDENT PRO TEM—The Chair announces that it is adopted.

The question now recurs upon the second subdivision.

MR. LOWE (Jefferson)—Upon the second clause I demand the ayes and noes.

The call for the ayes and noes was not sustained, and a viva voce vote was taken upon the second subdivision of Section 4.

MR. LOWE (Jefferson)—I wish to have my protest recorded against the adoption of Subdivision 2.

THE PRESIDENT PRO TEM—Does the gentleman call for a division?

MR. LOWE (Jefferson)—I called for the ayes and noes, and I wish to have my protest recorded upon the minutes against the adoption of Section (Subdivision 2.)

THE PRESIDENT PRO TEM—The Chair will state to the gentleman from Jefferson that the call for the ayes and noes was not sustained.

MR. LOWE (Jefferson)—The Chair refuses, then, to allow my protest to go upon the minutes of this Convention?

THE PRESIDENT PRO TEM—The gentleman has a right, at any time he sees fit, to spread his protest on the Journal.

MR. LOWE (Jefferson)—I ask for the spreading of my protest on the minutes.

THE PRESIDENT PRO TEM—After the vote is announced, the gentleman will be in order to make such a motion. It seems to the Chair that the second subdivision is adopted, and the Chair declares it adopted. The gentleman from Jefferson.

MR. LOWE (Jefferson)—I wish to enter my protest against the adoption of Section 2 as undemocratic, unjust and unfair.

THE PRESIDENT PRO TEM—Will the gentleman send up his protest in writing?

MR. O'NEAL—I move the adoption of Subdivision 3.

THE PRESIDENT PRO TEM—The question recurs upon the adoption of Subdivision 3, and it is moved that it be adopted.

Upon a viva voce vote Subdivision 3 was adopted.

MR. deGRAFFENREID—Now I move the adoption of the whole Section as amended.

THE PRESIDENT PRO TEM—The question recurs upon the adoption of the Section as a whole.

MR. HARRISON—I desire to make a parliamentary inquiry. What has become of the call for the previous question on this Section, which was sustained on the motion of the delegate from Greene?

THE PRESIDENT PRO TEM—The Chair will rule that the previous question has been ordered on the whole section and the ayes and noes are demanded——

MR. O'NEAL—Not on the whole section?

MR. SOLLIE—Yes, sir; the ayes and noes were called on the whole section, and the call was sustained.

THE PRESIDENT PRO TEM—The call for the ayes and noes on the whole section was sustained according to the recollection of the Chair.

MR. O'NEAL—The ayes and noes were not called for on the whole section.

THE PRESIDENT PRO TEM—Is there a all for the ayes and noes?

MR. COLEMAN (Greene)—My motion was for the previous question on the section as a whole. I call for the ayes and noes.

The call was sustained.

THE PRESIDENT PRO TEM—The question recurs upon the adoption of the section as a whole. Those in favor of the adoption of the section will vote aye and those opposed, no, as your names are called.

Upon the call of the roll the vote resulted as follows:

AYES.

Messrs. President,
Altman,
Ashcraft,
Barefield,
Bethune,
Blackwell,
Boone,
Brooks,
Bulger,
Burnett,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Cunningham,
Davis, of Etowah,
deGraffenreid,
Duke,
Eley,
Eyster,
Ferguson,
Fitts,
Fletcher,
Foster,
Glover,
Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Hood,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Wilcox,
Kirk,
Knight,
Lomax,
Long (Walker),
Macdonald,
McMillan (Wilcox),
Malone,
Martin,
Maxwell,
Merrill,
Miller (Wilcox),
Moody,
Murphree,
NeSmith,
Norwood,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Opp,
O'Rear,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Pillans,
Pitts,
Proctor,
Reese,
Reynolds (Henry),
Robinson,
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Sollie,
Sorrell,
Spragins,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson (Clarke),
Wilson (Wash'gton),
Winn,

Total—104.

NOES.

Bartlett,	Gilmore,	Porter,
Beddow,	Harrison,	Sloan,
Cardon,	Kyle,	Spears,
Dent,	Lowe (Jefferson),	White.
Foshee,	Oates,	

Total—14.

ABSENT OR NOT VOTING.

Almon,	Kirkland,	Norman,
Beavers,	Ledbetter,	Palmer,
Case,	Leigh,	Renfro,
Espy,	Long (Butler),	Reynolds (Chilton),
Hodges,	Lowe (Lawrence),	Sentell,
Jones, of Hale,	Miller (Marengo),	Studdard,
Jones, of Montgomery,	Morrisette,	Willett.
King,	Mulkey,	

PAIRS.

AYES.	NOES.
Locklin,	Banks,
Browne,	Graham, of Talladega,
Burns,	Byars,
Stewart,	Cofer,
McMillan (Baldwin),	Howell,
Davis, of DeKalb,	Phillips,
Craig,	Freeman.

So the section was adopted.

THE PRESIDENT PRO TEM—The Secretary will read the next section.

Mr. Long (Walker) secured recognition.

MR. HEFLIN (Chambers)—A point of order. An amendment is not in order until the section is read.

THE PRESIDENT PRO TEM—The Chair recognized the gentleman from Walker. The Chair does not know for what purpose he arose.

MR. LONG (Walker)—I want to offer an amendment to the section. If it is not in order at this time I will offer it when the section is read.

Section 5 was read as follows:

Section 5. After the first day of January, 1903, the following persons, and no others, whom, if their place of residence shall re-

main 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.

Mr. Long (Walker) was recognized.

MR. SAMFORD (Pike)—I ask the gentleman to yield to me for the purpose of making a motion, for a moment.

MR. LONG—I will yield after my amendment is offered.

MR. SAMFORD—That is all right.

The Clerk read the amendment offered by Mr. Long of Walker, as follows:

"Amend Section 5, in the first line, by striking out '1903' and inserting '1905' in lieu thereof, and by adding after the word 'article' in the fifth line, the following: 'Provided, further, that all male persons becoming of age, or citizens of Alabama, between the first of January, 1903, and the first of January, 1906, shall be registered under subdivision 3 of section 4 of this article."

MR. SAMFORD (Pike)—Mr. President, it seems to me——

PRESIDENT PRO TEM—The gentleman from Walker has the floor.

MR. LONG—I have no objection to his making his motion.

MR. SAMFORD—I desire to say that this section has two very long subdivisions. I therefore move that the rules be suspended, and that we consider this section by the subdivisions, instead of considering it as a whole.

Upon a vote being taken the motion to suspend the rules was carried.

MR. LONG (Walker)—Mr. President and gentlemen of the Convention, the objection of the amendment—I will ask the Clerk to read the section as it would read after it is amended.

The Clerk read the section as amended.

MR. LONG—Now, Mr. President and gentlemen of the Convention, that simply extends the time of the property and educational qualification in Alabama from 1903 to 1905. It is in line with the amendment that I voted for which was offered by the gentleman from Chambers, and the motion which I thought then, and still think, is just. This is a better one, I think, because it postpones the property and educational qualification in Alabama from 1903 to 1905. I appeal to the delegates upon this floor, and I think I know as much about poor people of Alabama as any member of this Convention, and I tell you, I know many sons of

Confederate soldiers between 17, 18 and 19 years of age who cannot prepare themselves within the next twelve months to meet the educational or property qualifications to vote. This, as I can see, will do no harm. It does not extend the soldier clause, or the descendant of a soldier clause, so far as registration is concerned; but between 1903 and 1905, when the property and educational clause goes into effect, all the voters, or men becoming of age, to the voters, or becoming citizens of the State of Alabama, will register under Section 3 of Article IV, which reads: "All persons of good character, and who understand the duties and obligations of citizens under a republican form of government." This, I think will make the Constitution much stronger. I, for one, have voted so far with this Committee, and I hope I shall continue to do it. I shall vote for it, and surrender my own ideas to the wisdom of the Committee. I have done it thus far, and I will do it hereafter. But I do ask that the Chairman of the Committee himself, carefully consider this amendment that I have offered. I believe that it is just, and I know that it is right. Why, Mr. President, a property and educational qualification is repulsive; it is not Democratic. The only excuse that can be given for it in this instance need not be referred to by me. There is not a sensible man in the hearing of my voice but who knows the necessity for it. If we could do otherswise there should never be an educational or a property qualification of the right to vote. This does not do away with it, but extends the time. Suppose a man is 20 years of age now, or 19 years of age—he has to prepare himself within twelve months by the accumulation of $300 worth of property, or otherwise be able to read and write in the first day of January, 1903. While he may be fortunate enough to marry a woman with $300 worth of property, and thus save himself, that is the only way he can save himself. I have no respect for a man that votes under his wife's petticoats. I want the man to vote and be able to do it in his own right. I think he should be able to read and write, but I think he should have more than twelve months in which to prepare himself for that purpose. I cannot see any just reason why this amendment should not be adopted. I tell you that I personally know numbers of sons of Confederate soldiers who will be disfranchised under it. They cannot stay away from the farm next year long enough to learn to read and write. Many crops are made in my county without horse or man, by white women and oxen, and I tell you that many of those widow women have sons and they help them make these crops and they cannot take them out of the field long enough for them to get an education within the short period of twelve months. So far as the accumulation of property is concerned, $300 worth of property, there is not only in ten who will ever own it. I am willing to submit it to the wisdom of this Convention, and abide by their result. I respectfully ask the consideration of the Chairman of the Committee on Suffrage to that amendment, and if he can accept it, either in whole or in part, I will be

glad, or if this Convention can accept it in whole or in part, I will be glad; otherwise I will be satisfied.

MR BULGER—I have an amendment: "Amend report of the Committee by striking out Section 5 of the report."

MR. O'NEAL—I move to lay the amendment on the table.

MR. BULGER—Before the gentleman——

MR. O'NEAL—I move to lay the amendment of the gentleman from Walker on the table, also the amendment offered by the gentleman from Tallapoosa.

MR. BULGER—Will the gentleman withdraw?

MR. O'NEAL—Certainly.

MR. BULGER—I understood I had the floor when the gentleman made the motion. I will not say, Mr. President, and gentlemen of the Convention, that I dislike to disagree with the Committee on Section 5. I am glad, sir, that I have got the opportunity to disagree with the Committee on Section 5. I like Section 4, and I believe we have incorporated in Section 4 all the suffrage plan that we need in Alabama. I believe the good character and understanding clause incorporates all the principles and all the policy that is in Section 5.

MR. DUKE—I rise to a point of order.

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

MR. DUKE—The amendment is out of order. A resolution was just adopted to adopt this section by paragraph, and we are now on the first paragraph, and his resolution is to strike out Section 5. I make the point of order that his amendment is out of order. We are not considering Section 5, but the first paragraph of Section 5.

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

MR. BULGER—I offer this amendment and withdraw the other.

THE PRESIDENT PRO TEM—The gentleman from Tallapoosa desires to withdraw his amendment. If there is no objection leave will be granted.

MR. REESE—I object.

MR. DUKE—I make the point of order that he has not leave to withdraw. The amendment will properly come when the section comes up for adoption.

The amendment was read as follows:

"Amend report of the committee by striking out the first division of Section 5."

MR. REESE—I rise to a point of order. There were two amendments pending prior to the last one sent up by the gentleman from Tallapoosa. He has not obtained the consent of the house to withdraw the substitute he offered.

THE PRESIDENT PRO TEM—The gentleman withdrew his amendment, but the point of order is well taken.

MR. O'NEAL—What is the question before the house?

THE PRESIDENT PRO TEM.—The question is upon the adoption of the first subdivision.

MR. O'NEAL—Am I in order to make a motion?

MR. BULGER—Mr. President, I insist that I have the floor.

PRESIDENT PRO TEM.—The gentleman from Tallapoosa will state whether his amendment——

MR. BULGER—I rise to a point of parliamentary inquiry. Is it not parliamentary that an amendment to an amendment can always be offered?

THE PRESIDENT PRO TEM.—That is correct.

MR. BULGER—Is that not the parliamentary status of this question now? My amendment was offered to the amendment of the gentleman from Walker.

THE PRESIDENT PRO TEM.—The Chair did not so understand it. The Clerk will read the amendment.

MR. deGRAFFENREID—I rise to a point of order. The gentleman has introduced no amendment to the first subdivision of Section 5. He has simply introduced an instrument there which purports to strike, it is not an amendment. If the gentleman desires to do that he can vote against the adoption of the subdivision when that comes up before the house.

THE PRESIDENT PRO TEM.—The Chair does not think that the amendment offered by the gentleman from Tallapoosa is germane to the amendment offered by the gentleman from Walker, and therefore it is not in order.

MR. O'NEAL—Does the Chair hold that it is not germane?

THE PRESIDENT PRO TEM.—The amendment offered by the gentleman from Tallapoosa is not germane to the amendment

offered by the gentleman from Walker. I will sustain the point of order made by the gentleman from Hale.

MR. O'NEAL—I move to lay the amendment of the gentleman from Walker on the table.

MR. LONG—Upon that I call for the ayes and nays.

MR. WILLIAMS (Elmore)—I rise to a point of order. The gentleman from Walker offered an amendment, and the gentleman from Tallapoosa offered an amendment to strike out the entire section. He asked leave to withdraw that, and the Chair said, "I hear no objection," and it was granted, and then he said, "I offer this amendment from Walker."

THE PRESIDENT PRO TEM.—The Chair ruled it out of order as not being germane.

MR. WILLIAMS (Elmore)—I rise to a point of inquiry.

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

MR. WILLIAMS—Is not an amendment to the amendment in order?

THE PRESIDENT PRO TEM.—Not always. The question is on the motion to table.

MR. LONG—I ask for ayes and nays.

THE PRESIDENT PRO TEM.—The gentleman from Walker asks for ayes and nays. Is the call sustained?

The call is sustained. Those in favor of the motion to table will signify it by saying aye, those opposed no as your names are called.

MR. SAMFORD—I rise to a point of inquiry.

THE PRESIDENT PRO TEM.—State the point of inquiry.

MR. SAMFORD—Does this house adjourn this evening at six o'clock, or do we hold on to seven?

THE PRESIDENT PRO TEM.—It is the information of the Chair that we adjourn at seven.

MR. ROGERS (Sumter)—We adjourn at six o'clock, because the resolution said "hereafter," fixing the time of the meeting in the morning at nine and adjournment at seven. When we adopted that rule of meeting at nine o'clock we adjourn at seven; as long as we meet at 9:30, we adjourn at six. There is no use for me to talk to you gentleman about the hereafter. You have been talked to enough about that.

THE PRESIDENT PRO TEM.—The Chair will state that he got his information from a page. (Laughter.)

MR. SAMFORD—I appeal from the decision of the page.

(Cries of Vote! Vote.)

THE PRESIDENT PRO TEM—The Clerk will call the roll.

MR. CARMICHAEL (Colbert)—I move we adjourn.

The President took the Chair and the Secretary proceeded to call the roll.

During the call of the roll.

MR. WILLIAMS (Elmore)—I vote aye for the purpose of moving a reconsideration on tomorrow morning.

Upon the call of the roll the vote resulted as follows:

AYES.

Messrs. President,	Grant,	Pillans,
Ashcraft,	Greer, of Perry,	Pitts,
Banks,	Hinson,	Rogers (Lowndes),
Barefield,	Hood,	Rogers (Sumter),
Bethune,	Howell,	Sanders,
Blackwell,	Howze,	Searcy,
Boone,	Inge,	Selheimer,
Browne,	Jones, of Wilcox,	Smith (Mobile),
Carmichael, of Colbert,	Knight,	Tayloe,
Carnathon,	Lomax,	Vaughan,
Chapman,	Lowe, of Jefferson,	Waddell,
Cobb,	Macdonald,	Walker,
Coleman, of Greene,	McMillan (Wilcox),	Watts,
Coleman, of Walker,	Merrill,	Weakley,
Cunningham,	Miller (Wilcox),	Weatherly,
Dent,	NeSmith,	Williams (Barbour),
deGraffenreid,	Norwood,	Williams (Marengo),
Fitts,	O'Neal (Lauderdale),	Williams (Elmore),
Fletcher,	O'Rear,	Wilson (Clarke),
Foster,	Parker (Cullman),	Wilson (Wash'gton),
Glover,	Pettus,	Winn,

Total—63.

NOES.

Bartlett,	Davis, of Etowah,	Grayson,
Beddow,	Duke,	Greer, of Calhoun,
Bulger,	Eley,	Haley,
Burnett,	Ferguson,	Handley,
Cardon,	Foshee,	Heflin, of Randolph,
Carmichael, of Coffee,	Graham, of Montgomery,	Jackson,

Jenkins,
Jones, of Bibb,
Kirk,
Kyle,
Long, of Walker,
Malone,
Martin,
Maxwell,
Moody,
Murphree,
Oates,
O'Neill, of Jefferson,
Opp,
Parker (Elmore),
Pearce,
Phillips,
Porter,
Proctor,
Reynolds of Henry,
Robinson,
Sanford,
Sloan,
Smith, Mac. A.,
Smith, Morgan M.,
Sollie,
Sorrell,
Spears,
Spragins,
Thompson,
White,
Whiteside,

Total—49.

ABSENT OR NOT VOTING.

Almon,
Altman,
Beavers,
Brooks,
Case,
Cornwall,
Craig,
Davis, of DeKalb,
Eyster,
Espy,
Gilmore,
Freeman,
Graham, of Talladega,
Harrison,
Heflin, of Chambers,
Henderson,
Hodges,
Jones, of Hale,
Jones, of Montgomery,
King,
Kirkland,
Ledbetter,
Leigh,
Locklin,
Long, of Butler,
Lowe, of Lawrence,
McMillan, of Baldwin,
Morrisette,
Mulkey,
Norman,
Palmer,
Reese,
Renfro,
Reynolds (Chilton),
Samford,
Sentell,
Stoddard,
Willet.

PAIRS.

AYES.	NOES.
Burns,	Byars,
Stewart,	Cofer.

MR. COLEMAN (Greene)—I now move the adoption of the first paragraph of Section 5, and on that I call for the previous question.

MR. LONG (Walker)—A point of order. It is 6 oclock and the House stands adjourned.

MR. O'NEAL—A point of order——

MR. PILLANS—No sir, I made a point of order awhile ago when the other gentleman was presiding that the resolution says hereafter the meetings of this House shall be at 9 o'clock in the morning——

MR. SANFORD (Montgomery)—That was lost.

MR. ROGERS (Sumter)—It was not lost. I beg your pardon. The resolution provides that the meeting shall be at 9 o'clock in

the morning and meet again at 3:30 and hold until 7. Now that resolution was brought in after 9:30 this morning and therefore it could not possibly take effect today. It cannot take effect until the time for meeting is fixed as well as the time for adjournment and therefore the House stands adjourned today under the old rule.

A reading of the resolution was called for.

MR. ROGERS—I think it is the resolution I wrote myself. The Committee has changed it a little.

The resolution was read as follows:

Resolved, That hereafter the sessions of this Convention shall be as follows: Meet daily at 9 a. m., adjourn at 1 p. m., meet at 3:30 p. m. and adjourn at 7 p. m.

MR. PILLANS—That became operative at once, and this is "hereafter." It is how it became operative at once when it was after 9:30 when the resolution was introduced.

THE PRESIDENT—In the opinion of the Chair it would become operative as to all subsequent adjournments, subsequent to adoption of the resolution. It would not effect anything that occurred prior to its adoption, but the adjournment, if it says that hereafter we shall adjourn at 1:30, as was first proposed, then the morning session would have terminated at 1:30 instead of 1.

MR. ROGERS (Sumter)—I would like to ask the Chair a question.

THE PRESIDENT—The gentleman will propound the interrogatory.

MR. ROGERS—If the opinion of the Chair is correct, will you not have to turn back the hands of the clock so as to enable us to meet at 9 o'clock this morning, when it was 10 o'clock when the resolution was introduced?

THE PRESIDENT—The opinion of the Chair is that the resolution became operative on all adjournments that occurred subsequent to the adoption of the resolution, and that its operation would not be deferred until the next day.

MR. ROGERS (Sumter)—I move that we adjourn.

There were expressions of dissent, and upon a vote being taken a division was called for, and by a vote of 63 ayes and 53 noes the Convention adjourned.

FIFTY-NINTH DAY

MONTGOMERY, ALA.,
Tuesday, July 31, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by the Rev. Mr. Powell, as follows:

O Lord, God, we come into Thy presence with a deep sense of our dependence upon Thee. We come to Thee with thanksgiving, that our lives and health has been preserved, and that we have been permitted to assemble here this morning. We thank Thee for all the good which we have, material, social and spiritual. Every good gift, every perfect gift, comes down from our Father with whom there is no variableness or shadow of turning. Guide us during this day. Accept the gratitude of our hearts, the praise of our lips, and the service of our lives, in return from that goodness which Thou hast shown to us. Forgive our lack of faithfulness, and may we in all the coming days live soberly, righteously and Godly in this present world. Bless these Thy servants here assembled. Bless them in their homes and in their works. Prepare us for the duties of this day. May we be led and guided by Thee. Finally bring us to the home of the good, we pray Thee, through Christ, our Redeemer. Amen.

Upon the call of the roll 107 delegates responded to their names.

MR. OATES—I am reminded this morning by seeing the delegate from Monroe here, Mr. Morrissette, who has been absent for sometime on account of sickness, that upon the vote taken upon the minority report in the Suffrage amendment, I had agreed to pair with him, but it has escaped me at the time. It makes no difference, but I state that in justice of the delegate.

Leaves of absence were granted to the following delegates: Mr. Jones of Montgomery for today; Mr. Graham of Talladega for yesterday.

MR. BULGER—I rise to a point of personal privilege, not to correct the stenographic report, but to correct what I said. Referring to the Grandfather Clause, I am reported as saying: "I like it, because it practically permits all white men to vote, and it practically denies all negroes to vote."

I think I said that, but did not mean to say it. I meant to say that "it did not interfere with the negro who was qualified to vote."

MR. DENT—I do not want to make a correction nunc pro-tunc, like the gentleman from Talladega, but I want to correct something I did not say. The stenographic report shows that I said "with John Roddy's Cavalry." I do not know the given name of Roddy, and did not use it. I don't know whether his name is John or not. I do not think it is. I ask to have it corrected just to show "Roddy's Cavalry."

The report of the Committee on Journal was read, stating that the journal for the fifty-eighth day had been examined and found correct, and the same was adopted.

MR. BEDDOW—I move that the roll call of delegates be dispensed with, and that we suspend the rules, and immediately proceed to the consideration of the article on Suffrage.

THE PRESIDENT—Does the gentleman include the call of Committees?

MR. BEDDOW—Yes, sir.

MR. OATES—I have no objection to that with one exception. I desire to call up the report of the Committee on Legislative Department for reading and final passage.

THE PRESIDENT—Does the gentleman desire it read at this time?

MR. OATES—Yes, sir. I do not object to the motion if that is accepted.

THE PRESIDENT—Does the gentleman from Jefferson except the report of the Committee on Legislative Department? That would come up under the head of the Committee on Engrossment perhaps, as it is lying on the table.

MR. BEDDOW—Yes, sir.

MR. KIRKLAND—I have a short petition which I desire to have the unanimous consent to have read. I ask unanimous consent that the body of the petition be read.

THE PRESIDENT—The question before the house is upon the motion of the gentleman from Jefferson. The Chair will submit the request of the gentleman from Dale, as soon as the house has passed on the other motion. The motion is to dispense with the call of the roll of delegates for the introduction of ordinances and the call of Standing committees with the exception of the Committee having in charge the article on Legislative Department.

Upon a vote being taken the motion was carried and the rules suspended.

MR. OATES—I now move to take the article reported by the Committee on Legislative Department from the table and that it be read the third time, and put upon its final passage.

MR. BROOKS—What is the motion? Is it on ordering it to a third reading.

THE PRESIDENT—It has been ordered to a third reading. The question is on the third reading of the report.

MR. BROOKS—Will any remarks be in order now?

THE PRESIDENT—It seems to the Chair they would be in order.

MR. BROOKS—While there are several sections in the report of the committee that I do not agree to, there is one particularly, that I object to, and which compels me to vote against the adoption of that article. I refer to the proposition which changes the policy of this State, from the time that it became a State, and which makes its policy in opposition to the policy of every State in the Union, in regard to the election of members of the Legislature, and to the sessions of the Legislature. Now without a single exception in forty-five States of this Union, every State has a biennial session of the Legislature. Some of them have annual sessions. Some few have—

MR. OATES—Will the gentleman allow an interruption?

MR. BROOKS—In one moment. Some few have biennial and some few have annual sessions, with the exception of the State of Mississippi, which has quadrennial elections, and biennial sessions. The policy which now obtains in this State is common to every other State in this Union. I will now hear the gentleman from Montgomery.

MR. OATES—I was about to ask when my friend was making no exception, what about Mississippi? It has a Legislature only once in four years.

MR. BROOKS—That is only because I did not have time rapidly enough to follow the operations of the gentleman's mind. I cannot say but one thing at a time. Now, Mr. President, for that reason, I shall feel compelled to vote against the adoption of this article. I believe that it is an unwise and a radical departure from the policy of the State.

MR. O'NEAL—I desire to make a suggestion.

THE PRESIDENT—Does the gentleman yield?

MR. BROOKS—Yes sir.

MR. O'NEAL—There seems to be a misapprehension as to the law of Mississippi on this subject. The law of Mississippi is

that the Legislature meets biennially. Every four years, there is a session which has no limit upon its term, and every two years there is a session limited to thirty days. So they meet biennially.

MR. BROOKS—I understand that, sir. The sessions are quadrennial, as to general legislation, with an alternating session for local legislation every two years, but in point of fact, they have biennial sessions of the Legislature. Now I want to say that I do not believe the people of this State call for any such radical departure, and I do not believe that they understand now, or that they have any idea that this great right of meeting frequently and electing their representatives, freshly, from them, when new questions spring up, and the right to come together, at least in sessions every two years, has been taken away from them, by this Constitution, and I think they will wake up some day to find themselves in a position that they never dreamed this Convention was putting them in, and for that reason, I object and will vote against the adoption of the article on Legislative Department.

MR. ROGERS (Sumter)—Old "Probono Publico," "Watchman," and the balance of that family have been warning the people of the State, through the newspapers, that this Convention has taken away from them the right to meet every two years. I have been reading it in these papers myself, but I have never yet heard an expression from the people that did not favor the four year term. They have paid no attention to "Probono Publico," "Watchman," "X Rays," and other people who stand as the guardians of the rights of the people of Alabama. Upon the other hand, every expression you can hear from the business interest of the State of Alabama and the business interests is the man who follows the plow, as well as the one who manages the great corporations in the State of Alabama, favors meeting every four years. It is the universal expression of the wish of the people of the State of Alabama. If we had not taken out of the hands of the Legislature local legislation, why then of course, it would be well to meet every two years, and let the people pass local legislation, but when we have said that the legislature should not pass upon local legislation, when we have said there should be other means of providing for local laws, then it is safe for them to meet every four years. The Governor has the right to call the Legislature into session whenever the interest of the people of Alabama are menaced. We have not taken away from the people any right. We are simply doing what the people want us to do. They want us simply to let them alone and let them pursue their business, and their pleasure, and look out for their happiness in the State of Alabama. Now the gentleman from Mobile says that the people of the State of Alabama do not know what we are doing. I think he casts a reflection upon the intelligence of the people of the State of Alabama. Let him show me one single objection from the people and this has been heralded

all over the State of Alabama, about the four year term, except may be from that "Probono Publico" family. I hardly think it is necessary, Mr. President to say anything more on this question.

MR. BOONE—Can't you move the previous question on the article?

MR. ROGERS (Sumter)—I am not sufficiently informed as to parliamentary usage, to know whether we can or not.

MR. BOONE—Try it.

MR. ROGERS—I move the previous question upon the third reading.

THE PRESIDENT—The gentleman from Sumter moves the previous question upon the third reading of the article as reported.

MR. O'NEAL—I desire to make a point of order. Would a motion be in order now to strike out any section of that report.

THE PRESIDENT—The question is upon the adoption of the article as a whole.

MR. O'NEAL—We have to vote upon the whole.

THE PRESIDENT—Either accept or reject the whole.

MR. O'NEAL—So a discussion of this question would be fruitless at present.

THE PRESIDENT—Unless the Convention desires to reject the whole article. The question is as to whether the main question shall be put.

MR. SANFORD (Montgomery)—Can this question be discussed as to whether we shall meet every four years or every two.

THE PRESIDENT—It can be discussed if the Convention declines the call for the previous question.

MR. O'NEAL—I desire to make a parliamentary inquiry: Would a motion to re-commit the entire article to the Committee with instructions to report as to the biennial sessions be in order?

THE PRESIDENT—It is not the province of the Chair to suggest what motion would be in order, but to submit motions that are made.

THE PRESIDENT—The question is upon the motion for the previous question.

MR. O'NEAL—I move to lay the whole article on the table.

Upon a vote being taken, the motion to table was lost.

THE PRESIDENT—The question is on the motion of the gentleman from Sumter. Shall the main question be now put?

Upon a vote being taken, the main question was ordered.

THE PRESIDENT—The question is on the reading and adoption of the article. The Secretary will read the article.

The article was read as follows:

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 need 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 adopting a code, digest or revision of statutes; 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.

Sec. 3. Senators and Representatives shall be elected by the qualified electors on the Tuesday after the first Monday in November, 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 term.

Sec. 4. Senators shall be at least 25 years of age and Representatives, 21 years of age. They shall have been citizens and residents of this State for three years and residents 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 quadriennally, 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 the members of the Legislature shall be $4 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 travelled.

Sec. 7. The Legislature shall consist of not more than thirty-five Senators, and not more than 105 members of the House of Representatives; to be apportioned among the several districts and counties 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.

Sec. 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 its deliberations in the absence of the Lieutenant Governor; and 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; 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. 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 and to perform all the duties of such officer under disability during the continuance of the same; and such temporary officer, while performing duty as such, shall receive only the same compensation to which the permanent officer is entitled by 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 obedience to its process to protect its members against violence, or officers of bribes or corruption; and with the concurrence of two-third 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 bar 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, except, in such

parts as in its 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 Journals. 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 Journals.

Sec. 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 open 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 the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Sec. 16. No Senator or Representatives shall, during the term for which he shall have been elected be appointed to any office of profit under the 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 elections by the people.

Sec. 17. No person 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 law shall be passed except by bill and no bill shall be 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 such committee in session, and returned therefrom, which facts 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 bill shall become a law unless on its final passage it be read at length, and the vote taken by yeas and nays, the names of the members voting for and against the same to be entered upon the Journals, 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 names 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 Journals; and no report of a committee of conference shall be adopted in either House except upon a vote taken by yeas and nays and entered on the Journal as herein provided for the adoption of amendments.

Sec. 22. 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 manner in the nature of a lottery in this State; and all acts or parts of acts heretofore passed by the Legislature and all acts amendatory thereof, or supplemental thereto, are hereby avoided.

Sec. 23. 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 signing, and the fact of reading and 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 upon the journal.

Sec. 24. The Legislature shall prescribe by law 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. 25. 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 services shall have been rendered or contract made, nor to increase or decrease the fees and compensation of such officers during their terms of office; nor shall any officer of the State bind the State to the payment of any sum of money but by authority of law. Provided this section shall not apply to allowances made by Commissioners, Courts or Boards of Revenue to county officers for ex-officio services.

Sec. 26. All stationery, printing, paper and fuel used in the Legislative and other departments of government, shall be furnished, and the printing, binding and distribution of laws, journals, department reports and all other printing and binding and repairing and furnishing the halls and rooms used for the meetings of the Legislature and its committees shall be performed under contract, to be given to the lowest responsible bidder below maximum price, and under such regulations as shall be prescribed by law; no member or officer of any department 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. 27. All bills for raising revenue shall originate in the House of Representatives. The Governor, Auditor and Attorney General shall before each regular session of the Legislature, prepare a general revenue bill to be submitted to the Legislature for its information, 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, to be used or dealt with as that House may elect. The Senate may propose amendments to revenue bills. No revenue shall be passed during the last five days of the session.

Sec. 28. 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 bills, each embracing but one subject.

Sec. 29. No money shall be paid out of the treasury, except upon appropriations 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. 30. 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 a vote of two-thirds of all the members elected to each House.

Sec. 31. 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 investment heretofore made.

Sec. 32. 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. 33. 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. And special sessions shall be limited to thirty days.

Sec. 34. 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.

Sec. 35. 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 on the same; and such act shall specify the proposed new location.

Sec. 36. A member of the Legislature who shall 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 of 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 be in any way influenced thereby; or who shall solicit or demand any such money or other advantage, matter or thing aforesaid, for another, as a consideration of his vote or 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. 37. 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 a 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 may be provided by law.

Sec. 38. The offense 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.

Sec. 40. In all elections by the Legislation 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. 39. 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 of which he is a member, and shall not vote thereon.

Sec. 40. In all elections by the legislature the members shall vote viva voce, and the votes shall be entered on the Journals.

Sec. 41. 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. 42. 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 pro-

mulgation of the public statutes of this State of a general nature, both civil and criminal.

Sec. 43. The Legislature shall pass such penal laws as they may deem expedient to suppress the evil practice of duelling.

Sec. 44. It shall be the duty of the Legislature to regulate by law the cases in which deductions shall be made from the salaries of public officers for neglect of duty in their official capacities, and the amount of such deduction.

Sec. 45. 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.

Sec. 46. The Legislature shall not have power to authorize any municipal corporation to pass any laws inconsistent with the general laws of this State.

Sec. 47. 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 not inconsistent with this Constitution. Should the State purchase such foreign territory the Legislature, with the approval of the Governor, shall be authorized to expend any money in the treasury not otherwise appropriated and if necessary to provide also for the issuance of State bonds to pay for the purchase of such foreign territory.

Sec. 48. The Legislature shall not tax property, real or personal, of the State, counties, or other municipal corporation, of 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. 49. 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.

Section 50. The State shall not engage in works of internal improvement, nor lend money or its 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. 51. The Legislature shall have no power to authorize any county, city, town, or other subdivision of this State to lend its credit, or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in any such corporation, association or company, by issuing bonds or otherwise.

Sec. 52. There can be no law of this State impairing the obligations 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. 53. The Legislature shall not enact any law not applicable to all the counties in the State, regulating costs and charges of courts, or fees, commissions or allowances of public officers.

Sec. 54. The Legislature shall not authorize payment to any person of the salary of a deceased officer beyond the date of his death.

Sec. 55. The Legislature shall not retire any officer on pay or part pay, or make any grant to such retiring officer.

Sec. 56. 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 subjected to sale to individuals; provided, that nothing contained in this section shall prevent the Legislature from granting a right of way, not exceeding 125 feet in width, as a mere easement to railroads or telegraph or telephone lines aross State lands, and the Legislature shall never dispose of the land covered by said right of way except subject to such easement.

Sec. 57. 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 remitted, released or postponed, or in any way diminished, by the Legislature; nor shall such liability or obligation be except by payment thereof; 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. 58. No State or county official shall, at any time, during his term of office accept 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. 59. The Legislature shall never pass any law to authorize or legalize any marriage between any white person and negro or descendant of a negro.

Sec. 60. The Legislature shall provide by law for the regulation, prohibition, or reasonable restraint of common carriers, partnerships, associations, trusts, monopolies, and combinations of capital so as to prevent them or either of them from making the articles of necessity, trade or commerce scarce, or from increasing unreasonably the cost thereof to the consumer, or preventing reasonable competition in any calling, trade or business.

Sec. 61. 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 the Constitution of the State of Alabama to the best of my abiliy so help me God."

Sec. 62. If at any time it should become impossible or dangerous for the Legislature to meet or remain at the capitol, or for the Senate to meet or remain at the Senate Chamber or for the Representatives to meet or remain in the Hall of Representatives, the Governor may convene the Legislature, or remove it after it has convened to some other place, or may designate some other place for the sitting of the respective Houses, or either of them, as necessity **may require.**

During the reading of Section 4——

MR. OATES—I rise for the purpose of calling the attention of the Convention to the section preceding the one just read in reference to the election of Senators and Representatives. I called attention to that in my report, but no action has been taken on this feature of it. That provides for the election of Senators and Representatives. The next election is for four years, and the delegates will notice there is no exception in there. It would imply that Senators, all Senators, in other words, shall be elected along with representatives for four years.

THE PRESIDENT—The report will not be open for amendment at this time.

MR. OATES—I know, but I am just calling attention to it.

THE PRESIDENT — The Committee on Harmony, or the Convention perhaps will deal with that question.

MR. OATES—I am just calling attention to it, so they will remedy it, and it will not escape them. One-half the Senators that are in now hold for two years. One-half will go out, and there would be no provision for their election but for that fact. All the Senators should be elected at the next election so that when half of them go out, the others would take their places. It requires some work to reconcile it.

THE PRESIDENT—As many as favor the adoption of the Article as read will say aye and those opposed no, as your names are called. Call the roll, Mr. Clerk.

Upon the call of the roll, the vote resulted as follows:

AYES

Messrs. President,	Banks,	Beddow,
Altman,	Barefield,	Bethune,
Ashcraft,	Beavers,	Blackwell,

Boone,
Browne,
Bulger,
Burnett,
Burns,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Kyle,
Leigh,
Lomax,
Lowe, of Jefferson,
Macdonald,
McMillan, of Wilcox,
Martin,
Maxwell,
Merrill,
Miller, of Wilcox,
Morrissette,
Mulkey,
Murphree,
NeSmith,
Norwood,
Oates,
O'Neal, of Lauderdale,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Craig,
Cunningham,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Fitts,
Fletcher,
Foster,
Gilmore,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grayson,
Grant,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Harrison,
Heflin, of Randolph,
Henderson,
Hodges,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Wilcox,
Kirk,
Kirkland,
Knight,
O'Neill (Jefferson),
O'Rear,
Palmer,
Parker, of Cullman,
Parker, of Elmore,
Pearce,
Pettus,
Pillans,
Pitts,
Proctor,
Reese,
Reynolds (Henry),
Robinson,
Rogers, of Lowndes,
Rogers, of Sumter,
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Sentell,
Smith, of Mobile,
Smith, Mac A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Weakley,
White,
Whiteside,
Williams, of Barbour,
Williams, of Marengo,
Williams, of Elmore,
Wilson, of Clarke,
Wilson, of Washington
Winn,

TOTAL—115

NOES

Bartlett,
Brooks,
Byars,
Cardon,
Cofer,
Foshee,
Moody,
Phillips,
Porter,
Reynolds, of Chilton,
Sollie,
Spears,

TOTAL—12

ABSENT OR NOT VOTING

Almon,
Case,
Davis, of DeKalb,
Espy,
Ferguson,
Freeman,

Heflin, of Chambers,	Long, of Walker,	Sloan,
Hinson,	Lowe, of Lawrence,	Stewart,
Jones, of Hale,	McMillan (Baldwin),	Studdard,
Jones, of Montgomery,	Malone,	Watts,
King,	Miller, of Marengo,	Weatherly,
Ledbetter,	Norman,	Willet.
Locklin,	Opp,	
Long, of Butler,	Renfro,	

During the call of the above roll:

MR. SANFORD (Montgomery)—I vote aye for the purpose of moving to reconsider tomorrow.

The article was declared adopted by a vote of 113 ayes to 11 noes.

THE PRESIDENT—It will be ordered printed and referred to the Committee on Order, Consistency and Harmony of the Whole Constitution.

MR. REESE—This Convention passed a resolution requiring the pages of the stenographic report to be numbered. I desire to ask the Chair for what reason that resolution has been disregarded?

THE PRESIDENT—The Chair is unable to inform the gentleman from Dallas, but will call the attention of the official stenographer to the matter.

MR. O'NEAL (Lauderdale) — I ask unanimous consent to submit a resolution.

Resolution No. 277, by Mr. O'Neal of Lauderdale, read as follows:

Resolution 277, by Mr. O'Neal:

Resolved, That a special committee of three be appointed by the Chair, whose duty it shall be to ascertain and report the cause of the delay and confusion in the delivery and distribution of the mail of the delegates to this Convention, and to recommend such action as they deem best to secure a speedy delivery and distribution of the mail.

MR. O'NEAL—I ask that the rules be suspended and that the resolution be placed upon its passage.

Upon a vote being taken, the rules were suspended.

MR. KIRKLAND—I ask unanimous consent to have a petition sent up and read.

MR. O'NEAL—I rise to a point of order. The Chair has not put the motion to pass the resolution.

THE PRESIDENT—The question recurs upon the adoption of the resolution. As many as favor the adoption of the resolution offered by the gentleman from Lauderdale will say aye, those opposed no.

Upon a vote being taken, the resolution was adopted.

THE PRESIDENT—The Chair will appoint upon that committee Mr. O'Neal of Lauderdale, the gentleman from Mobile, Mr. Pillans, and the gentleman from Lamar, Mr. NeSmith.

MR. SMITH (Mobile)—I desire to ask leave for the Rules Committee to retire for a few minutes to meet in the Senate Chamber.

(Leave was given.)

MR. KIRKLAND—I ask unanimous consent to have my petition read.

Ozark, Ala., July 26th, 1901.

To the President and Members of the Constitutional Convention:

Whereas, on last Tuesday, your Honorable Body adopted Section 2 of the Suffrage Article, which requires that a qualified voter shall have resided in the State two years, in the county one year, and in the precinct or ward three month; and whereas, said section, as passed, will necessarily disfranchise, or prevent from voting, a great number of the best white citizens of the State, to wit, many ministers, teachers, laborers and business men moving from county to county, therefore, we, the undersigned citizens of Dale County, Alabama, do hereby petition Your Honorable Body to reconsider said section and amend it so as to require only three months' residence in the county. G. P. Dowling, Probate Judge; J. D. Bailey, attorney; J. A. Reynolds, Tax Assessor; W. P. Windham, J. P.; J. R. Levy, Clerk C. C. Ct.; A. N. Hawkins, Supt. Education; J. W. Corfitt, Register; W. L. Casey, A. D. Wall, Sheriff; J. K. Powell, Co. Treas.; J. E. Acker, Mayor; J. A. Anglin, Alderman; J. P. Byrd, Alderman; R. M. Dowling, J. F. Smith, J. W. Johnson, and many others.

Referred to Committee on Suffrage and Elections.

MR. WHITE—I beg to call attention to the matter of the stenographic report of Saturday of the proceedings of Friday, the 26th inst. I was away on Monday and did not return on yesterday until just about time to vote on the Suffrage measure, and I find what I think is a mistake in the stenographic report of the speech made by the gentleman from Calhoun. On the second page, beginning at the bottom of the fourth column, it reads as follows: "And the gentleman from Jefferson, Mr. White, would have us believe that the maintenance of good government is in

danger under conditions now prevailing in this State." I am sure I gave expression to no such sentiment as that. I think it is an error of the stenographer. Possibly it was the other gentleman from Jefferson, Mr. Lowe.

THE PRESIDENT — The gentleman is correct, and the stenographer will be requested to note the correction.

MR. MAXWELL—I have a petition I desire to have read and referred to the Committee on Education.

The petition was read as follows:

Rockford, Ala.

To the President and Members of the Constitution Convention of the State of Alabama:

We, the undersigned, respectfully memorialize your Honorable Body to incorporate a provision in the Constitution of the State of Alabama providing "that no public school teacher in this State shall be deprived of his license to teach, or of any of his rights under a contract to teach, in any public school in the State, except by due process of law.

Jeff Sox, Principal, Rockford H. School.

Robt. McPheeters, Teacher in Public Schools.

Referred to Committee on Education.

MR. LONG (Walker)—The stenographic report of yesterday, in the remarks made myself, I am quoted as follows: "I for one have voted so far with this Committee, and I hope I shall continue to do it. I shall vote for it, and surrender my own ideas to the wisdom of the Committee. I have done it thus far, and I will do it hereafter." I wish to correct that in the stenographic report. I said as follows: "I shall vote for and surrender as far as possible my ideas to the wishes of the Committee," but I am not willing to surrender and have never yet agreed to surrender my own ideas to the Committee on Suffrage.

MR. BEAVERS—I ask unanimous consent to introduce a short ordinance.

The Secretary read the ordinance as folllows:

An ordinance to amend Section 3 of Article XI of the Constitution.

Be it ordained by the people of Alabama in Convention assembled, that Section 3 of Article XI of the Constitution as heretofore adopted by this body, be and the same is hereby amended by adding thereto the following:

And, provided further, That out of the counties of St. Clair and Shelby a new county may be formed under the provisions of this Article, with not less than four hundred square miles, so as to leave the said counties of Shelby and St. Clair with not less than five hundred square miles each.

Referred to Committee on State and County Boundaries.

MR. HANDLEY—I ask unanimous consent to introduce a short ordinance.

The Secretary read the ordinance as follows:

An ordinance to repeal Sections 8 and 9 of the Article on Banks and Banking, heretofore adopted by this Convention.

Be it ordained by the people of Alabama in Convention assembled, That Sections 8 and 9 of the Article on Banks and Banking heretofore adopted by this Convention be and the same is hereby repealed.

Referred to Committee on Banks and Banking.

MR. WILLIAMS (Elmore)—On yesterday on the call of the roll to table the amendment of the gentleman from Walker, I voted aye, and announced I did it for the purpose of moving to reconsider. I would ask the President if a motion to reconsider a proposition that has been tabled is in order?

THE PRESIDENT—It would not be in order.

MR. WILLIAMS — Then I have an amendment to offer to that section of the report of the Committee on Suffrage and Elections, clause when reached.

THE PRESIDENT—The special order for this morning will be the consideration of the report of the Committee on Suffrage. The journal shows that at adjournment, the Convention was considering Section 5 by subdivisions and the pending question was on the motion of the gentleman from Greene, that subdivision 1 be adopted, and he moved the previous question, on the adoption of subdivision 1 of Section 5.

MR. SANFORD (Montgomery)—I though it was the first paragraph, and not the first subdivision.

THE PRESIDENT—The Chair meant paragraph, when he used the word subdivision, possibly he was unhappy in the language used.

MR. SAMFORD (Pike)—That does not mean the subdivision marked "first."

THE PRESIDENT — It means the first paragraph. The question is, shall the main question be now put?

MR. BULGER—I rise to a question of parliamentary inquiry.

THE PRESIDENT—The gentleman will state his question of parliamentary inquiry.

MR. BULGER—I want to ask if this section is adopted by subdivisions, and each subdivision is adopted separately, will it preclude an amendment to the whole section?

THE PRESIDENT—It seems to the Chair that it would, but an additional subdivision might be added. The question is, shall the main question be now put?

Upon a vote being taken, the main question was ordered, and on a further vote being taken, the paragraph was adopted.

The Secretary read the next paragraph as follows: "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, preceding the time they offer to register; or"

MR. SAMFORD—I desire to offer an amendment.

The Secretary read the amendment as follows: "Amend by inserting in the eighth line of said section after the word 'work,' the following: 'And who are dependent on their labor for support."

THE PRESIDENT—The question is upon the amendment offered by the gentleman from Pike.

MR. SAMFORD (Pike)—I will ask a few moments of the time of the Convention to explain as nearly as I can the operation of the amendment. I desire to say here, that I am heartily in accord with the intention of the Committee with reference to this section, but it occurs to me that the language of the first division is entirely too broad, and would have the effect of being a great deal more far reaching in its effect than intended—

MR. REESE—I would like to suggest this amendment to the gentleman: "and having no visible means of support or being dependent on his labor."

MR. SAMFORD—I will come to that. You will observe that the amendment suggested will cover that defect if you look at it closely. It provides that when a man is not dependent upon his labor, that he need not have any employment, but when he is dependent on his labor that he must be employed, and that carries with it the idea that men who have no visible means of support, men who hang around the low dives of the larger towns and many

of the smaller towns of the State, who shoot craps all night and sleep all day——

MR. CUNNINGHAM—Would not the visible means of support appear in the next subdivision, providing for a property qualification of $300.

MR. SAMFORD—Yes, that is provided for in Subdivision 2. Perhaps the amendment that I offer makes the provision here very closely to the inhibition in Section 6 of this Article, but you will observe the difference to be this: In Section 6, in order to keep a man from exercising the right of franchise, he must be convicted of being a vagrant, which has been defined by the Supreme Court of this State several times. Under the amendment that I offer here, and under the clause as reported by the Committee, it was intended to meet a class of citizens known as loafers and hangers-on, and a class that every man in this Convention is acquainted with, if he has been a close observer of the people in this State for many years. In the attempt of the Committee to do exactly the right thing, they have, in my opinion, encroached upon another class of our citizens that ought not to be encroached upon. I offer the amendment for what it is worth. I desire the Convention to consider it, and if it is worthy of any consideration, to adopt it, and if not, then I am still with the majority, as I always am. I have no pride of opinion in the matter.

MR. O'NEAL—Will the gentleman permit an interruption?

MR. SAMFORD—Certainly.

MR. O'NEAL—I want to call attention to Section 5628 in the Code: "Any person who, having no visible means of support, or being dependent on his labor, lives without employment, or neglects his employment." Now is not a man who has property and does not have to work covered by subdivision 2 of this Section?

MR. SAMFORD—No, I don't think he is.

MR. O'NEAL—If he has property and does not have to work, is he not covered by Subdivision 2 of this Section?

MR. SAMFORD—If he has property.

MR. O'NEAL—If he has property, he is covered by Subdivision 2. The question I want to ask is, if he has no visible means of support, he is a tramp or vagrant, as defined by law, and covered by the other Section No. 6.

MR. SAMFORD—Suppose my son should return from college at the age of 21 years after having devoted the first twenty-one years of his life to the acquiring of an education, when he should look around the world for six months or a year, two years or five years, as the case may be, and I had the means to sup-

port him, would he be a tramp or a vagrant? Yet under this clause he could not vote. As I said, I had no pride of opinion in this matter, but it does reach a class of our citizens that ought not to be reached, it appears to me.

MR. BEDDOW—I desire to offer a substitute to the amendment of Mr. Samford.

The Secretary read the substitute as follows:

Amend Section 5 by striking out after the word "language" in the seventh line, and including the word "register" in the ninth line.

THE PRESIDENT—The question will be upon the adoption of the substitute offered by the gentleman from Jefferson.

MR. BEDDOW—I heartily concur in the amendment of the gentleman from Pike, except in this, that it does not go far enough. If the substitute I have offered for his amendment is adopted, it would strike out these words from the first subdivision: "And who being physically able to work, have been regularly engaged in some lawful business or occupation, trade or calling for twelve months next preceding the time they offer to register." Before the amendment was offered by the gentleman from Pike under this subdivision as it stood, coming from the Committee, it would prohibit from voting the capitalist who had made his fortune and who was resting upon his oars from his labors during his old age. The amendment offered by the gentleman from Pike would cover that if adopted, but there is another class of good citizens, Mr. President, who under this Section, that are likely to be debarred from the right to vote in the elections of this State. Take the great mass of laborers in this country, under this subdivision, and it would be necessary for him to work 365 days, or as many as there were working days in the year. It would require him to work every one of these days. The language of this subdivision is that they must have been "regularly engaged" in some lawful business or occupation, trade or calling. Suppose one of our furnaces in the Birmingham District should be banked on account of the low price of iron for three months. The result might be to throw out of employment 300 men from that one furnace. Those men would be out of employment without their own consent and under the terms of this subdivision as it stands, would not be regularly engaged in some lawful business or occupation for twelve months next preceding the time they offer to register—These 300 men, though otherwise qualified, would be debarred from voting. Let us take another step. While I am not an advocate of strikes, and while I as much deplore the necessity for strikes throughout the country, yet that is the last court of appeal for the laboring man. Suppose that these consolidations should keep up that are going on

throughout our country, and these great manufacturing industries continue to get together under one management. If they should see fit by the power of their capital to oppress their laborers by cutting their wages, and they should go systematically at work for the purpose of doing that and owning dozens of furnaces, and hundreds of ore mines and iron mines, they should reduce the wages of these men, and they could single out one particular class and say we will reduce your wages 50 per cent., those men would have to quit work, for they have but one opportunity to stand against such suppression.

Now in case such a condition should come, there are but two things that can occur, he must work for what he is offered, or he must be disfranchised from voting. I ask you gentlemen to consider well this Article and the substitute I have offered. We cannot afford to pass it. If you do it, you strike down from this large element their only hope to protect themselves, their wives and their children.

MR. JACKSON—I would like to ask the gentleman a question. Suppose a man is out of employment, or his time is up, or has been dismissed, he goes out in some other class of business, and he is engaged in that, would he not be lawfully engaged in an occupation of business and regularly engaged?

MR. BEDDOW—No, sir; he would not be regularly engaged in any lawful business or occupation, because that is not an occupation—hunting for a job is not an occupation.

MR. JACKSON—Suppose he was out of a job and hunting another job, would not he be lawfully engaged in hunting another job of work?

MR. BEDDOW—Would you call hunting a job, being regularly engaged in some lawful business or occupation?

MR. JACKSON—Yes, I think so.

MR. BEDDOW—We differ there. Suppose that man was out of work six months. In that event he would be debarred from voting, under the exact terms of this provision.

Mr. Cunningham took the Chair.

MR. LONG (Walker)—Suppose there was a man in the State of Alabama, there are numerous of them, dependent upon their sons to keep them up. Would they not be debarred from voting under this, although he might be able to read and write.

MR. BEDDOW—No, sir; because under the head of physical disability he would not be debarred.

MR. LONG—Suppose he is not physically disable, but is an old man and does not want to work?

MR. BEDDOW—Then he would be debarred from voting.

MR. REESE—Could not your purpose be accomplished in a different way without destroying the balance of the section by putting in a proviso that would cover the case you have in mind—in case of a strike.

MR. BEDDOW—I would say to the gentleman from Dallas that might be so, but I am somewhat of the belief that according to one of the illustrations used here that the right place to kill a snake is to hit him on the head.

MR. HOOD—Will the gentleman yield to an interruption?

MR. BEDDOW—I yield to everybody. I want this matter fully understood.

MR. HOOD—Isn't it true that the Supreme Court of Alabama has held that a person who holds himself out for employment or is in readiness for employment is a person employed within the meaning of this subdivision.

MR. BEDDOW — No, sir; I don't understand anything of the sort.

MR. HOOD—They have decided that if a person holds himself out for employment, that is employed in the sense in which it is used in this section subdivision.

MR BEDDOW—In the sense that he is not a tramp or vagrant. Do they say he is regularly employed in a trade or calling.

MR. HOOD—They do in the sense used in this subdivision and make him pay a license. They have decided the point in license cases.

MR. REESE—Mr. President—

THE PRESIDENT PRO TEM—For what purpose does the gentleman arise?

MR. REESE—To make a remark.

THE PRESIDENT PRO TEM—The Chair will be delighted to hear the gentleman in a moment. The gentleman from Barbour has the floor.

MR. DENT—The gentleman from Etowah states the proposition that I really intended to discuss when I sought recognition by the Chair, and that was that a man who holds himself out regularly as ready to be engaged in business, would come under the provisions of this article. Take for instance the case of a young man who has just been licensed to practice law. He may have very little business, not even a case or a brief in a year. Yet if he held himself out ready to do that business when it came along he

would not be disqualified under the provisions of this section. The same might be true of a young physician and cases of like kind. Gentlemen, it seems to me that the amendment offered by the gentleman from Pike gives all the qualifications that is necessary for this article. The law or labor, Mr. President, was placed upon our race by the primal curse, and we ought not to be afraid of it. It is really one of the curses of this country that we are afraid of it as I sometimes think when I hear preachers and moralists talking so much about violating the commandments and observing the seventh day and keeping it holy. I have no objection to that. I think it is all right, but I think they some times stretch that particular part of the commandments a little too much and they become one-sided in their views and forget the other clause which, according to my interpretation and opinion of it, is just as imperative and just as binding. We hear men talking about enforcing the law for observing the Sabbath and that it should be properly kept. I feel that I want to offer an amendment that they also be required to observe the other part of the commandment that for six days thou shalt labor and do thy work. You do not hear much about that, but it is there, and it is just as imperative and binding and as important, and if a man labors daily with his hands to supply his necessities, he is not violating that commandment.

It seems to me that the amendment offered by the gentleman from Pike is a good one and it seems to me that it leaves the clause reaching a class that ought to be reached by this provision and that is idlers, tramps, men who have no ostensible employment and who do not hold themselves out for employment, and yet who have no visible means of support. Under Article VI, you have to convict a man of these crimes before he is disqualified. It seems to me, Mr. President, that the amendment ought to be adopted.

MR. CHAPMAN—In your opinion, does the amendment offered by the gentleman from Pike embrace that class of young men who are supported by their fathers?

MR. DEN'T—I think it does. They would be qualified under that amendment.

MR. CHAPMAN—Would they be considered as having visible means of support?

MR. DEN'T—Certainly; if their fathers supported them and they have a home.

MR. REESE—I think it very possible that the section as reported by the Committee may not work injustices to any one, but it is very susceptible of misconstruction by the people. I don't think it is understood, and I think we had better fix it so the meaning will be very clear. I have received a letter from one of the most intelligent business men of Dallas County, Mr. C. W. Hoop-

er, well known in this State, calling my attention to this particular matter, which I believe is covered by the amendment of the gentleman from Pike, and I shall favor the amendment of the gentleman. I am in sympathy with the purpose desired to be accomplished by the gentleman from Jefferson, and I believe it to be right, and I believe it to be wise, and the suggestion of the gentleman from Jefferson should be accepted by this Convention and some words be put in here under which it would be incapable of misconstruction and be clear to these men that it would not apply to persons who had difficulties with their employers and are temporarily out of work. If the gentleman from Jefferson will prepare an amendment of that kind, I will take pleasure in voting for it. I believe an amendment such as offered by the gentleman from Pike is absolutely necessary. I believe if you were to go before the people as it is, I believe that it would create disgust among them. I, for one, am not in favor of creating any timidity on the part of those citizens who reside in every town and every village, and I refer to the husbands of the ladies who keep a boarding house, the husband of the lady that takes in sewing, and the husband of the lady who conducts a mercantile business or some other character of business. These men are respectable members of society in the communities in which they live, and I say for the benefit of that class and for others, the young men who have possibly not decided as to what calling they will embark in and who are dependent upon their parents—they are not working for a living but if their parents are willing to support them until they have determined upon what business they will embark in. Without any hostility at all to the idea and theory of the gentleman from Jefferson, unless some other gentleman desires to speak on his proposition, I will make a motion to table the substitute, with the understanding——

MR. LONG (Walker)—I hope the gentleman will withdraw that for a moment.

The motion to table was withdrawn.

MR. LONG—That I may not be misunderstood, I ask for the reading of the amendment offered by the gentleman from Pike.

The Secretary read the amendment as follows: "Amend first subdivision Section 5, by inserting after the word 'work,' in the eighth line of said section, the following, 'and who are dependent on their labor for support.' "

MR. LONG (Walker)—The amendment offered by the gentleman from Pike would allow a man, and is intended to allow a man, who has money, to lay around the springs, or somewhere else, and not be amenable to this section. It is simply absurd and ridiculous—that is enough to say upon that proposition.

The amendment of the gentleman from Jefferson is in the right line and I hope it will be adopted by this Convention. Why, sir, a poor man has a right to quit work if he wants to, and no 2 by 4 registrar has the right to deny him the right to vote because he does quit work. There are a great many of us here who have never struck the ground a lick of work for twelve months, unless we struck at a snake and missed it.

MR. JENKINS—How could a man having a pension vote?

MR. LONG—A man drawing a pension who does not work, could not vote.

MR. JENKINS—I will ask another question. How would he come in under the soldier clause?

MR. LONG—He would not come in under the soldier clause, because it expires in 1903.

MR. SAMFORD (Pike)—I will ask if any able-bodied soldiers in this State draw pensions?

MR. LONG—I don't think they do, and I hope not. I am talking about the amendment of the gentleman from Jefferson—I think the gentleman from Pike is too ridiculous to discuss. (Laughter).

MR. SAMFORD—I am much obliged to you. (Laughter).

MR. LONG—Now, I do think a man has a right to quit work if he wants to. The Bible says work was put on the human race as a curse. I, for one do not like the medicine, and a great many of us here don't like it, and the only thing that keeps us at work is we have not a rich wife to support us, and if we are not fortunate enough to marry a rich woman, we are disfranchised because we have no visible means of support, and have not been engaged in a lawful occupation for the last twelve months. I do hope that this clause will be knocked out. I understand full well why it is there. We have quite enough traps set to catch all the negroes in Africa or anywhere else.

MR. MORRISETTE—If your wife supports you, is not that a visible means of support?

MR. LONG—Yes, it might be; but that is not a legal occupation. It says who is not engaged in some lawful business, trade or occupation for twelve months next preceding the time they offer to register. I ask if living upon one's wife is a lawful occupation? That is the question.

MR. CHAPMAN—I will ask if it is not a lawful occupation, for that man who has a rich wife to be attending to her business and minding her?

MR. LONG—Yes sir, but the wife that has money usually attends to her own business and generally attends to her husband besides. (Laughter.)

MR. BURNETT—Don't you think it a lawful occupation for a man to be engaged in courting his wife?

MR. LONG—There is not anybody that does that. They always court her before marriage. I never heard of any man doing that after he is married. It is generally somebody else's wife then if he does any courting. (Laughter.) Now I do hope that the amendment as offered by the gentleman from Jefferson will be adopted. It is on the right line.

MR. BURNETT—I want to ask the gentleman a question.

THE PRESIDENT PRO TEM—Does the gentleman yield?

MR. LONG—No, sir, I want to speak to the question, and seriously speak upon it. I cannot see why a man who has not been engaged in some lawful business or occupation, trade or calling for twelve months next preceding the time they offer to register, should not be allowed to register. I have said we have enough traps to catch every negro, and there is no use for this in here. It will be a dagger and double-bladed ax in the hands of men who oppose the ratification of the Constitution and you cannot explain it satisfactorily either. There are a great many men trying to get more money for their labor, that are trying to get work, that are trying to keep their wages from being cut down below what will support their father, wives and children, and would you deny them that right and leave it entirely with the Register to say whether a man was regularly engaged for twelve months next preceding the time of registration? The next section absolutely deprives him and he is compelled to answer these questions propounded to him. Now I ask the delegates on this floor to consider how radical this Section is. I do not believe that they will adopt it. They cannot give any good reason why it should be adopted. It is as I said another trap. We have enough subdivisions and sections in this report besides this. It will be hard to explain to the people of Alabama. In fact it cannot be properly explained. You cannot explain it to your own conscience. Go off and reason with yourselves carefully in the closet or anywhere else, and you cannot see any good reason why it should be in here.

MR. ASHCRAFT—In order that we may act intelligently upon this proposition to strike out this clause, I want to say it won't apply to a single man who will be qualified to register prior to the 1st day of January, 1903, not a single man who up to that time can register will be subject to the provisions of that requirement. In the next place it will not affect any man who has $300 of property or is the husband of a woman who owns $300 of prop-

erty. It is limited in its operation strictly to those persons who become of age after the first day of January, 1903, and who do not have $300 worth of property.

MR. LONG (Walker)—I would like to ask the gentleman a question. You take the position that man is better because he has $300, or his wife has $300?

MR. ASHCRAFT—I do not.

MR. LONG—Why do you make this exception then?

MR. ASHCRAFT—We are obliged to apply some tests and according to the observation of men it has been found that those persons who practice economy enough to save for themselves $300 worth of property, or who have exercised the good judgment to marry a woman who has $300, is a man of some character and may be reasonably expected on the average to exercise the elective franchise unselfishly.

MR. MACDONALD—He has property to take care of.

MR. BEDDOW—Is the gentleman to be understood as saying that a man who marries a woman with a little money is better than a man who marries a poor girl for love?

MR. ASHCRAFT—No sir, I do not, but I do say that we have observed that men who have come into control of property are more conservative and intelligent as a class, not every one of them, but generally, as a class, they act more consideration towards the Government than those persons who have no responsibilities upon them. We have also observed that the young man who has put forth energy and skill sufficient to have a capacity to read and write, although some of them had few opportunities, as a class, have the sense of responsibility which will insure a reasonable exercise of the elective franchise. I am sure that our Committee have considered all these propositions and the purpose for which they have presented this clause is to exclude from the franchise those young men who have sought education, not that they may work the better, but that they may avoid work. They are willing to let in every man who seeks education in order that he may work better, but if there are those who for sinister purposes seek to read and write, they have set up a barrier to exclude as many as possible of that class from the exercises of the elective franchise. I think the provision ought to stand, and I think the amendment offered by the gentleman from Pike makes a mean and invidious distinction, and I am opposed to it.

MR. COLEMAN—Mr. President, in considering these questions, delegates ought to consider the entire plan submitted. Much of the argument directed against the Section now under consideration is met fully by the next paragraph of the Section. When

you consider the State of Alabama, composed as it is, in one section of the mining interests, and in another section of what is known as the Black Belt, and another section, the agricultural interests, and then remember the Fifteenth Amendment, with the decisions under it, and remember the pledge of the Democratic Party to disfranchise no white man, you will see the difficulties that this Committee was confronted with. Their scheme has been to establish a good standard for the electorate. We have considered all the questions that have been argued before this Convention. The word "regularly" seems to raise some objections to it, and so far as the Committee is concerned, if it will ease the disturbed condition of the gentleman, we are perfectly willing to strike out the word "regularly." But so far as the remainder of the section is concerned, the committee devoted at least two days, or a day and a half anyhow, in selecting these words. I propose to read to you the decisions in this State as to what is meant by being engaged in business, and then you will have some conception of the influence that operated upon the minds of the committee framing this section. Section 5467 of the code: Any person who engages in or carries on any business, et cetera. Then down below you will find this language: "To engage in or carry on any business within the meaning of this law is to pursue an occupation or employment as a livelihood or as a source of profit but it is not necessary that it should be the party's sole occupation or employment. It is the question of intention only, and it is immaterial, whether such profit was realized or not." Under the influence of those decisions it has been often held where an attorney was engaged in business, if he has an office and holds himself out as a practicing lawyer, whether he has clients or not. So far then as the argument has been used that it would disfranchise laborers who have stopped work, Mr. President, it is without force.

MR. MACDONALD—I would like to inquire whether the second paragraph of this section wherein persons convicted of being tramps or vagrants does not sufficiently meet the proposition contained in the second paragraph of the sixth section.

MR. COLEMAN—The difference between the two is this: We are providing a plan by which we may eliminate the vicious and the venial vote, and at the same time comply with the pledge of the party to disfranchise no white man. Under the section that you refer to it requires a conviction for the offense. Under the section we have here the conviction is not required. It is a question of qualification. As is well known in every town in this State there are numbers of people who live, you cannot tell exactly by what means. Mr. President, education alone is not a sufficient qualification for a voter. Under a liberal system of this State there are many negroes who will be able to qualify under the reading and writing clause, and yet who are drones in this State and have no employment.

MR. KIRK—You speak of the case of a lawyer. I want to ask you this. Suppose a clerk should lose his position in a dry goods store and did not have the required amount of property, assuming that he was not a married man and he was unable to secure employment for eight or twelve months from the time of losing his position, would he be permitted to vote under the provisions of the plan reported by the committee?

MR. COLEMAN—I have no doubt of it in the world, he is a man who has an occupation, but is temporarily seeking work.

MR. O'NEAL—He is trying to get employment.

MR. COLEMAN—Trying to get employment, yes. In the case of a strike, it is because he does not believe that he is getting sufficient compensation for his employment but he is ready to go to work.

MR. PILLANS—May I ask the gentleman a question? Where would be the objection to amending that section by adding after the words "compensation, trade or calling," the words so far as he has been able with dilligence to procure the same?

MR. COLEMAN—We have no objection to it in the world, but it adds nothing to the meaning of the phrase, none in the world. What we are after is to get a good electorate for the State of Alabama, to exclude persons who may under our system have become to some extent educated, and there are quite a number of them. We are not making this Constitution for today or tomorrow, but for ten or fifteen years perhaps, and in that time quite a number may become qualified under a simple reading and writing clause, and yet have no regard for the suffrage question. If I am permitted I will move to amend by striking out the word "regularly" in the eighth line if I can get unanimous consent.

There being no objection the word was ordered stricken out.

MR. BEDDOW—I think I will be willing to withdraw my amendment provided the committee, after striking out the word "regularly" and the word for in the ninth line will insert the word "within."

MR. COLEMAN—I could not accept that, because if a man was engaged one day or one week, he could be a drone the remainder of the year, and it would destroy the section entirely. With this understanding of the section under the decisions of the Supreme Court it seems to me that there could be no difficulty in its construction or application. Now you cannot draw up a law unless there is some county or some beat or some individual has to be affected by it, but the question is——

MR. BLACKWELL — I desire to ask if we strike out the word "regularly" will not a man still have to be employed the

whole twelve months under the language of the section, even after you strike out the word "regularly."

MR. COLEMAN—I hate to be interrupted in the middle of a sentence. If I had been understood in what I have said before, and as explained by the decisions I have read, certainly not. The clerk that has been discharged, if he seeks employment, is not disqualified under this section, but if he is discharged and loafs around for twelve months not seeking employment, and is engaged in nothing, he would be and I think ought to be disqualified. Any change in that would let in ten thousand in this State who ought not to be permitted to exercise the franchise, having these views. I move, Mr. President——

MR. COBB—I wish to make a few remarks before the gentleman moves the previous question.

MR. COLEMAN—It is not my intention to move the previous question, but I was going to move to lay the amendment of the gentleman from Jefferson on the table.

MR. COBB—Very well, I can be heard afterwards.

MR. COLEMAN — The committee believes that we need something more than an educational qualification.

THE PRESIDENT—The gentleman from Greene moves to lay upon the table the amendment offered by the gentleman from Jefferson.

MR. LOWE—A motion to lay upon the table is not debatable, I understand.

THE PRESIDENT—It is not. The question is upon the motion to table.

MR. BEDDOW—I call for the ayes and noes.

The call was not sustained. A vote being taken a division was called for and by a vote of 77 ayes and 30 noes the motion to table prevailed.

MR. COBB—I have an amendment.

The Secretary read the amendment as follows: "Amend by inserting after the word 'lawful' in the eighth line of the first subdivision of Section 5, the word 'employment.'"

MR. COBB—I offer that amendment out of abundant caution, the section as reported by the committee in using the words——

MR. COLEMAN—May I interrupt the gentleman? While the committee does not think it adds anything to what is there, to save the time we will accept it.

THE PRESIDENT—The question will be upon the amendment.

MR. COLEMAN — The amendment is inserting the word "employment." I ask unanimous consent to accept that amendment.

MR. WILLIAMS (Elmore)—I ask to have the amendment read.

The Secretary again read the amendment.

THE PRESIDENT—The gentleman from Macon can still get in his speech on the question. (Applause.)

MR. COBB—I do not want to be shut out of my speech but it is a very short one.

MR. COLEMAN—I suggest you add the word "or" after the word employment.

By unanimous consent the amendment was allowed.

MR. COBB—I wish to call the attention of delegates to the fact that these words "business, education, trade or calling" do not cover in my belief a large class of men whom it is not desired or desirable to cut off from the electorate. I refer to the young men who become of age just before the time of registration and who prior to that time it may be, have been going to school or in some business or employment under the direction of their fathers, of course, this section can have no reference to a minor, it refers to men who are of full age. Now, just before the time for registration a young man becomes of age, he has been out of school, he has not been engaged therefore in any employment during the twelve months preceding the time of registration. My insistence is that the terms employed here "business or occupation, trade or calling" does not cover— —

MR. BURNETT—They have been going to school, isn't that an occupation?

MR. COBB—If the gentleman will possess his soul in patience, I will try and argue that very question.

MR. BURNETT—Isn't it a lawful employment?

MR. COBB—I don't think so.

MR. BURNETT—I certainly do.

MR. COBB—And why don't I think so? Because the word "employment is a legal term, it has been defined by the books, it is well understood by the gentlemen of the legal fraternity. I am providing that out of abundant caution for these worthy young men who become of age immediately before the day of registra-

tion so they shall not be cut off by some wrong ruling upon the part of the Registrars. Let that be made plain. I suggested the word employment, thinking it would be sufficient, but I have doubts even now whether the word employment itself would not be construed so narrowly. I am not fighting the Committee. I want to guard these young men.

MR. LOWE (Jefferson)—Why should not it be so plain that it is not necessary for a court to pass upon it, and there can be no room for misconstruction?

MR. COBB—That is what I want, and I should be obliged to my friend if, while I am speaking, he will draw up something. I want it plain, so plain that there can be no room for construction. There is room for construction here, and when you leave it to these registrars, who are not lawyers, to determine the manner in which they shall perform their duty.

MR. PILLANS—I wish to offer an amendment if it is in order after the acceptance by unanimous consent of the amendment offered by the gentleman from Macon.

THE PRESIDENT—It is in order to offer an amendment to an amendment. The pending amendment is the amendment of the gentleman from Pike.

MR. PILLANS—I offer an amendment.

The Secretary read the amendment as follows: "Amend the first subdivision of Section 5 by adding after the word 'calling,' in the ninth line and before the word 'for,' the following words, 'so far as he has been able with diligence to procure the same.'"

MR. PILLANS—I offer that as a substitute to the amendment of the gentleman from Pike.

THE PRESIDENT—The question will be upon the substitute offered by the gentleman from Mobile to the amendment of the gentleman from Pike.

MR. PILLANS—It is with great reluctance I suggest any change to this section. We all recognize the motive that actuated the committee, and it was a worthy one, and we do not care to strike down or weaken any plan which they have evolved in this subdivision, but if the subdivision is thought to be dangerous in the manner drafted, we ought to be particularly careful in framing the organic law not to adopt that clause without making such changes as will rid it if possible of danger. I take it from what the gentleman said, who last spoke, that there is danger. The chief danger that occurred to me when I first read it was that the man who faithfully endeavored to keep at work and obtain employment might be deprived of the suffrage; that worthy citizens who could read and write and construe the Constitution might

nevertheless fail to obtain employment, notwithstanding due vigilance on their part. Now the people to be reached, although they have a smattering of learning or a great deal of learning, nevertheless are unworthy and useless members of society who will do nothing, who have no occupation or employment. The object of the amendment I desire to offer, is to enable worthy men who have the qualification of reading and writing and who are——

MR. O'NEAL—Does the gentleman—

MR. PILLANS—I would have liked to finish that sentence. I may finish it later.

THE PRESIDENT—The Chair would suggest to delegates when they wish to interrupt a speaker that they rise and address the Chair. The Chair will try to get permission for them.

MR. O'NEAL—I did, Mr. President.

THE PRESIDENT—The Chair recognizes that fact.

MR. PILLANS—I only wish to finish the sentence. The object of the amendment offered is to enable worthy men who are good citizens and who can read and write, who are not of the class intended to be excluded by the committee. Who can doubt that the man trying to get work should receive the same credit as the man who does work?

MR. O'NEAL—I wish to call your attention to the word "employment" in Webster's Dictionary, which I think covers young men from school. It says the act of employing or using, a state of being employed, that which engages or occupies, that which consumes time and attention. Now, if a young man is engaged in anything that consumes time and attention, he is engaged in some employment.

MR. PILLANS—That can be the intention of the Committee's report, but I suggest that a man's time and attention may be employed in flirting with girls.

MR. BOONE—Or gambling.

MR. PILLANS—That is not lawful employment, but paying attention to the ladies is lawful employment; amusing society, walking on the street, idling through life is perfectly lawful, providing it does not fall within the vagrancy statutes. Now, the proposition is this, a man is not within the clear, plain and manifest meaning of this section unless he is engaged in doing something for his people and himself.

MR. WEATHERLY—May I interrupt the gentleman?

THE PRESIDENT—Will the gentleman yield?

MR. PILLANS—Yes, sir.

MR. WEATHERLY—Will not your amendment have the effect of increasing the objections made by the gentleman from Jefferson? Your amendment, as I understand it, provides that he should have made diligent effort to procure work.

MR. PILLANS—Yes.

MR. WEATHERLY—Now, the objection of Mr. Beddow is, when persons are out on strike they do not want to make diligent effort; they want to stay on strike until they accomplish their object and that, as the section now stands, does not conflict with the idea of the gentleman from Jefferson, but, if amended according to your idea, I think it will conflict; it will bring on the very thing that he desires to obviate.

MR. PILLANS—It is with the greatest respect that I receive any suggestion from my learned friend, for I know his ability, his care and thoughtfulness, and the care he has given to this subject when on the Committee, but I cannot agree with him as the effect of the words used by the Committee. I do admit, however, that they might conflict with the privilege of striking to some extent, but I do not believe that this Committee intended to make a provision that would give to the illiterate person who wilfully declined to work in this State a right to vote—an absolute right to vote—along with those engaged in some lawful business or employment; and so far as I am concerned, and I believe I speak for the people who think in the State, I would rather give to the man who seeks to be thrifty and to employ the time which God has given him, in the exercise of some lawful occupation and the accumulation of something for his old age and those dependent upon him. I would rather give it to him than to the man who will wilfully decline to work. I think that the object of the Committee was to reach those who wilfully or intentionally decline to work. So far as I am concerned, I think the amendment is a proper one and a good one, and ought to be adopted, not only for those who labor, but those who endeavor to labor to get upon the registration.

MR. HOWZE—I desire to call the attention of the Convention to the fact that these incidental conditions in which these parties may be placed does not deprive them of the right to register. The argument seems to be based upon the idea that this provision, Section 5, is simply providing a registration for and abridging the election, and should these parties be deprived of the vote at that time, it does not take away from them the subsequent right of elective franchise, and I take it that this Convention cannot arrange a plan to meet all the incidental conditions that may arise prior to any election in this State. Many men are deprived of the right to vote at an election by reason of ignorance, by reason of

absence at the time of registration, and if these conditions exist prior to the registration by which certain parties may be deprived of the right, it does seem to me it should not affect the plan upon which we propose to act in regard to these matters. Now, Mr. President, it does seem to me that we have established a principle here which is a wise and a good one. We are striking out the ignorant, the vicious and the idle people of this country, and of this State. In other words, we want to elevate this suffrage, the right to exercise this suffrage in this State, and if conditions should exist at any time prior to the election by which some people may be deprived of the right at that time it is of course an incident, and something which could not probably be prevented, but should that deny us the right and the duty of establishing a plan which is wise and just and proper, in order to prevent the very thing which we are called here to prevent. Now, I do not think that these conditions, these incidental conditions, should keep us from placing in our Constitution a clause of this character, where we insist that a man must have occupations, he must have a business, and he must engage in it for his support. It is wise provision, and I think the report of the Committee should stand just as it is. Possibly the suggestion of the gentleman from Pike should have some weight, but I do not think it does. It may deprive the young men for a certain time, or for one election of the right to vote, but he soon gets into the channel, and he can soon qualify himself to exercise this right of suffrage. I, therefore, do not think that this section is susceptible of amendment in the way in which the gentleman suggests, which will keep it as perfect as I regard it on the report of the Committee.

MR. WILLIAMS (Marengo)—I have attempted constantly to vote with the reports of committees, and I think it is the duty of the Convention to vote with the reports of the committees where they can, but I do not think the committees should arrogate to themselves all of the knowledge in matters that concern this Convention, and I am sure that this committee does not, and I rise for the purpose of suggesting to this Convention that they were possibly wrong in tabling the resolution of the gentleman from Jefferson just now, and my suggestion is borne out that he is correct in his views, and that I am correct in my views, as I was in the vote that I then cast not to table his amendment, from the latitude that this discussion here has taken. It was most forcibly impressed upon me when the question was put to the gentleman, Mr. Pillans from Mobile, by the gentleman from Jefferson, Mr. Weatherly, when he offered it. I thought Mr. Pillans's proposition covered the whole subject and was correct, and it did look like it, but when the learned gentleman from Jefferson shot that question at him, it demonstrated to my mind that Mr. Pillan's proposition was worse than the proposition of the gentleman from Jefferson; that it is worse, as he, Mr. Pillans, proposes to amend

it than it is even now as reported by the committee. I say from the latitude of this question, the various propositions presented to the Convention, I am more deeply impressed with the fact that the amendment offered by the gentleman from Jefferson, Mr. Beddow, is correct. Now, why is it correct? It has been admitted to be correct as demonstrated by him from the standpoint of the mining element among the voters, but what are you going to do with a large class of voters who are engaged in turpentine business, who engage in business that employ from six to nine and not thirteen months in the year like cotton raising, what are you going to do with all those other fellows, the cotton fellows and the corn fellows and the miners when they have not stuck to that business all that year around? Now, these stokers—I believe you call them, men who ship cotton—stevedores or something of that kind, what are you going to do with those fellows? The gentleman here says that they are after these fellows. I know just as good stevedores and stokers that line the wharves of our ports as any class of men who have a right and who do vote under the present suffrage law.

MR. WEATHERLY—Will the gentleman yield for a moment?

THE PRESIDENT—Does the gentleman yield?

MR. WILLIAMS—Yes, sir.

MR. WEATHERLY—If the man is a stoker, is not that his business?

MR. WILLIAMS—Ah, yes, I started to say when I got up here that this was a dangerous proposition, but I did not say dangerous because the old word has been harrowed and furrowed over here until we are tired of it. I say it is a worrisome proposition. It is worrying us now, and will worry us after the ratification of the Constitution, but the worst worry it will give us will be when we are out on the hustings trying to ratify the Constitution. Do you understand it? Does the gentleman from Jefferson understand it except as a lawyer? Can he go down in his mind and say that a man who has an occupation for one-half of the year, only six months of the year, is going to understand when this thing is presented to him that while the law says twelve, yet if he works six or nine months only that he is not going to be debarred from voting? I shall admit the legal proposition, and he is correct in my opinion on the legal proposition, but just as good lawyers on the other side are going to object and will say the other way, and the man who is likely to be debarred will vote against this Constitution, because he will not understand that nine means twelve. I say it is a worrying thing, and there is no use to have it in there. Some of the gentlemen have suggested that we need it in the black belt country. We do not need it. To use the ex-

pression of the gentleman from Walker, you have a seine sweeping every one of them, even the little minnows cannot get through it. The good character clause as a temporary catch and the understanding clause as the same and Section 6 as a permanent clause in the Constitution is going to catch, in my opinion, all of them.

THE PRESIDENT—Does the gentleman yield to the gentleman from Mobile?

MR. WILLIAM—Yes, sir.

MR. PILLANS—Does the gentleman mean to say that there is any class of available citizens in Alabama who are without such thrift as will accumulate $300 worth of taxable property, in other words, who have no homes. There is no such available class of citizens in Alabama as that working six months in the year and the other six months are idle and do nothing. I will ask him if he does say so, not to apply it to the laborers——

MR. WILLIAMS—And the one we hope to have later on, too. Now, Mr. President and gentlemen of the Convention, I am in perfect accord with the committee. We understand the proposition, and it is not worrying them nor me now as to who shall be allowed to vote under as to who shall be allowed to vote under this proposition and I favor it, but I say it will worry the fellows down there in the turpentine country, and it will worry us all along the wharves of our port, and it will worry us in the mining regions, and it will worry us everywhere, when we come up for the ratification of this Constitution. The people are not going to understand it and the advocates against the ratification will use this clause freely to defeat the ratification, and I say, to get back on my line of argument, what is the use of putting a worrying thing in there, that will not do any practical good?

MR. ASHCRAFT—The gentleman says when we go before the people that it will be very hard to enlist the support of the man who has not had this employment for a year. Will any man who is to vote for the ratification of this Constitution be affected in the slightest degree by this proposition? Will he not be protected by the temporary plan which makes him a life elector?

MR. WILLIAMS—In voting for this particular Constitution?

MR. ASHCRAFT—In voting for this Constitution.

MR. WILLIAMS—Of course every citizen votes for this, but every citizen who is entitled to vote for or against the ratification of this Constitution will have the privilege of registering under the temporary plan for life. Can he be affected by this provision, which is to come into operation at a future date?

MR. ASHCRAFT—But suppose he did not register under the temporary plan.

MR. WILLIAMS—Very well, let's suppose, for some reason, that he does not vote on election day. Suppose that he neglects it. You like to have good electors. You don't like to have trouble over the ratification of the Constitution, or in the future over any particular matter, do you? To get back to the line of argument from which I have been twice interrupted. I say the Black Belt part of the country does not need this proposition because under the good character clause and the understanding of the republican form of government as temporary plans, you will in my opinion catch a good many of the illiterate vicious negroes, and when you go further down and take up your sixth clause with all these disqualifications of idiots and insane persons and those who have been convicted of certain offenses under the laws of the State, you are going to catch the balance of these fellows, those who are guilty of offenses and such and you will have the record on them, that they are the very fellows you are after. I am speaking for the ratification by white men in the northern end of the State as well as in the southern end of the State, of this Constitution.

MR. deGRAFFENREID—Don't you know that the temporary plan expires on the first day of January, 1903?

MR. WILLIAMS—I know that, yes, sir; of course I do.

MR. deGRAFFENREID—And a great many people who won't be permitted to register under the permanent plan.

MR. WILLIAMS — Yes, sir; of course, any one who has studied the report does. Now that proposition that the gentleman fired at me explains my position fully and exactly. We have got to explain to every fellow on the stump in this State before we can get that ratification of the Constitution all the matters, just as I do to him. I tell you now we are getting too many things in the Suffrage Article to explain it to the people, much too much in this whole Constitution, and I dare say that every member of this Convention is getting, every day, letters from home telling them to quit making changes which must be explained to the people of the State. Now only two or three days ago I got a letter from one of the most intelligent men in this State, a Probate Judge, in reply to some business letter I had written him, and he added a postscript calling my attention to this subsection and saying "Don't you think you are going to present a very burdensome question to the people on ratification, and in the future after that?" I have had a half dozen letters from people calling my attention to this particular section. I do not care to make any remarks on these letters just now.

MR. COLEMAN—Didn't that Probate Judge say if he had the power to register all negroes he would do it?

MR. WILLIAMS—He did not.

MR. COLEMAN—At no time?

MR. WILLIAMS—I do not think he did. I let my distinguished friend, the Chairman of the Committee, read the letter. I have no recollection of its being in there. Now we have a lot of explanations to make. I do not believe the men in this Convention understand this article on suffrage. I say all of them do not believe it.

MR. COLEMAN—Didn't you say yourself that Judge Powell told you so?

MR. WILLIAMS—Told me what?

MR. COLEMAN—That he would register them all if he could; that he would register all the negroes.

MR. WILLIAMS—That letter was not from Judge Powell.

MR. COLEMAN—Didn't you tell me that Judge Powell had said that?

MR. WILLIAMS—He may have said six weeks ago he would register them all. If you say he said so, I guess he said so; I do not recollect it.

I say what is the use of putting this thing here to go out and to be explained to the people. Give some good reason or some bad reason for it.

MR. ASHCRAFT—I rise to a point of order. I regret to interrupt the gentleman but he is speaking to the amendment offered by the gentleman from Jefferson——

MR. WILLIAMS—I will come to that in a minute. I see the gentleman's proposition. He is correct in it.

MR. LONG (Walker)—I just wanted to ask one question. As amended this section reads as follows:

"Those who being physically able to work, have been engaged in some lawful business, occupation or employment, trade or calling for twelve months next preceding the time them offer to register."

Does that not require a man to be engaged the whole twelve months?

MR. WILLIAMS—I say that the legal construction of this subsection is that they do not have to be employed regularly for the whole twelve months; but I say you cannot go up here into these hill counties where they have the mining element, or the lower counties where they have their turpentine industries and such industries as are not perennial, and explain that to the people in the whole time you have to educate them on this ratification business, and if we realize that we have less than sixty days in which

to educate the people of Alabama on this whole Constitution, and we have taken more than sixty days already, how will you educate them to every proposition and provision in it? I cannot for the life of me, see how the distinguished Chairman of the Suffrage Committee says we need that paragraph of the subsection. They catch every negro in the Black Belt under the good character and intelligence clause, and under this disqualification clause in Section 6 and now I move to take from the table the motion of the gentleman from Jefferson, Mr. Deddow, that was tabled just now, and that we present it for adoption to this Convention, and it is on the motion to take from the table that I raise my argument.

MR. BAREFIELD—The gentleman has alluded to the turpentine workers. I would like to ask the gentleman if he is acquainted with the turpentine men.

MR. WILLIAMS—No, sir; we do not have many of them in my county.

MR. BAREFIELD—I would like to ask is it not a fact that those who do the manual labor in turpentine stills, if they are not mostly composed of fugitives from justice from the other portions of the State of Alabama?

MR. WILLIAMS—Yes, sir; and for that reason they would go out under the good character clause, just as much as under the other proposition contained in Section 6, and that is my proposition.

MR. O'NEAL (Lauderdale)—Does that apply after 1903?

MR. WILLIAMS—No, sir; but Section 6 does apply after 1903, and they would go out under that, if not under the good character clause.

MR. O'NEAL—Don't the gentleman understand the good character clause out after 1903.

MR. WILLIAMS—Of course I do, but the qualification clause in Section 6 does not.

THE PRESIDENT—The time of the gentleman from Marengo has expired.

MR. WILLIAMS—My motion is to take from the table the motion of Mr. Beddow.

THE PRESIDENT—The question is on the motion of the gentleman from Marengo to take from the table.

MR. COLEMAN—Is that in order when we are discussing an amendment.

MR. O'NEAL—There are two amendments now.

MR. MORRISETTE—No new business has been transacted since that was laid on the table. I move it be in order.

MR. WILLIAMS—The reason I made the motion was because there has been new business, and there has been——

MR. MORRISETTE—No new business was transacted since that was laid on the table and it is therefore in order. There have been two amendments but no action was taken on either of them by the Convention.

THE PRESIDENT—It seems to the Chair that it would require unanimous consent now to consider the motion to take from the table as it would interrupt the regular order.

MR. LONG—I want to call the attention to the fact that some business has transpired. The Chairman accepted the amendment of the gentleman from Jefferson, the amendment was laid on the table, and the Convention struck out the word "regular" and accepted the amendment of the gentleman from Macon, and it strikes me the majority of the Convention could take from the table the amendment offered by the gentleman from Jefferson.

MR. WILLIAMS—I concede that the position of the Chair is correct at this time, but I could not find any other time in which to get my opinion of this Section before the Convention, therefore I chose this time, but as soon as the amendment of the gentleman is disposed of, I will then make the motion to take from the table, and I believe I will be in order. I therefore withdraw the motion.

There was no objection and the motion was withdrawn.

MR. COLEMAN—I was surprised to hear the argument of the gentleman from Marengo. It shows how little gentleman who are lawyers here keep in mind the system that we have presented. His main argument was that all these parties could be excluded under the good character and understanding clause.

MR. WILLIAMS (Marengo)—Will the gentleman pardon me?

MR. COLEMAN—I yield.

MR. WILLIAMS (Marengo)—Under the good character clause until 1903, and under Section 6 thereafter.

MR. COLEMAN—I understand the gentleman exactly, but every delegate upon this floor knew that his whole argument was made upon the assumption that the good character clause would be in operation at that time. Of course he tried to explain it when he saw the predicament in which he was placed, and the inapplicability of the argument. The temporary clause which has been adopted was adopted rather to carry out our pledges to the people of Alabama that no white man should be disfranchised, and then

it provided a permanent clause consisting of property qualifications and educational qualifications, but the Committee was aware that there would be a large class in this State in view of this understanding clause, or the reading and writing clause, who would be incompetent voters, and I say that the gentleman does not speak for the Black Belt when he says that this provision is not required. It is absolutely necessary or something in the place of it which will meet the same ends designed here by us. Now this question has been fully discussed. The reading of the definition shows how carefully the Committee framed this Section; that the words we had in there "occupation," was a synonym for "employment," and the word "employment" for "occupation."

MR. WEATHERLY—I understand the Chairman consented to the insertion of the word "employment" at the suggestion of the gentleman from Macon.

MR. COLEMAN—I did.

MR. WEATHERLY—At his request I would like to know if the Chairman would be willing to insert an additional word in there, and that is insert the word "pursuits." I just make that suggestion.

MR. COLEMAN—There is no objection in the world. It is covered any way. If it is satisfactory to the body of the Convention, if the Convention will grant permission, the Committee will accept the word "pursuits."

THE PRESIDENT—The gentleman from Greene asks unanimous consent to insert the word "pursuit" after the word "employment."

MR. HARRISON—I ask the Chairman of the Committee to consider that well. I think it might be dangerous to accept that. He might be pursuing a coon. (Laughter.)

MR. COLEMAN—Of course, if I do not get unanimous consent, I have no right to do it.

THE PRESIDENT—The gentleman from Greene asks unanimous consent to insert the word "pursuit" after the word "employment."

(Objection was made.)

THE PRESIDENT—There seems to be objection.

MR. COLEMAN—Now this discussion shows the importance of some provision like this. It shows with what great care this Section was framed by the Committee. Now a substantial amendment has been offered that was not provided for before, and we accept these amendments simply to stop the discussion that we may proceed with the business. I do not see and cannot under-

stand how it is to be benefited by any amendment or substitute which has been offered, and I move to lay the amendment on the table.

THE PRESIDENT—Does the gentleman include both amendments?

MR. COLEMAN—Both of them.

THE PRESIDENT—It is moved that the amendment offered by the gentleman from Pike and the substitute to the amendment offered by the gentleman from Mobile be laid upon the table. Is the Convention ready for the question?

MR. LONG (Walker)—I ask for a division of the question.

THE PRESIDENT—The question will be first upon the motion to table the substitute offered by the gentleman from Mobile.

Upon a vote being taken, the motion to table was carried.

THE PRESIDENT—The question recurs upon the motion to table the amendment by the gentleman from Pike.

MR. BEDDOW—I have an amendment.

MR. WILLIAMS—Do I not come in now to make my motion to take from the table?

THE PRESIDENT—If the gentleman could get recognized, he could come in, but the Chair recognized the gentleman from Jefferson. Does the gentleman yield?

MR. WILLIAMS—I want to make a motion to take from the table the motion of the gentleman from Jefferson that was laid on the table just now.

MR. BEDDOW—The amendment will cover the motion that far, and the motion to take from the table will not be necessary.

The Secretary read the resolution offered by Mr. Beddow as follows:

"Amend Subdivision 1 of Section 5, by inserting after the word 'register,' in line 9, the words 'provided this subdivision shall not apply to persons temporarily unemployed pending a strike, or disagreement with their employers.'"

THE PRESIDENT—The question is upon the amendment offered by the gentleman from Jefferson.

MR. COLEMAN—I move to lay the amendment offered on the table.

MR. LOWE—I call for the ayes and noes.

The call was sustained.

THE PRESIDENT—The question is upon the motion to table 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.

AYES.

Ashcraft,
Barefield,
Bethune,
Browne,
Bulger,
Burnett,
Carnathon,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Craig,
Dent,
deGraffenreid,
Eley,
Fletcher,
Glover,
Graham, of Talladega,
Grant,
Greer, of Calhoun,
Handley,
Henderson,
Harrison,
Hinson,
Hood,
Howze,
Inge,
Jenkins,
Jones, of Hale,
Jones, of Wilcox,
Kirkland,
Knight,
Kyle,
Leigh,
Lomax,
McMillan (Wilcox),
Merrill,
Miller (Wilcox),
Morrisette,
NeSmith,
Norwood,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Pearce,
Pitts,
Reynolds, of Henry,
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Sanders,
Searcy,
Sentell,
Smith (Mobile),
Smith, Morgan M.,
Spragins,
Tayloe,
Waddell,
Walker,
Watts,
Weakley,
Williams (Barbour),
Winn,

Total—66.

NOES.

Messrs. President,
Altman,
Banks,
Bartlett,
Beavers,
Beddow,
Blackwell,
Boone,
Brooks,
Burns,
Byars,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Cunningham,
Davis, of Etowah,
Duke,
Fitts,
Foshee,
Foster,
Gilmore,
Graham, of Montgomery,
Grayson,
Greer, of Perry,
Haley,
Heflin, of Chambers,
Heflin, of Randolph,
Hodges,
Howell,
Jackson,
Jones, of Bibb,
Kirk,
Ledbetter,
Long, of Butler,
Long, of Walker,
Lowe, of Jefferson,
Macdonald,
Martin,
Maxwell,
Moody,
Mulkey,
Murphree,
Oates,
O'Neill, of Jefferson,
Parker (Elmore),
Pettus,
Phillips,
Pillans,
Porter,
Reese,
Renfro,

Reynolds (Chilton),	Sollie,	White,
Robinson,	Sorrell,	Whiteside,
Sanford,	Spears,	Williams (Marengo),
Selheimer,	Thompson,	Williams (Elmore),
Sloan,	Vaughan,	Wilson (Clarke),
Smith, Mac. A.,	Weatherly,	Wilson (Wash'gton),

Total—69.

ABSENT OR NOT VOTING.

Almon,	Freeman,	McMillan, of Baldwin,
Case,	Jones, of Montgomery,	Miller (Marengo),
Davis, of DeKalb,	King,	Norman,
Eyster,	Locklin,	Proctor,
Espy,	Lowe, of Lawrence,	Stoddard,
Ferguson,	Malone,	Willet.

PAIRS.

AYES.	NOES.
Stewart.	Cofer.

The motion to table was lost.

MR. GRAHAM (Montgomery)—I have an amendment.

MR. COLEMAN—Is it too late to verify that vote?

MR. O'NEAL—I ask for a verification of the vote.

MR. WILLIAMS—A point of order, Mr. President. It is too late, because of interposition of new business.

MR. COLEMAN—I was on the floor.

MR. O'NEAL—It can't be done until it is announced.

MR. COLEMAN—You have to announce it.

THE PRESIDENT—The trouble about it was that the Chair had announced the result and had recognized the gentleman from Montgomery, who offered an amendment.

MR. BOONE—It is not a question as to who was on the floor, but who the Chair recognized.

MR. COLEMAN—That is all true; but I ask the Chair if the motion is made immediately upon announcement, if it is not in time.

THE PRESIDENT—It is, but not after the Convention has passed upon a question and taken up new business. The Chair recognized the gentleman from Talladega who yielded to the gen-

tleman from Talladega, who yielded to the gentleman from Montgomery. The Secretary will read the amendment.

"Amend amendment by striking out the words 'pending a strike or disagreement with their employers.'"

MR. BEDDOW—By consent of the house, I wish to accept that amendment.

MR. O'NEAL—I object.

THE PRESIDENT—The gentleman from Jefferson asks unanimous consent to accept the amendment. Is there objection? The Chair hears no objection.

MR. O'NEAL—I object until I hear it read.

THE PRESIDENT—The gentleman objected before the Chair submitted the question to the Convention, and when the Chair submitted the question to the Convention, the gentleman did not renew it. The Secretary will read the amendment as modified by the acceptance of the amendment offered by the gentleman from Montgomery.

MR. GRAHAM (Montgomery)—I move the previous question.

MR. O'NEAL—I hope the gentleman won't do that. We want to discuss this matter. The Chairman of the Committee wants to be heard on it.

THE PRESIDENT—The gentleman from Montgomery moves the previous question.

MR. O'NEAL—I hope the House will vote the motion down.

THE PRESIDENT—The gentleman is not in order.

MR. COLEMAN—I ask even after the previous question has been moved, if I have not the right to be heard.

MR. REESE—I make the point of order. The previous question is moved. The gentleman made the motion to table this proposition awhile ago, and it was defeated. Now the house has a right to vote without his discussing the proposition.

THE PRESIDENT—The question is not debatable. Does the gentleman apply his motion to the section and amendment, or simply to the amendment?

MR. GRAHAM (Montgomery)—To the amendment and section.

MR. COLEMAN (Greene)—Then I have the right to close.

THE PRESIDENT—Certainly.

Upon a vote being taken, the President announced that it appeared to the Chair that the ayes had it.

A division was called for.

MR. SOLLIE—I rise to a question of inquiry. Is it the whole section or subdivision that we are discussing?

THE PRESIDENT—The subdivision. The Chair was incorrect in stating the section. It is the subdivision.

MR. KIRK—If in order, Mr. President, I would like to move a division of the question.

THE PRESIDENT—The gentleman is too late now.

Upon a vote being taken, there were 59 ayes and 60 noes, and the motion for the previous question was lost.

MR. COLEMAN—Please read the amendment as offered. I hope the gentlemen will pay attention to it.

The Secretary read the amendment as follows:

"Amend subdivision 1 of Section 5, by inserting after the word "register" in line nine, the words 'provided this subdivision shall not apply to persons temporarily unemployed pending a strike or disagreement with their employers.

Amendment to the amendment by Mr. Graham (Montgomery)—Amend the amendment by striking out the words "pending a strike or disagreement with their employers."

MR. COLEMAN—Now, if the delegates will just pay attention for a moment we will see what trouble we get into when we move too rapidly. It says, provided, that this subdivision shall not apply to parties temporarily out of employment, or who are engaged in a strike. That is they are not required to read and write even. They are free to vote without any qualification.

MR. GRAHAM—I would like to ask the gentleman a question. The mover of that amendment is willing to change it this way, provided, this requirement as to employment shall not apply to persons temporarily out of employment.

MR. COLEMAN—That is what I wanted to get the floor before for. That shows how important it is to notice closely what we are doing and not to proceed too rapidly. This Convention was ready to permit those who were engaged in a strike or temporarily out of employment of accord to them a higher position than any elector in the State. We are framing an organic law. It requires close attention and study of these amendments that we offer. I haven't had an opportunity to consult with the Committee, but if I can get a second I will move that this first paragraph be recommitted to the Committee on Suffrage and Elections.

Upon a vote being taken the motion to recommit was carried.

THE PRESIDENT—The Secretary will read the next subdivision.

MR. SANFORD—That has been recommitted to the Committee. I desire to offer an omendment.

THE PRESIDENT—As soon as the paragraph is read the Chair will recognize the gentleman to offer an amendment.

The Secretary read the next subdivision as follows:

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 situated 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 year next preceding the year in which he offers to register shall have been paid, unless the assessment shall have been legally contested and is undetermined.

MR. SANFORD (Montgomery)—I have an amendment.

The amendment was read as follows:

"Amend report of Committee on Suffrage and Elections by striking out the second subdivision of Section 5 of said report."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Montgomery.

MR. SANFORD (Montgomery)—I offer that amendment, fellow delegates, because I am aware that property is power among all people and in every government, and that it is especially a power in this republic whose dominating vice is avarice. The men who own property often time show the very highest degree of sagacity, or energy, of self-denial and of economy, and all those qualities by which large fortunes are acquired. But, from all I can learn by tale or history in the observations of a not now short life, mere possession of property does not give patriotism or wisdom or virtue. Oftentimes it is a means of profligacy and indulgence in all the forms of vice and of folly. Therefore, the ownership of property should not be a qualification to vote. I remember an anecdote, Mr. President, of the celebrated Emory Storrs of Chicago, a very brilliant lawyer, and a very profligate man. Upon one occasion at Saratoga, he was surrounded by a number of gentlemen of large fortune, and, while he himself was impecunious, he was a

genius whose brilliancy was admitted by every one, and they jeered him and sneered at him, and he finally replied to them: "Gentlemen, I do not wish to be offensive, but, in my reading of the New Testament, the only man of fortune that was at all distinguished in that book was Dives, and he was in hell." So, while I do not go to the full extent of Emory Storrs's sarcasm, I do say that the mere possession of wealth is not qualification for government; that the wisest men, the greatest moral teachers, the greatest patriots, the finest soldiers, and sometimes the most sagacious statesmen have had no property at all; that they have been supported by public contributions and buried at public expense. That is true in the history of all counties, ancient and modern. Why, my friends, I have but to remind you that such a man as Samuel Adams could not have voted under that clause. When he was elected to the Colonial Congress of 1774, his friends had to contribute to buy suitable apparel for his appearance in that assembly. He himself would have been buried at public expense, but for the fact that his son had died and left him a few thousand dollars, and yet that man has been called the "Cromwell of America;" that man has been ranked as second only to Washington; that man has been considered in the very first rank of patriots- a man who stirred the colonies in 1774, '75 and '76 in the war against England for independence and for liberty, and yet that man could not have voted under this Section had he been living in Alabama today. Why should I remind you of the fate of James Monroe, so familiar to the history of this country, and yet so poor that he was buried at public expense. He could not have voted under this clause.

Now, tell me, you gentleman who favor that Section, what virtue there is in forty acres that can give a man the wisdom to vote? Of what virtue is there in $300 of his wife's garments or jewelry that can impart to him patriotism? Why should it be so? If it depends upon his wife's $300, she may run away, and when she goes she takes the $300 and disfranchises her husband. (Laughter.) The very absurdity of the proposition shows that such a provision as this ought not to be made a qualification for voter. I can count from here to the river many young men, single, qualified so far as character is concerned, who have ordinary intelligence, as required, and yet who do not own $300 worth of taxable property or forty acres of land. There are gentlemen in this Convention who are not the happy possessors of forty acres of land, let it be ever so unfertile or unproductive. Why should you make such a qualification as that? How many men would you qualify if you put in a mere property qualification? Many of the best men in Alabama. How many men would you disqualify by that first subdivision of the fifth Section,—men who cannot read nor write and yet men of very fine sense, of high patriotism, of great public virtue, of much devotion to the welfare of Alabama. What virtue is there in the power to read a paragraph of the Con

stitution of the United States? What sanctity is there in that instrument about which men in this Convention differ as to its interpretation, as they do all over the United States? Why didn't the Committee say "You should learn to read the Lord's Prayer and practice its humility; you should learn to read the Sermon on the Mount, and take it to your life as a guide in all its magnificent virtues?" Why not? Some of the most brilliant men in history—brilliant for their genius, immortal for their attainments and good they have done to the world, and yet, in their personal characters, were lost to every sense of morality and virtue. Who has not read the sarcasm of Pope about Lord Bacon being "the greatest, brightest, meanest of mankind?" Who does not remember Byron's career—the genius of the nineteenth century, and known for his profligacy as much as he is for his charming poems? Who does not remember Voltaire, the apostle of reason, the most gifted man of the eighteenth century, profligate in all things, believing in nothing—he did not believe in God, but actually repudiated everything that we have been taught is sacred in Christianity. Who does not remember Rosseau? How many of these great and brilliant men would I call to your minds who had not a solitary virtue except the gift of intellect, if that could be considered a virtue? Let me say to you that it is not a man's intelligence that makes him a valuable citizen. It is his moral qualities. Your intellect is nothing more than the headlight of a locomotive. It shows the way, but it possesses no driving power. It is character that makes a man, and character is will disciplined according to great moral principles. That is what you want. Why, one Sunday school is of more value in making good citizens than a district full of public schools. Why? Sunday schools teach morals, teach the duty of man to God, to his country, to his family and to himself. Your general literary attainments teach you nothing except a capacity maybe to acquire what are the great moral truths, which are few, for morality, my countrymen, is but one. Religion and religious creeds are innumerable, and if you teach a man high morality, whether he can read or write, or not, he is still a valuable citizen.

MR. PROCTOR—I would like to ask the gentleman from Montgomery if his amendment is adopted, whether it will not cut out a class of voters who would be entitled to vote if it is left as it is?

MR. SANFORD—No, not cut them out; it would allow them to vote. My amendment is to strike out the Section which provides for a property qualification.

MR. PROCTOR—And then you cut out all that class of people who would come in if that Section was left in.

MR. SANFORD—By no means. They come in anyhow; but it is the men who carry the muskets and who toil for your country

that it would let in. When you asked a man to volunteer to defend the Southern country forty years ago, did you ask if he had forty acres of land? Did you ask him if he could read and understand the Federal Constitution, or the Sermon on the Mount. Aren't these the men who bear the muskets in war and in days of great danger? Who are these men but they who put out the flames on your buildings, and put down insurrections, who make your policemen, who make your gallant soldiers, who make your great heroes?

A friend suggests that Aristides of Athens was buried at public expense, and that is true, and no wiser or better man ever trod the streets of Athens, once the pride and admiration of the world.

There are a great many men who have the power of property --and I respet them for the self-denial, the sagacity and the industry by which they accumulated their possessions, yet it does not fit them to govern. Yet it is a singular fact that whenever a man acquires property, he straightway sets up to be a ruler of his kind. It is a peculiarity of humanity. I have seen men who did not go to the polls for twenty years, so they asserted, and yet when they accumulated a fortune, straightway they were presidents of every little meeting, ward associations or little committees, and everything of that kind, and endeavoring to dictate the policy of a great commonwealth, when they did not know a solitary principle of government.

So I hope, my friends, that this Article that does no good, that shuts out many, will not be insisted upon. If it depends purely upon that, some of the very best men in Alabama would be cut off from the franchise. I am speaking now not only of the second subdivision, but of the first subdivision, and I will tell you an incident to show you the character of the men whom it may exclude. There is a man now living in Crenshaw County, formerly of this county, whom I knew in the army for nearly four years. He marched when he was ordered to go to the front; he starved rather than abandon his post; he encountered every peril as cheerfully as the bridegroom does his wedding entertainment; he was afraid of nothing and bore everything without a murmur. When I said to him, calling him by his given name, Sam: "I am against disfranchising men because they cannot read and write," he said to me, "Colonel, you know me," and "if the welfare of my country demands that I should be disfranchised and never vote again, let it be done." A spirit of sacrifice that few men in this assembly would have entertained or expressed. That is the character of men whom the first subdivision may shut out from the polls.

MR. WEATHERLY—Does he own any property?

MR. SANFORD—I think he does—I think he owns property.

MR. WEATHERLY—Then he may get in.

MR. SANFORD—That would let him in, but his son may never own any, though he could vote because he was the son of a soldier. But suppose he arrives of age after 1903, it will not reach him.

MR. SAMFORD (Pike)—Then I will suggest that he could perhaps read and write and have some employment.

MR. SANFORD (Montgomery)—He might provided he was as fortunate as you represented your son could be in traveling over Europe for five years, and reveling in the delights of fashionable society.

Now, Mr. President, as I was speaking about the making men who are the possessors of land and fortune voters, and those who possess neither land nor personal property non-voters. As I said these men oftentimes volunteer cheerfully for all the high duties of society, especially where dangers, hardships and privations are to be encountered. Do not exclude them from the ballot box. Poverty is hard enough to bear. Do not expatriate them practically by saying you have got no country, you are a beast of burden, but not a man, to say who shall be your judges, your legislators or your Governors.

Christ and his Disciples might be here, having every virtue known to God and to man, and they could not vote, yet the man owning millions of dollars, and having every vice and profligate habit perhaps known outside of the infernal regions, votes and makes legislators and Judges and Governors. A poor man, my friends, such as I have described him, made in the image of God, in the image of Christ, also may be excluded from the polls because he does not own the paltry sum of three hundred dollars, or the little cow pen of forty acres. I hope the Convention will strike this out.

MR. ROGERS (Lowndes)—I would like to know if Christ and his Disciples would not come under the good character clause.

MR. SANFORD—That would depend entirely on which way he was going to vote. (Laughter.) Who is to be the judge of the good character?

MR. SOLLIE—May I interrupt the gentleman?

MR. SANFORD—Yes, sir.

MR. SOLLIE—He could not come in after January 1, 1903, under the good character clause, could he?

MR. SANFORD—No.

MR. COLEMAN (Greene)—Mr. President, the gentleman does not take into consideration the purposes of this committee.

You strike out that section and there is not a negro in Alabama that will not vote. The purpose is to enable those who should exercise the franchise to exercise it. He has lost sight of the great object for which this Convention was called, to eliminate a class of voters who are not competent to exercise the vote. Similar provisions to this have been adopted in every State, where they have met to reform the article upon Suffrage and elections, and it has always been the rule in some States of the United States. I am astonished at the sentiments of the gentleman, however much we may have admired the learning that he showed, and I suppose that was the principal object of the address. I do not think it necessary to consume any time whatever in further discussion of that paragraph of the section, and I move to lay the amendment upon the table and ask for the previous question upon the article and amendment.

MR. BULGER—Upon that I call for the ayes and noes.

MR. SOLLIE—A point of inquiry. Is it the whole section or a subdivision?

MR. WILLIAMS (Elmore)—I ask for a division of the question.

THE PRESIDENT—The question will divide itself. The question will be put first on the adoption of the amendment, and then on the adoption of the subdivision.

MR. LOWE—I rise to suggest that perhaps there might be a division of this question which provides in the first place that the owner in good faith should be entitled to vote and then that the husband of the owner in good faith be allowed to vote. I think there are two propositions there.

MR. O'NEAL (Lauderdale)—I rise to a point of order. The question before the house is the previous question. There cannot be a division of the previous question.

THE PRESIDENT—The point of order is well taken. The question is shall the main question now be put.

Upon a vote being taken the main question was ordered.

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Montgomery.

MR. LOWE (Jefferson)—I asked a division of the question, and the question is upon the ayes and noes as I understand it.

THE PRESIDENT—In the opinion of the Chair the question is not capable of division. The rule as the Chair understands it, is that there may be a division where the sense will permit it, but the Chair must decide a question of that kind, and, in the opinion of the Chair, the sense of the question here will not permit a

division. The ayes and noes were called for. Is the call sustained?

The call for the ayes and noes was not sustained.

MR. REESE—I rise to make a parliamentary inquiry. Is not the amendment offered by the gentleman from Montgomery to strike out the entire section?

THE PRESIDENT—It is.

MR. REESE—Then that would dispose of the original section. I move to lay the amendment on the table.

THE PRESIDENT—In the opinion of the Chair after the previous question has been ordered, the gentleman cannot move to table. The gentleman would have been in order to have moved to table before the previous question was ordered, but after the previous question has been ordered, the question is upon the adoption of the amendment and section as reported.

MR. deGRAFFENREID—A point of order. The gentleman's motion, or whatever you may call it, is not an amendment. As I understand it, you can amend the section by moving to strike.

THE PRESIDENT—The Chair will overrule the point of order. The question is upon the adoption of the amendment offered by the gentleman from Montgomery, which is to strike out the subdivision marked "2nd." As many as favor the motion to strike out paragraph marked "2nd" will say aye; those opposed no.

Upon a vote being taken, a division was called for, and the amendment was lost by a vote of 18 ayes to 38 noes.

The question then recurred upon the adoption of the subdivision as reported by the Committee, and upon a vote being taken, the subdivision was adopted.

THE PRESIDENT—The Secretary will read the next section.

MR. SOLLIE—I have an amendment to the whole section.

THE PRESIDENT—Does it add a subdivision?

MR. SOLLIE—Yes, sir.

Amendment offered by Mr. Sollie read as follows:

"Amend Section 5 by adding at the end the following subdivision: 'Third, Those who reach the age of 21 years after January 1st, 1903, and before the first day of January, 1905, who are persons of good character and who understand the duties and obligations of citizenship under a republican form of government.'"

MR. SOLLIE—I also have to offer an amendment to that amendment by way of substitute.

The amendment was read as follows:

"Amend Section 5, by adding at the end, following subdivisions:

" 'Third—Those who reach 21 years of age after January 1st, 1903, and before the 1st day of January, 1905, who are 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 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, or persons of good character, and who understand the duties and obligations of citizenship under a republican form of government.' "

MR. SOLLIE (Dale)—Mr. President and Gentlemen of the Convention: It is a little odd that I should offer an amendment and at once an amendment to that amendment or a substitute for it; and I will explain here and now why I do so. The substitute is my preference. I should like to see the Convention adopt it. It extends to the youths both the descendants and the good character and understanding clause of the "temporary plan," already adopted, until January, 1905; and it gives to those to become of age within that time exactly the same opportunity the others will have under the temporary plan. But I am not sure that the Convention will be as friendly to the idea of extending to those boys to come of age within the time covered by the amendment both the descendants clause and the character and understanding clause as they will to the character and understanding clause alone. Therefore, I have offered the latter as an amendment to the subdivision and the former as an amendment to, or substitute for, the latter, in order that I may secure a vote, first, on the substitute; and, if it is lost, then on the amendment which extends to the boys only the good character and understanding clause for the time in question. As I understand the rule, we vote first on the substitute and then on the amendment. This is my reason for offering the two as I have.

Now, gentlemen, each of these amendments is stripped of some of the objectionable features of the temporary plan already adopted by us, such as the registrar clause, to which objection has been made here; and of nearly or quite all of the objections which are substantial that have been urged against other amendments looking to the same relief offered heretofore, when we were considering the last subdivision, and which were voted down by the Convention. One of the most forcible objections I have heard in dis-

cussing these amendments voted down with the Chairman of the Committee, is that they have been too uncertain and were offered in such way that it would be difficult to understand them, and that it would require study on the part of a lawyer to learn their meaning if adopted at the places and in the connections proposed. This point was probably well made. The objection to that offered by the gentleman from Chambers, Judge Robertson, was that it provided for the registration of boys before they became of age, a sort of preparatory saving of the privilege before it could be known that the boy would ever need it. This, too, was a valid objection. But these amendments I offer have not any of these objections. They are easy of construction, and may be easily understood. They are regular, in a proper place, so that they cannot confound or confuse, and are as clear and definite as the most severe critic might wish. They ring as clearly as a new silver dollar or a new bell. They simply make a provision in behalf of such of the unfortunate youths of the State as may become of age for the two years next succeeding the end of the "temporary plan" adopted, which, in justice, they should have, and which some at least of the delegates here I feel sure want them to have. It prevents their being shut off from the right to vote by a law which imposes upon them conditions with which in some cases at least they cannot comply. It is true that it fastens upon our permanent plan a temporary provision, for the exact execution of which provision is not made, and that their registration will have to be provided for; but it is equally true that a plan of registration for all to come under the permanent plan will have to be provided by the Legislature; and they can also provide how and by what rules these youths shall register; and we may, I think, safely leave it to the wisdom of the Legislature to determine the plan. What sensible objection can there be to letting these youths have the advantages which we extend to others now among us or who shall become of age before Jan. 1, 1903? Precisely, or nearly, the same reasons obtain in the one case as in the other. In either case it is wise that we let them vote; for they cannot make the preparations demanded; they cannot acquire either the property or the educational qualification the law demands in the time fixed. I would gladly see it so arranged that these amendments would apply all the time, but that cannot be done here; and I have made the time short in the hope that I may secure the adoption of one of the amendments. I insist that such of our young men as shall come of age between this and January, 1905, without owning the property or having the education provided for, but who are either descendants of the soldiers mentioned, or have good characters and understand the duties of citizenship under our form of government ought to be permitted to register and vote. I insist, Mr. President, that this amendment solves the vexed question of taking care of the youths soon to become of age. I believe it is every man's desire to protect them if

it can be safely and lawfully done, and that all are willing and prefer that they have some time to get ready.

It is a new thing with us in Alabama to have to vote under a property or educational qualification. It is a radical departure from our time honored customs; and when it is introduced into the rural districts it will not find a hearty welcome. In those sections the people have never been accustomed to going much to school or to providing for the education of their children. The desire for an education has not entered into the hearts and lives and characters of the citizens there. They do not understand as they should, perhaps, the necessity for becoming educated. Great and radical changes cannot be made in their habits and lives in a season. Their condition of ignorance has sunk deep into their very natures. It is one of life's ordinary, and as they think, normal conditions. It is part of their civilization, which they think is good and right and just. They do not experience any inconvenience on account of it, because they have not known any other conditions. They look upon the educated world outside as some distant object not directly affecting them. They cannot be made to face about in the time allowed by the provision. They must have some time for it. And if the time is not given by us they will take it at their own expenses. And who of us, Mr. President, feels a sensation of pride when we contemplate the boy who has had a boorish father and has been kept between the plow-handles till the very day he is twenty-one years old, and been then turned loose in the world with, say five or ten dollars, without education and without property, and forced then to acquire these for himself, but in the meantime cut off from the right to vote by a law which we have deliberately made? Before these people will catch up the inspiration and betake themselves to the acquisition of an education as a class we will have to send teachers there to labor and toil with them, and speakers to arouse them. They will have to be led up to it by degrees. They cannot and will not take it up at once of their own motion. They will not know until our Constitution is ratified and becomes a law and is promulgated, whether or not they are going to have to live under it; and when that is done there will remain practically no time, before the period for preparing is out. Why, Mr. President, in some of the rural districts of which I know three out of five of the boys to come of age will probably not be able to vote under the provision. They will not have the property or the education required. And for two reasons: First, because they will not have understood the necessity for it; and, secondly, because their fathers have controlled their time, and they have had no opportunity. Shall we place upon these youths such a handicap as that? Shall we directly violate the pledges we made to them? Shall we violate the pledges we have made to the people of Alabama that we would not disfranchise any white man? Shall we go from this Convention with the recollection of such a betrayal of

trust upon us? Shall we place this blight upon the youth of the land who are just budding into young manhood, these young men who are already so nearly men of maturity, that if the call to arms were made they would be among the first to shoulder their muskets and march to the front to fight for our common country? Shall we not rather execute than betray the trust? Some here attempt to avoid the force and effect of our pledges as to the boys by saying we pledged ourselves only as to those who vote now, and that the pledge does not bind us as to future generations. Grant it. Are these boys to become of age before 1905, future generations? Does not the charge cover them too. Are they not among the cestui qui trust for whom we are directed to provide? Are they not within the terms of the trust? It is too narrow a construction to place upon the charge. It violates its spirit and plain meaning.

I can understand how those of us who supported the minority report of the Committee on the temporary plan may consistently object to the descendants parts of the substitute; but can see no valid reason why any of us should object to the character and understanding amendment. The minority mentioned think the descendants clause unconstitutional, and cannot consistently support it anywhere; but no one has questioned the constitutionality of the character and understanding clause. And if the other cannot be carried then lets adopt at least that amendment. It will be a great relief. Many who otherwise could not vote may do so if even that amendment is adopted. And it cannot be reasonably objected to upon any ground which, in my judgment, ought to control our actions here. Those who oppose it cannot say that it is unjust, or unconstitutional. It violates no law of right or morals or of political economy, nor does it the Federal Constitution. It is unassailable on all these grounds. Then what objection can there be to it?

I do indeed, think of one, that of policy. But I maintain that the better policy says adopt it.

In the debates on the temporary plan the minority charged that the life of that plan had been made short because its advocates feared it would not stand the test of the courts. I trust that they were entirely mistaken in that. For myself, I stand here in my place and tell them that it was not that consideration which induced me to support that plan, and that I am satisfied of its legality; that I do not fear for its fate in the courts. I am willing to follow it into the courts and there defend it. And the majority of the Committee must surely believe that it is constitutional. I will take the liberty to say they do; for I believe them to be candid men; and they have asserted here on this floor that they had no doubts of its legality. And they would be estopped now to deny its legality if they were disposed to use that argument as a reason for opposing this amendment. I do not believe that these gentlemen

prepared the temporary plan believing it to be unconstitutional, and by a lawyer's trick made its life so short that it could be dispensed with before the hammer of the courts could come down upon it to strike the life out of it. I repudiate for them and myself the whole of these imputations. I deny that we did any such thing. I believe in standing up like men to what we do here and in doing nothing we cannot stand by and defend publicly or otherwise.

I am willing and ready to say to the courts and to the world: "Yes, this temporary suffrage plan is our plan; it is good; it is our annunciamento; it is our doctrine; it is our faith; it is our creed; it is our thesis; and we pin it to our walls and stand here ready and able like brave men to defend it." With like candor and fearlessness we should protect our youths yet awhile. We ought not to let the clouds gather round them and add to their misfortunes for which they are probably not responsible, the other mortifying and humiliating one of disfranchisement. And it will require time and tactful management to bring them up to the required conditions. We have to approach them according to their several conditions and surroundings. We must let them understand that our purpose is to lift them up, not rush them. We cannot do that by making a summary law requiring quick, radical change in their lives. Who of you campaigners has not learned that you have to move to the accomplishment of an object in one community by one set of methods and in another by a different one? Who of us all is so blind to human nature as to approach all men in the same way? Who has taught school without learning that he must manage one child one way and another in a different way? So it is with voters. I plead for the youth of the rural districts. Those of you who were not reared among them do not understand them possibly as I do. What seems easy and right to you may seem hard and unjust to them. Their situation and environments are all different from yours, possibly. This requirement that they must forthwith get property and education will seem hard to them. Let's keep the trust.

I would like to see the substitute adopted. If this cannot be then I hope we will adopt that amendment.

MR. SMITH (Mobile)—The argument the gentleman has made is practically the same position that he took in reference to the second paragraph of the fourth Section. The same considerations were presented to the Committee in the Committee room, and discussed at very considerable length, and the views that the Committee there expressed I believe to be well founded. In the first place, it seems to me that there is some misconception as to why we have adopted the temporary plan at all. It may be the intention of some members of the Convention to arrange a fraudulent scheme to disqualify the negro, but that is not the view with

which the Committee has formed its plan. Its idea has been to truly and in fact, elevate the basis upon which the electorate was to be put in the State of Alabama. Circumstances, however, much concerned us, owing to the face that we have this large number of ignorant blacks with us which made it absolutely impossible for us to put the suffrage upon a high basis without making some exceptions to that rule. If we had introduced the permanent plan in the first instance, unaided by the admission into the electorate that is granted by the temporary plan, it would have been absolutely impossible, under existing circumstances, to have adopted the Constitution. The negroes would have been disqualified to a large extent and therefore would have voted against it. A large number of citizens who on account of the fortunes of war had no opportunity to qualify under the permanent plan would have been disfranchised, and it would have left but a small minority to vote for any plan that we might produce. It was therefore aboslutely necessary that we should make a temporary plan, that looked with tenderness to the condition of the soldiers and their descendants and a temporary plan that would enable us to redeem the pledges that were made to the party, and to adopt what would eventuate in a high plane of suffrage. That we have attempted to do and that we think is going to be of benefit to us, on any contest in the courts upon the validity of these exceptions, but probably in consideration of these questions as they arise, as they may in Congress, upon a consideration of whether or not they would reduce our representation both in Congress and in the Electoral College. If we present to them this position and tell them that the honest true effort of our people has been to raise the suffrage to an intelligent and proper basis, and that what we have done in the temporary plan has been absolutely necessary to get it upon that basis, then there can be no disposition whatever to cut down our representation in Congress or in the Electoral College. They will say, "yes, it is true they have made exceptions which apply more largely to the whites than to the blacks; yes it is true you have introduced a soldier's clause to admit to a large extent white men; it is true they have introduced the descendants' clause, to admit to a large extent white men, but what was the final purpose? Was it the purpose to circumvent the Fifteenth Amendment, or was it the purpose to place upon a high plane the suffrage of the State of Alabama, and could they have placed it upon this high plane in any other way?"

THE PRESIDENT—Will the gentleman from Mobile suspend. He will be entitled to the floor this afternoon.

The Convention then adjourned until 3:30 p. m.

AFTERNOON SESSION

The Convention met pursuant to adjournment, there being 144 delegates present upon the call of the roll.

Indefinite leave of absence was granted to Mr. Proctor on account of sickness in his family.

MR. deGRAFFENREID—I ask unanimous consent to introduce a resolution that it may be referred to the appropriate committee.

The Secretary read the resolution as follows:

Resolution 278, by Mr. deGraffenreid:

Resolved, That the Secretary of this Convention be and he is hereby instructed to buy the necessary parchment for enrolling the Constitution to be adopted by this Convention.

MR. deGRAFFENREID—I ask that it be referred to the Committee on Engrossment that has that business in charge.

I make the motion that the resolution be put upon its immediate passage.

Upon a vote being taken, the rules were suspended, and on a further vote the resolution was adopted.

MR. GLOVER (Choctaw)—I ask unanimous consent to introduce a short petition.

Unanimous consent was accorded.

The Secretary read the petition as follows:

To the Constitutional Convention,

Montgomery, Ala.:

We, the undersigned citizens of the State of Alabama, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company or for such company to give such passes.

We further petition the Constitutional Convention, now in session in Montgomery, to incorporate into the proposed Constitution some effective, self-operative provision to that end.

Butler, Ala., July 23rd, 1901.

Signed, Charles E. McCall, Judge of Probate, and many others.

MR. SMITH (Mobile)—I have a resolution with favorable report from the Committee on Rules.

Resolution 279, by Rules Committee:

Resolved, That from and after the passage of this resolution, the special resolution heretofore introduced, extending the limit of debate as applicable to the consideration of the report of the

Committee on Suffrage, be repealed; and that the previous rule, limiting each speech in the debate upon amendments to ten minutes be again put in force.

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

A vote being taken, the resolution was adopted.

MR. SOLLIE—By consent of the gentleman from Mobile, I wish to ask unanimous consent to correct the amendments now pending before the house.

THE PRESIDENT—The chair hears no objection.

MR. SOLLIE—The correction is to make a proviso at the end that no one shall register under that after January 1st, 1905. I fear my amendments do not accomplish their purpose without the correction.

MR. SMITH (Mobile)—I had said that the objection to the soldiers and descendant clause so far as the Committee is concerned, was to a large extent, it was the child of necessity, but in addition to that the clauses as limited in the report, each have their justification, which has been very fully discussed and stated before this Convention. The justification of the soldiers' clause resting on the patriotism and hardships which were imposed upon that class of men by the fortunes of the recent war; the justification of the descendants' clause laying in the fact that there were many who lost their property and they were left by the war without means of support and the children were obliged to labor for the support and maintenance of a widowed mother, and the family with all these hardships and these necessities, the opportunity that was afforded to citizens under other circumstances of obtaining an education and the qualification under the other clause was denied to them But, Mr. President, the extension of this clause has in it no such justification. It is true that there are men under the other clause who probably would not fail within the justification that has been offered, but they were members of a class, and it is impossible to make any clause that will operate absolutely within the purpose for which the class is admitted. Those, however, who become of age after 1903 are men who were born long after the close of the civil strife, who were not deprived of their fathers or the service of their fathers in the support and maintenance of their families. They are the children of the men who have returned home, and have at least been able to look after their families for something like thirty-five years, and the men that now become 21 years of age have had the same opportunities to acquire an education that those who hereafter become of age will have, and there is, therefore, nothing in the circumstances or condition of the young men who come of age after January, 1903, which will put them upon a different basis, or make any justification for their

admission, that is not open to all other young men that may become of age hereafter.

In addition to that, Mr. President, we will have an election in 1902. Every man that will be of age at that time will have had an opportunity of registering under the article as it is now written. The next election that we will have will be in 1904, and every young man not now of age will have had three years within which to prepare himself to qualify under the reading and writing clause and if they have that ambition, that desire to become educated men, to qualify themselves as citizens, each and every one of them will have an ample opportunity to do so. I think, therefore, that this is an extension of the rule which is without justification in the necessity, it is without justification upon the same ground that we have made the other exceptions, and it would look like an effort to in some measure evade the constitutional provision, and while perfectly lawful, and perfectly constitutional it would not give a good aspect to the efforts that we have made to lawfully and in a proper way elevate the suffrage in our State. These considerations were addressed to the committee and after a very full discussion of the subject they concluded it would be wiser to limit the clause to January, 1903, and I submit in doing so they have followed the wisest course and that the amendment ought not to be adopted.

MR. COLEMAN (Greene)—It seems to me that the question has been fully discussed. The same question arose on yesterday. The simple proposition is whether or not the arrangement which has been adopted by the committee, persons who are not now of age will be able to vote, or attain sufficient age to vote. I do not care to add anything to what has been said. I move the previous question in this case upon the section and the amendments offered by the gentleman from Dale.

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

Upon a vote being taken the main question was ordered.

MR. deGRAFFENREID—I move to lay the amendment of the gentleman from Dale on the table.

THE PRESIDENT—The previous question is ordered, it is too late to move to table. The question is on the amendment offered by the gentleman from Dale.

MR. SOLLIE—Upon that I ask for an aye and no vote.

The call for the ayes and noes was not sustained.

MR. SOLLIE — The vote is upon the amendment to the amendment, I presume, Mr. President.

THE PRESIDENT—On the amendment to the amendment.

MR. SOLLIE—I would like before the vote is put upon the second amendment that it be read.

The second amendment was read by the Secretary.

Upon a vote being taken a division was called for and there were 30 ayes and 56 noes and the amendment to the amendment was lost.

THE PRESIDENT—The question now recurs on the——

MR. REESE—Mr. President——

MR. LOWE (Jefferson)—The gentleman from Dallas sought recognition from the Chair. It is possible a vote is going to be put when a delegate asks recognition?

THE PRESIDENT—The vote has been put. It seems to the Chair that the delegate from Dallas is able to take care of himself.

MR. LOWE—And it seems to me that it is entirely possible that a vote will be put when a delegate is asking recognition from the Chair.

MR. REESE—Mr. President I have no complaint. (Applause.)

MR. WHITESIDE—I offer an amendment.

MR. HEFLIN (Chambers)—I rise to a point of order—I think the gentleman from Greene moved the previous question on the section and amendments.

THE PRESIDENT—It is the subdivision which is before the Convention.

MR. O'NEAL—I rise to a point of order, the subdivision has been adopted.

THE PRESIDENT—The section has been adopted with the exception of one subdivision which was referred to the Committee on Suffrage and Elections. Is the committee ready to report?

MR. COLEMAN—The committee has not met. It will meet this evening at 8 o'clock.

THE PRESIDENT—The Secretary will read the next section.

Sec. 6. The following persons shall be disqualified both from registering and from voting; namely:

All idiots and insane persons; 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, subornation of perjury, robbery, assault with intent to 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 buying or offering to buy the vote of another in any election by the people or in any primary election or to procure the nomination or election of any person to any office, or of suborning any witness or registrar to secure the registration of any person as an elector.

MR PORTER—I have an amendment.

The Secretary read the amendment as follows:

Amend Section 6 at the end of the 15th line by adding "or any elector who registers for another, or registers more than once, any registrar who enters the name of any elector on the list of registered voters without such elector makes application in person or under oath on the form made for that purpose or who knowingly registers any person more than once, or knowingly enters the name upon the registration list as a registered voter when no one of that name applied to register."

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

MR. PORTER—I am in favor of fair elections. If we are to have fair elections in Alabama, and the Registrars who have been attacked in this bill should be guilty of the charges that have been preferred against them. I think it is nothing but right that they should come under those mentioned in the catalogue of crimes.

MR. COLEMAN—Under Section 4693 of the Criminal Code, and this report is made with reference to the laws as they exist, it reads as follows: "Any person voting at any county or State election who has not registered and taken and subscribed to the oath must, on conviction, be fined not less than one hundred nor more than one thousand dollars, or imprisonment in the county jail or sentenced to hard labor for the county for not more than one year nor less than one month. If the gentleman will take Section 6 and compare it with the laws already in force, I do not think the most critical member of this Convention will find aught against the section as provided by the Committee. Contrary to my usual custom, feeling satisfied that we have covered every possible contingency which could arise I move to lay the amendment upon the table.

MR. PORTER—On that I call for the ayes and noes.

The call for the ayes and noes was not sustained.

MR. SANFORD (Montgomery)—I desire to offer an amendment.

THE PRESIDENT—The question now is upon the motion to table the amendment offered by the gentleman from Coosa.

Upon a vote being taken the motion to table prevailed.

MR. SANFORD (Montgomery)—I have an amendment.

The Secretary read the amendment as follows: "Amend Section 6, by inserting in the thirteenth line after the word 'primary election' the words 'or any nominating convention or mass meeting,' at the end of the fifteenth line 'or prevent the registration of any person as an elector."

THE PRESIDENT — The question will be on the amendment offered by the gentleman from Montgomery.

A vote being taken, the amendment was lost.

THE PRESIDENT—The question is on the section as reported. Is the Convention ready for the question?

MR. PROCTOR—I have an amendment.

The Secretary read the amendment as follows: "Strike out in first line the word 'crime' and insert the words 'felony as now prescribed by law' and insert after the word 'another' and makes or offers to make a false return."

THE PRESIDENT—The question will be upon the amendment of the gentleman from Jackson. Is the Convention ready for the question?

MR. COLEMAN—I move the previous question upon the section and upon the amendment offered.

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

A vote being taken the main question was ordered.

THE PRESIDENT—The question is upon the amendment offered by the gentleman from Jackson. Does the gentleman desire to debate the question?

MR. PROCTOR—Just one word.

THE PRESIDENT—Does the gentleman from Greene yield?

MR. COLEMAN—I yield half my time.

MR. PROCTOR — The amendment offered puts the word "felony" in place of the word "crime," and the second amendment any person who makes or offers to make a false return. It was submitted to the Chairman of the Committee and he agreed with me that he would have no objection to the latter part.

MR. COLEMAN—The amendment is offered as a whole.

THE PRESIDENT—Does the gentleman from Jackson yield to the gentleman from Greene.

MR. PROCTOR—Yes, I will yield to the gentleman.

MR. COLEMAN—I thought he was through.

MR. PROCTOR—I thought there would be no objection by the Committee. I so understood it.

MR. COLEMAN—If he had offered only the amendment contained in the latter clause, it would have been in accord with our views. We think it is covered but to dispense with discussion and consumption of time I would have accepted it, but, as I understand it now, the amendment says, "persons convicted of felony." Felony is something you can punish only by imprisonment in the penitentiary and the section contains other crime and others involving moral turpitude. It is much more stringent.

MR. PROCTOR—I will ask unanimous consent to strike out the first part of the amendment.

THE PRESIDENT—Does the gentleman yield?

MR. COLEMAN—I accept it.

THE PRESIDENT—The gentleman asks unanimous consent to strike out the first part. The Secretary will read the amendment as changed.

The Secretary read as follows: "Insert in line twelve, after word 'another' 'or makes or offers to make a false return of.'"

MR. CHAPMAN—There are two words "another" in the main line. Which one is it?

MR. PROCTOR—It will read this way: "Selling or offering to sell the vote of another or buying or offering to buy the vote of another or offers to make a false return in any election by the people or any primary election or to procure the election of any person."

MR. COLEMAN—I could not accept that, it is not at all consistent.

MR. REESE—I would like to have the amendment read.

THE PRESIDENT—The Secretary has just read it. He will read it again.

The Secretary read as follows: "Insert in line twelve after the later word 'another' the words 'or makes or offers to make a false return of.'"

MR. COLEMAN—It is ungrammatical.

MR. O'NEAL—A point of order. If the sentence be read with the amendment, it will show that it has no sense.

MR. REESE—My request was that the Secretary read it. I did not care about the other gentleman reading it. I ask that the Journal Clerk will be requested to read the amendment himself. (Laughter.) I mean the Reading Clerk and not the members of the Convention. I want to know what was in that paper there.

THE PRESIDENT—Does the gentleman desire the Reading Clerk to read it?

MR. REESE—I rise to a question of personal privilege. What I do object to is gentlemen on the floor stating what is in the paper. I desire Colonel Brandon to read what is in the paper that he has in his hand.

THE PRESIDENT—The Reading Clerk will please read the paper.

The Reading Clerk read as follows:

"Amendment offered by Mr. Proctor. Insert in line twelve after the word 'another' the words 'or makes or offers to make a false return of.' As amended the Section would read: "Also any person who shall be convicted as a vagrant or tramp or selling or offering to sell his vote or the vote of another or by buying or offering to buy the vote of another in any election by the people," etc.

MR. PROCTOR—I ask the Clerk to strike out the word "of." It is inadvertently put in there.

THE PRESIDENT—The question is now upon the adoption of the amendment offered by the gentleman from Jackson.

MR. BURNS—I want to ask if it is too late to offer an amendment.

THE PRESIDENT—It is too late. The previous question has been ordered.

MR. BURNS—I though the gentleman from Jackson had withdrawn his.

THE PRESIDENT—The gentleman could not withdraw it after the Convention had ordered the previous question.

MR. REESE—I move to table the amendment.

MR. BOONE—I rise to a point of order. The previous question has already been ordered and it is too late at this juncture to move to table.

THE PRESIDENT—The Chair has been ruling in conformity to the point of order. In an authority which is furnished me, it says: "Even after ordering the previous question and up to the moment of taking the last vote under it, it is in order to lay upon the table the question still before the assembly." The Chair was influenced in its ruling to the contrary by the fact that the rules of this Convention prohibited the making of a motion to adjourn after the previous question had been ordered, and a motion to adjourn is a motion of higher rank than a motion to table. Inasmuch as the rules do not expressly relate to a motion to table, it seems to the Chair under the authority furnished, that the ruling of the Chair was erroneous. The Chair, therefore, reverses the former ruling and rules the motion to table to be in order. The question is on the motion to table the amendment of the gentleman from Jackson.

Upon a vote being taken the motion to table was lost.

THE PRESIDENT—The question is upon the adoption of the amendment offered by the gentleman from Jackson.

MR. O'NEAL—Would the gentleman from Jackson allow me to call his attention to the fact that it would destroy the sense.

THE PRESIDENT—The question is not debatable.

MR. O'NEAL—I ask unanimous consent.

There was objection made.

MR. COLEMAN—I have the right to close and I yield it to Judge Walker for a moment.

MR. SAMFORD (Pike)—I rise to a point of order.

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

MR. SAMFORD—The gentleman yielded a portion of his time to the gentleman from Jackson who took part of it and the gentleman replied to him for a moment, and that ended it.

MR. COLEMAN—I have not replied.

THE PRESIDENT—It seems to the Chair that the gentleman from Greene discussed the question briefly.

MR. COLEMAN—I have never understood it as occupying my time. It is a grammatical error and mistake that has been made in my mind all the time.

MR. GREER (Calhoun)—I move to suspend the rules to allow the gentleman to discuss the question briefly.

THE PRESIDENT—It is moved that the rules be suspended and the gentleman from Madison be allowed to call the attention of the Convention to the question.

A vote being taken the rules were suspended.

MR. WALKER—I just want to call the attention of the Convention to the fact that as worded the amendment offered by the gentleman from Jackson if embodied in this provision would not make sense. I will read at the beginning of the paragraph: "Also any person who shall be convicted" that would be joined to the amendment that the gentleman offers. What is the amendment there?

The Secretary read as follows: "Or makes or offers to make a false return."

MR. WALKER—It would read in that connection: "Any person who shall be convicted or makes or offers to make a false return."

MR. SAMFORD (Pike)—He has not got it that way.

MR. WALKER—That is the way it is. The clause as proposed to be introduced by the gentleman from Jackson would not make sense, unless he used the words after the second word 'another' on that line "of making or offering to make a false return." The way it is now makes no sense at all.

MR. PROCTOR—I desire to meet the objections pointed out by the gentleman from Madison. To substitute for the word "make" the word "making."

THE PRESIDENT—The question is on the adoption of the amendment of the gentleman from Jackson.

The amendment was adopted.

THE PRESIDENT—The question is upon the adoption of the section as amended.

MR. O'NEAL—I vote aye for the purpose of moving to reconsider.

THE PRESIDENT—The question is upon the adoption of the section as amended.

Upon a vote being taken, the section as amended was adopted.

MR. LONG (Walker)—I ask unanimous consent to offer a resolution to be referred to the Committee on Suffrage and Elections.

Resolution 280, by Mr. Long of Walker:

Be it ordained that Section 5 of the report of the Committee on Suffrage and Elections be stricken out and the following inserted in lieu thereof:

Section 5. The General Assembly shall provide by law for the registration of all male persons becoming of age and all male persons who become citizens of Alabama on and after the 1st of January, 1903; provided, any law for registration made by the General Assembly shall require all applicants for registration after January 1st, 1903, to be eligible to register under all the requirements made by Section 2 of this Article; provided, the General Assembly may make, by law, to become operative after January 1st, 1903, such other provisions for registering and voting not in conflict with this Constitution.

Referred to Committee on Suffrage and Elections.

MR. LONG—I give notice that I will ask the Committee on Suffrage and Elections to report that resolution one way or the other.

MR. COLEMAN—Under an order made at a previous day, it was determined that after the completion of Section 6, we should take up for reconsideration an amendment that was offered to Section 1 of the Article as reported by the Committee, "Every citizen of this State who is a citizen of the United States," requiring as a qualification for the voter that the party should be a citizen of the State and the United States.

THE PRESIDENT—Will the gentleman allow the Chair to state the question? Under a former order made by this Convention, it was decided to reconsider the action whereby this Convention adopted the amendment offered by the gentleman from Jefferson.

The Secretary read as follows: "Amendment by Mr. Beddow, amend by adding after the words United States, in the first line of Section 1, the following words, "and every male resident of foreign birth, who, before the adoption of this Constitution, may have legally declared his intention to become a citizen of the United States." There was an amendment by Mr. Smith of Mobile to that as follows: "Provided that all such foreigners who have declared their intention to become citizens of the United States, shall cease to have the right to vote if they shall fail to become citizens of the United States after they are entitled to become such citizens."

THE PRESIDENT—The question will be upon the motion to reconsider the vote whereby the Convention adopted the section as read.

MR. WALKER—That first section, as reported by the Committee confines the right of voting to people who are citizens of the United States. That was done deliberately, in view of the idea that it was a mistake for the State of Alabama to seize upon immigrants into this country ahead of the time when, under the policy of the country at large, these people could become citizens and confer upon them the right to participate in our elections before they became citizens of this State. I submit that while we are dealing with the question here of purifying our electorate, that the policy as evidenced by the section as it originally stood, was a sound and correct one, that it is impolitic for this State, it is not in the condition of so eagerly desiring additions to its voting population, as to seize upon foreigners before they have become citizens of this country. Now, is there any occasion to make that amendment here? Is it not wise and prudent policy to wait until these people have declared their intention, and do as nearly all the States in this country do, wait until they do become citizens? Even under the amendment offered by the gentleman from Mobile, which sough to obviate in some measure the effect of the amendment offered by the gentleman from Jefferson, those people may never become citizens of Alabama under that amendment even. It is simply required that the time of five years shall elapse after requiring that they pass muster and become citizens of the United States. No man is in a position to complain in the State of Alabama that he has not the special privilege conferred upon him when he has not resided in this country long enough to become a citizen. Gentlemen, I submit that it is not unwise in the condition of immigration that is coming into this country at this time for Alabama to adhere to the period of probation which is necessary in the country at large.

MR. OATES — I want to suggest to the gentleman from Madison that it was manifest in the committee, and it was asserted that there are only five States in the Union, including the State of Alabama, who allowed people who had declared their intention, to vote.

MR. WALKER—I think it will be found that in States in the Northwest, this innovation was made and at a time when they were receiving a remarkable good character of immigration from Northern Europe. We do not receive in any great quantity that character of immigration at this time. We are not in a position—while we are called upon to offer special privileges and inducements to the character of immigration that some times come into this country——

MR. OATES—I want to supplement what I said. One-half of the members of Congress from the States of Minnesota and the Dakotas are foreigners, as is also a United States Senator, Mr. Nelson.

MR. WALKER—It is certainly a wise policy for this State and any other State of the American Union, to require people coming from abroad to remain here such a length of time that their qualities as good citizens may be established before they are admitted into the full privilege of American citizenship. This is our country and we have a right to protect it, and one means of protecting now is to keep it from being polluted by the raw recruits sent here from other parts of the world, unfamiliar with our institutions, take them fresh from the ships and make them citizens of Alabama. I think the section as it originally stood is a proper one.

MR. BEDDOW—I am the person that introduced the amendment that is now sought to be reconsidered. I had hoped that upon mature reflection by this Committee on Suffrage that has offered to us such a magnificent plan that the motion to reconsider would not be opposed. I had hoped that when I return to my constituents at home that I could say to them, we have kept the faith that you have reposed in us, and while the argument of the gentleman who has just taken his seat is strong along some lines, still I put this question as I did at the outset, upon the high ground discussed in this Convention of standing by the pledges that each of us made to our people at home. We pledged that in this new suffrage scheme we would not disfranchise any white man. I hold in my hand the Constitution of 1875. In the very first section of that Constitution it says that 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," etc., really showing to the delegates of this Convention that at the time this Convention was called that that class of citizens had the right to vote. Upon every stump in the State of Alabama and every meeting attended by the delegates of this Convention, that pledge was renewed to them. I was sorry to hear the gentleman who has just taken his seat say that this committee when it left out this foreign element that had been voting in our elections, deliberately struck them down because I thought that in the hands of a committee like that, that they, above all others, would not present to us a suffrage plan that would, if we extended our votes upon the floor of this Convention, cause every one of us to violate the pledges that we made to our people in the very first line, in the very first section proposed in the new suffrage plan. If they did deliberately do this, then they have deliberately tried to lead us into a violation of our pledges, and I hope that the gentleman drew on his imagination when he stated that. Take the people that would come in

under this provision as amended by the amendment that I offered and the amendment made by the gentleman from Mobile. It would only let those in who have been exercising the right of franchise. At this little colony between Birmingham and Montgomery the town of Thorsby, a colony of industrious, intelligent white people who have not been voting in our elections more than one year. You strike them from the electorate, and you strike out as good citizenship as you have in the State of Alabama. Take towns made up like the town of Cullman in North Alabama, where if we all had done as they have done, looked upon the inferior race, if we had looked upon them as Cullman has looked upon them, we would not be here today, trying to disfranchise Mr. Cuffey, because they have always kept him out of their town.

MR. SANFORD (Montgomery)—Will the gentleman yield to a question?

MR. BEDDOW—Certainly.

MR. SANFORD—When that pledge was made by the Democratic party not to disfranchise any white man did it not have reference to citizens of the United States, because it could disfranchise nobody except citizens?

MR. BEDDOW—No, sir. I did not understand it so. I understood the pledge to say just what it said, and when it said white men I took it white men, that is what I told my people and that is what our Democratic platform says, the white man who was at that time entitled to vote. They tell us that there are only five States in the Union that have a provision similar to the one we have authorizing a foreigner to vote. If that be so, that is not our fault. It is not our fault that the Constitution of 1875 allowed men upon declaring their intention to become citizens, to be admitted to the elective franchise, but it will be our fault if after they have been admitted by this other Constitution and after we have come here under sacred and solemn pledges to say at this late day that they shall not further exercise the right we pledged, that we would not deprive them of. Now, Mr. President, I don't care to take up the time of this Convention. I have made one speech heretofore upon this question and you understand it as fully as I do, but I beg you, don't send me back to my people to ask for the ratification of a Constitution when they can stand up in my face and say, "Did you not say that you would not disfranchise any voter?" I would be compelled to say yes, and he would say to me, "You have violated that pledge, because in the first line of your suffrage plan, you have disfranchised me." I beg you do not reconsider this amendment that has already been put into the suffrage plank, let it stand. So far we have not violated our pledges, and I beg and I pray, gentlemen, don't let us do it, but let us go back home with clean hands and clean consciences in this matter.

MR. MORRISSETTE—Do I understand you to say that the men in Cullman who are voting are not citizens of the United States?

MR. BEDDOW—No, sir, I referred to Cullman to show the class of citizens coming to this country and that have been allowed that privilege. I presume most of them have become citizens.

MR. MORRISETTE—You said in the town of Thorsby, they have been voting a year.

MR. BEDDOW—Yes, sir.

MR. MORRISETTE—Did I understand you to make the statement that the gentlemen voting are not citizens of the United States?

MR. BEDDOW—I mean to say that without this amendment that I propose putting in the suffrage plank, that they will be disfranchised.

MR. MORRISETTE—And they are already citizens of the United States and have been voting for a year, and this will disfranchise them?

MR. BEDDOW—No, sir; they have declared their intention to become citizens and are there by entitled to vote under the present Constitution and they have been voting for a year.

MR. MORRISSETTE—Under the laws of the United States they are required to be here five years before they can become citizens, but they are here and already voting in Alabama?

MR. BEDDOW—Yes sir.

MR. MORRISETTE—And they are not citizens of the United States?

MR. BEDDOW—Not citizens of the United States, but are entitled to the franchise under our present Constitution.

MR. MORRISETTE—And have voted?

MR. BEDDOW—Yes, and those are the ones we promised not to disfranchise.

MR. OATES—I think the gentleman from Jefferson unintentionally made a wrong impression. If the clause of the Constitution should remain as it is reported by the Committee it would not disfranchise those gentlemen, but only postpone the time up to the date of their qualification. In five years they could qualify. Some of them might qualify before the Constitution is ratified. It does not disfranchise any of them.

MR. BEDDOW—I understand the gentleman, but I say if you prevent him from voting in any election until he can qualify under the present law, you prevent him from voting in any election. You disfranchise him and in our platform we made no exceptions whatever.

MR. SAMFORD (Pike)—Consistency is a jewel. At a former session of this Convention when the question was being submitted to the members of this Convention as to whether or not the sons of Confederate Veterans who had fought on the bloody battle fields of this country for the preservation of our liberties should be permitted to cast a vote, the gentleman from Jefferson was not so ready to remember the obligation that he made, but, forsooth, because the people of Alabama in convention assembled desire to restrict the franchise to citizens of the United States who know something of republican forms of government and republican institutions for some reason not made known, perhaps, to this Convention, the gentleman from Jefferson objects and calls our attention to the pledges made. Mr. President, I, for one, did not pledge myself that I would not postpone for a time the right of any man to vote who was not a citizen of Alabama and who was not a citizen of the United States. I desire to impress upon the Convention the point made by the gentleman from Montgomery, that is, that we do not even now intend to disfranchise these people. We do not even taking the pledges made by the Democratic Party and made by the delegates upon this floor to the people of Alabama in its strictest construction, we do not intend to disfranchise the foreigner who has declared his intention of becoming a citizen. We only say to him that before you shall exercise the right of franchise, you must become a citizen of the United States, you must become a citizen of the State of Alabama before you will have any right to participate in its government or to direct its policies or to assist in making its law.

MR. SANFORD (Montgomery)—It is a judicial ascertainment of his fitness—his naturalization.

MR. SAMFORD (Pike)—When it comes to the right of a son of a veteran of the wars of this country to exercise the right of franchise, a man who has been born, upon the soil, a man who has been nursed at the breast of a mother, who had instilled into him by a patriotic mother the duties of a citizen under a republican form of government, when it comes to the son of a man who has fought upon the bloody battlefields of his country and who has instilled into that son the duty that he owes to his State and to his country, the gentleman from Jefferson objects unless he is able to read and write, notwithstanding the fact he may be as intelligent as any member upon this floor. I desire to say, here and now, Mr. President, that education is never the test of intelligence. It is not necessary that a man should be educated in a college in order

that he should understand the duties of a citizen under a republican form of government, but I do say that men who have been reared across the waters, under a form of government different from ours, under a form of government that we consider oppression, under a form of government that we consider to be directly in opposition to all that we hold dear in this country, that he cannot by simply filing a declaration of his intention to become a citizen of this State or this Union thereby acquire sufficient knowledge to exercise the franchise as it should be, no matter how much he has acquired in the schools or universities of his native land. There has been a requirement fixed by the United States Congress that a man should live in this country for five years and that he should have a good moral character before he becomes a citizen. There are many things that might be said along this line, but I do not desire to take up the time of this Convention. I hope in justice to all our citizens, in justice to our republican institutions, in justice to our State, that this vote will be reconsidered and that this amendment will be stricken out.

MR. BOONE—I rise to favor the motion to reconsider and I shall only detain the Convention a very few minutes. I desire to call the attention of the Convention to a personal experience of how this would work, if Section 1 stands as it is. Under that Section any man who has declared his intention to become a citizen of the United States has the right to vote. Now, sir, take the county which I have the honor to represent. There are numbers of Spaniards there who came from Cervera's fleet who cannot write the Spanish language, to say nothing of any acquirements in the English language or any acquirements in our republican form of government or any knowledge of the duties required of them as citizens of Alabama. Many a time I have seen a man taken up in our City Court and naturalized for the purpose of voting who did not know anything in the world about our government, its theories, the rights of citizens, the citizen's duties or obligations to the government, or anything of that kind. Now, gentlemen, I thought the main question we are here for was to elevate the electorate of this State and to purify the ballot. It is nonsense to tell me that simply because a man comes from Poland, Russia, Austria or Italy into this State, who has no knowledge at all of our theories of government, can land at Mobile, on a ship, go up and declare his intention to become a citizen of the United States, generally through an interpreter, and then can go down immediately and cast his ballot. Is that right, just or wise?

MR. OATES—Not a citizen of this State but of the United States.

MR. BOONE—Not of this State, but declares his intention to become a citizen of the United States, yet, although not a citizen of this State, not a citizen of the United States, ignorant of

our language, ignorant of our conditions, he can go in and cast his ballot the same as a man who had been here all of his life and knew all of the conditions and theories surrounding that election.

MR. BEDDOW—I would like to ask the gentleman from Mobile if the County of Mobile has suffered much from those people having been allowed to vote heretofore when they send such representatives to this body as yourself and others.

MR. BOONE—It is not whether we suffer in the past. We would have suffered if there had been a sufficient volume of such immigration.

MR. BEDDOW—Doesn't the gentleman understand that it is the same men who voted then that will vote when the Constitution is ratified?

MR. BOONE—No, I do not; it would allow every one of them to come in before the ratification of this Constitution.

MR. BEDDOW—Those that are not here.

MR. BOONE—Yes, not here today, but may come in here next week.

MR. BEDDOW — Does not the gentleman know that they can declare their intention at any time now? Don't you know that they still have their right to declare their intention and vote upon this question and on the ratification of this Constitution.

MR. BOONE—No, sir; I do not. I say the scheme we are making here is the permanent scheme not only for this day, not just for the ratification of this Constitution, but we are putting down for years to come.

MR. BEDDOW—Does not the gentleman know that this will not be the permanent scheme until it is ratified by the people?

MR. BOONE—I know it will not be the law until ratified but the object is to keep out any such fellows as that who have no knowledge of the Constitution. I promised the Convention that I would only occupy a few minutes and I move the previous question on the motion to reconsider.

THE PRESIDENT—The gentleman from Mobile moves the previous question on the motion to reconsider.

MR. COLEMAN—I believe I have the right to close.

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

MR. CUNNINGHAM — I had wished to say a few words, will the gentleman withdraw?

MR. BOONE—No, sir. I insist upon the motion.

Upon a vote there were 55 ayes and 32 noes and the previous question was ordered.

MR. CUNNINGHAM—I move to lay the motion to reconsider on the table and on that I call for the ayes and noes.

The call for the ayes and noes was sustained.

THE PRESIDENT—The question is upon the motion to table the motion to reconsider.

The roll call resulted as follows:

AYES

Beddow,	Haley,	Proctor,
Bethune,	Heflin, of Chambers,	Porter,
Blackwell,	Hinson,	Reynolds (Henry),
Brooks,	Hodges,	Rogers (Lowndes),
Browne,	Jenkins,	Searcy,
Burnett,	Jones, of Bibb,	Selheimer,
Carmichael, of Colbert,	Kirk,	Smith, Mac. A.,
Carmichael, of Coffee,	Leigh,	Smith, Morgan M.,
Cobb,	Lomax,	Sorrell,
Cunningham,	Long (Walker),	Spragins,
Davis, of Etowah,	Macdonald,	Thompson,
Duke,	Martin,	Vaughan,
Eley,	Merrill,	Weatherly,
Fitts,	Murphree,	White,
Foshee,	Parker (Cullman),	Whiteside,
Foster,	Parker (Elmore),	Wilson (Clarke),
Gilmore,	Pettus,	Wilson (Washington),
Graham, of Montgomery,	Pillans,	

TOTAL—53

NOES

Messrs. President,	Coleman, of Greene,	Handley,
Altman,	Coleman, of Walker,	Heflin, of Randolph,
Ashcraft,	Cornwall,	Henderson,
Banks,	Craig,	Hood,
Barefield,	Dent,	Howell,
Bartlett,	deGraffenreid,	Howze,
Boone,	Fletcher,	Inge,
Bulger,	Glover,	Jackson,
Burns,	Graham, of Talladega,	Jones, of Wilcox,
Byars,	Grant,	Knight,
Cardon,	Grayson,	Kyle,
Carnathon,	Greer, of Calhoun,	Ledbetter,
Chapman,	Greer, of Perry,	

Lowe (Jefferson),	Pearce,	Spears,
Lowe (Lawrence),	Phillips,	Tayloe,
McMillan (Wilcox),	Pitts,	Waddell,
Maxwell,	Reese,	Walker,
Miller (Wilcox),	Renfro,	Watts,
Moody,	Robinson,	Weakley,
Morrisette,	Samford,	Williams (Barbour),
Oates,	Sanders,	Williams (Elmore),
O'Neal (Lauderdale),	Sanford,	Winn,
O'Rear,	Sloan,	
Palmer,	Smith (Mobile),	

TOTAL—69

ABSENT OR NOT VOTING

Almon,	Jones, of Montgomery,	Norwood,
Beavers,	King,	O'Neill (Jefferson),
Case,	Kirkland,	Opp,
Cofer,	Locklin,	Reynolds (Chilton),
Davis, of DeKalb,	Long (Butler),	Rogers (Sumter),
Eyster,	McMillan (Baldwin),	Sentell,
Espy,	Malone,	Sollie,
Ferguson,	Miller (Marengo),	Stewart,
Freeman,	Mulkey,	Studdard,
Harrison,	NeSmith,	Willett,
Jones, of Hale,	Norman,	Williams (Marengo).

THE PRESIDENT—There are 69 noes and 53 ayes and the motion to table is lost. The question recurs on the adoption of the motion to reconsider. Upon that the previous question has been ordered.

MR. COLEMAN—I simply wish to state that this provision is in accordance with the former Constitutions of this State, when we were in fact a free and happy people. You will find it in the Constitution of 1819 and you will find it in the Constitution of 1861, none others, except citizens were qualified to vote in this State. I have not complaint to make against the delegate from Jefferson who takes such good care of his constituents who are not citizens of the United States, but there is an equal duty resting upon the other delegates who are members of this Convention to represent their constituents who are citizens of the United States. I have been told by members upon this floor, and if requested their names will be given, that time and again when elections are approaching they could go to these parties who had just immigrated into this State and have them state their intention to become citizens and by the cost of one dollar and a half, they would vote at these elections. They took no other steps to qualify themselves until the next election, and they would be approached again and by the payment of a dollar and a half they would declare their intention to become citizens and vote again. They are the kind

of electors which this provision was intended to eliminate from the right of suffrage in this State. I do not see how any person who has in view the object of elevating the standard of suffrage can object to it. So far as disfranchising any one citizen, I will state, in my opinion, legally if they do not become enfranchised they will disfranchise themselves only because the doors are open for them to qualify according to the laws of the State and the proposition so wisely adopted by Congress in that which has been embodied in our reports. No foreigner can be naturalized until he has resided here so long and understands the duties and obligations of a citizen under a republican form of government. It goes further. It requires him to be a man of good moral character and a man attached to the principles of government and to have its interests and happiness at heart, and a person born out of this country, raised up under despotism or an empire or any other, except a strictly republican form of government, imbibes the principles of those countries where he grew up, just as our native born imbibe and understand the duties of citizenship in this country. I do not care to elaborate the argument any further, and, Mr. President, I move that we proceed to the previous question.

THE PRESIDENT—The question is on the previous question.

MR. LOWE—I feel that I would be derelict in my duty to a large part of my constituents——

MR. FITTS—I rise to a point of order. The previous question has been ordered and the gentleman is out of order.

THE PRESIDENT—The previous question has been ordered, and it is not debatable. The point of order is well taken.

MR. LOWE—I would like to enter my protest.

MR. FITTS—I insist upon the point of order, Mr. President.

Upon a vote being taken, the motion to reconsider was carried.

MR. SAMFORD (Pike)—Now I move that the amendment be laid upon the table.

Mr. Beddow—On that I call for the ayes and noes.

MR. CHAPMAN—I have an amendment to the amendment.

THE PRESIDENT—The gentleman from Pike got the eye of the Chair, and he moves to table.

MR. CHAPMAN—I made this motion to reconsider, and I would like for the gentleman from Pike to permit me to give a few words.

THE PRESIDENT—Does the gentleman from Pike withdraw his motion to table?

MR. SAMFORD—I would not be willing to any amendment to this section, and, therefore, I have to decline to yield.

THE PRESIDENT—The gentleman declines to withdraw his motion to table and the question will be on the motion to table. The question is not debatable.

MR. LOWE—I ask for the ayes and noes.

MR. WILSON—Two amendments have already been adopted.

THE PRESIDENT—The Chair is obliged to the gentleman for calling the attention of the Chair to the fact there are two amendments, and the next question would be on the motion to reconsider the vote whereby the amendment offered by the gentleman from Mobile was adopted.

MR. COLEMAN—I do not understand that to be the condition. The amendment to the amendment was adopted, and it became a part of Section 1, and I at the time made a motion to reconsider, and it was postponed until after we disposed of Section 6.

THE PRESIDENT—If the Convention reconsiders the vote whereby the section, as amended, was adopted, then the pending question would be upon the amendment, and there has been an amendment adopted to that.

MR. COLEMAN—Yes, sir.

MR. CUNNINGHAM—I rise to a point of order. The motion to reconsider the vote by which a section was adopted brings before the Convention for its consideration this section as a whole, and, therefore, the motion to lay on the table the amendment that is part of the section is out of order.

MR. COLEMAN — I had the floor, Mr. President, but of course he had the right——

MR. CUNNINGHAM—That is a point of order on which I desired the ruling of the Chair.

THE PRESIDENT—The Chair will rule on your point of order in a moment.

MR. COLEMAN—I was here on the floor making a motion to strike out that part of Section 1 which has been inserted by the amendments, and upon that I called for the previous question.

THE PRESIDENT—The Chair, not having the amendments before him, does not exactly recall the status. The gentleman from Jefferson, as the Chair recalls, offered an amendment, and the gentleman from Mobile offered an amendment to the amend-

ment. The amendment to the amendment was adopted, the amendment was adopted, and the section as amended was adopted. Now the Convention has reconsidered the vote whereby the section as amended was adopted.

MR. COLEMAN—That is correct. I understand it was reconsidered.

THE PRESIDENT—Did you propose to submit it in different motions?

MR. SAMFORD (Pike)—I rise to a point of order. I submit that when the motion to reconsider was passed, and that it brought the section as amended before the Convention for reconsideration without any reference to how many amendment had been tacked onto it before that time, and now the delegate from Greene in handling that section which is now before the house for consideration, moves to strike from the section as amended certain words which——

THE PRESIDENT—Which were incorporated by the amendment.

MR. SAMFORD — Which had been incorporated by the amendment.

THE PRESIDENT—Then, in the opinion of the Chair, the Convention having voted upon that question and acted upon it, cannot be brought again into the question except by a motion to reconsider. A motion to reconsider was made, entered, and its consideration was postponed until this date. The question would be upon the other motion.

MR. SAMFORD—I move that the vote adopting the amendment be reconsidered.

MR. O'NEAL—I rise to a point of order. The gentleman from Jefferson——

THE PRESIDENT—The Chair will hear the point of order of the gentleman from Jefferson.

MR. CUNNINGHAM—The gentleman from Pike moved to lay on the table an amendment that does not exist, and the gentleman from Jefferson made the point of order that his motion was out of order.

THE PRESIDENT—In the opinion of the Chair, the point of order is well taken. The question before the Convention is a motion to reconsider the vote whereby the amendment offered by the gentleman from Jefferson was adopted and upon that the previous question has been ordered. It was ordered upon both of these questions to reconsider as the Chair understood. They were both submitted.

MR. O'NEAL—I desire to make this statement: My remembrance is that the gentleman from Jefferson accepted the motion of the gentleman from Mobile, and there was no separate vote taken on the proposition. That is true, but this Convention has never reconsidered the action whereby the amendment offered by the gentleman from Jefferson was adopted.

MR. REESE—I move to reconsider the vote by which the amendment offered by the gentleman from Jefferson was adopted.

THE PRESIDENT—The motion was made at the time it was adopted. It is the special order now. The Chair simply omitted to submit the question at the same time the other motion—it was an omission of the Chair. Both motions were made, entered formally and set down especially for this occasion. The question is now upon the motion to reconsider the vote whereby this Convention adopted the amendment offered by the gentleman from Jefferson. It seems the previous question was not ordered on this motion.

MR. COLEMAN—That was by omission. I move now the previous question if it is not out of order.

THE PRESIDENT — The Chair recognizes the gentleman from Jefferson.

MR. SAMFORD (Pike)—I rise to a point of order. The point of order is that a few moments ago before the gentleman from Jefferson got on the floor, the gentleman from Greene moved the previous question on this very point. If the gentlemen do not bear me out in this, of course I will not insist.

MR. COLEMAN—There is the Journal.

MR. SAMFORD—That is my recollection.

THE PRESIDENT—It was not the recollection of the Chair that the gentleman from Greene——

MR. COLEMAN—Mr. President, will you allow me a moment? It seems there is some confusion here arising from not properly considering this Section. These amendments which have been offered, which were offered, occupy the same relation to this Section now as if it had been originally written in there. There are no longer any amendments before this body. The Section as adopted reads: "Every male citizen of this State who is a citizen of the United States, and every male inhabitant who has declared himself to become a citizen," etc.

THE PRESIDENT—Will the gentleman from Greene allow a suggestion from the Chair? When the gentleman from Jefferson offered his amendment it was adopted. There was one vote. Then the question was submitted to the Convention on the adop-

tion of the Section as amended and that was adopted. Now the Convention has reconsidered the vote whereby the Section was adopted, but it has not reconsidered the action whereby the amendments offered by the gentleman from Jefferson was adopted and we cannot get around that proposition by making an independent motion to strike it out, because that would be in opposition to the deliberate action of the Convention, reversing its action, which can only be done upon a motion to reconsider.

MR. HOWZE—I rise to a point of parliamentary inquiry. I want to know if the original motion to reconsider did not embrace the original Section and the amendment?

THE PRESIDENT—It did. There were two motions.

MR. HOWZE—Well, was the motion not made or call for the previous question embrace both propositions.

THE PRESIDENT—The gentleman from Greene seems to have overlooked at the time he made the motion that there were two motions to reconsider pending, and the Journal does not seem to show that the previous question was ordered on anything except the vote whereby the Section as amended was adopted.

MR. HOWZE—My point of inquiry is were they not both combined so that the call for the previous question included them both?

MR. COLEMAN—Suppose the Section had been originally written just as it was adopted, and the motion had been made to reconsider the vote by which it was adopted and that motion had been carried, would not the Section be before us? That, Mr. President, is exactly the situation or the condition of the Section as it was when adopted.

THE PRESIDENT—The Section is now before the Convention, but it is before the Convention with the amendment of the gentleman from Jefferson incorporated in it.

MR. COLEMAN—The motion was to rescind, to strike out that part which had been inserted by the amendment.

THE PRESIDENT—And the Chair rules that that motion cannot be made. It is out of order because it is in conflict with the deliberate action of this Convention and can only be done by a motion to reconsider.

MR. CUNNINGHAM—It strikes me that on a question of such grave importance as this, at least to certain delegates upon this floor that we should not rush through with it rapidly by technical inhibitions, previous questions and motions to lay upon the table, without at least a protest upon the part of those who have consciences upon the subject. Now, Mr. President, I agree

with my friend from Pike, the distinguished gentleman who said that consistency is a jewel. Now there are several kind of consistencies. There is a theoretical consistency, there is a practical consistency, there is a consistency of policy and there is a consistency of honor. In my opinion, Mr. President, the consistency of honor inheres here when we who stand upon the platform of the dominant party of this floor pledged ourselves that we would not vote to disfranchise any white man in the State of Alabama. An Englishman, a Welshman, a Scotchman, an Irishman, a German, an Italian, a Spaniard, a Frenchman, and all these people are white men and some of them today can vote under the qualifications of the Constitution of 1875. Now I undertake to say, Mr. President, that if this amendment previously adopted by this Convention is stricken out, these men will be disfranchised, and inasmuch as they are white men, and inasmuch as they will be disfranchised, and inasmuch as there is no exception in the platform to any white man, regardless of where he was born, consistency connects my honor with the platform upon which I stand. (Applause.) Now, Mr. President, I agree with the theoretical part of this proposition. I agree that as a matter of policy it is best to limit this to the citizens of the United States, those who have become citizens of the United States, but the amendment as amended by the gentleman from Mobile provides that only foreign born citizens now in the State of Alabama who does not take out his final papers and become a citizen of the United States shall be disfranchised by refusing to take out his last papers, he does it himself and I did not do it, but I am unwilling even if there is one white man in the State of Alabama that will be disfranchised under this provision and there are hundreds. Now to certain gentlemen on this floor, this is a theoretical question in its application. To some of us it is a practical question. When I go home to my constituency and ask them upon the stump to ratify the great work of this Convention I want to be able to quote what the distinguished Chairman of this Committee said when he pledged this Committee and this Convention that no white man should be disfranchised and if I mistake not he said he would sacrifice his right arm before he would vote to do it. I want to be in a position when some foreigner, who is a tax-payer, who is a good citizen, rises in his seat and says: "Here I have been voting in your State elections, I am a Democrat. I am a tax-payer, I do not come within the provisions of the sixth section, I am guilty of none of these crime and yet I cannot vote because I have not lived here long enough to become a citizen of the United States." That being the case, Mr. President, I think that it would be proper for the Chairman of this Committee to begin to stick his arm in the furnace, and let it be singed a little upon that proposition. Now, let us be consistent. Another proposition to which my attention has been called, is the practical one. Under the present Constitution,

every foreigner in the State of Alabama can qualify as an elector, and vote against its ratification.

MR. COLEMAN—If the gentleman will yield a moment, I wish to correct a statement.

THE PRESIDENT—Does the gentleman yield.

MR. CUNNINGHAM—Certainly.

MR. COLEMAN—I said I would rather have my right arm palsied than to disfranchise a soldier or the descendant of a soldier. I never said that in regard to a foreigner.

MR. CUNNINGHAM—The gentleman will withdraw his remarks. I misunderstood the gentleman. I thought it was in regard to the white man. The Chairman of this Committee knows I am heart and soul for this report from end to end. With this amendment I want to be in a position that I can look every white man in Alabama in the face and say, "If you are disfranchised, you disfranchised yourself; this Convention did not do it." I tell you under the provisions of this section the very first line, if this amendment is stricken out. I can not truthfully say it, because he can arise in his seat and tell me that he is disfranchised. Now, gentlemen of the Convention, I appeal to you not to strike out this amendment. It applies only to those who can vote today and if they fail to qualify as citizens of the United States then they are excluded and they did it themselves, but let us not do it. Another question in answer to the question of my distinguished and amiable friend from Mobile—and there are so many distinguished men from Mobile—I mean Mr. Boone in this instance—he said that about these foreigners, Spaniards and other foreigners could come to Mobile and vote, I want to say under the provisions of this great and splendid article, they must live in the State two years and must be able to read and write this Constitution in the English language. It seems to me that answers every argument made upon this question; that the fellows who can't speak the English language who propose to come to this State and vote. I hope this Convention will stand by the record and will stand by the party and will stand by the pledges, and as I see it myself, by its sacred honor, in not disfranchising any white man in the State of Alabama.

MR. LONG—I would like to ask the gentleman from Jefferson a question. Under these amendments could not every citizen in Alabama and of the United States who has declared his intention to become a citizen of the United States, could he not vote on the ratification of the Constitution?

MR. CUNNINGHAM—Yes, sir, he can; and will give it a black eye.

MR. LONG—Then if he votes under the section as adopted will he be able to vote again?

MR. CUNNINGHAM—He can not until he is naturalized.

MR. SAMFORD—He could vote after he had qualified as a citizen, couldn't he?

MR. CUNNINGHAM—Yes, sir, as soon as the time expired.

MR. SAMFORD—And then would that disfranchise him?

MR. CUNNINGHAM—Yes, sir, until the time expired, the five year limit, fixed by Congress; he can not qualify as a citizen of the United States.

MR. O'NEAL—I notice the last census shows that in Jefferson County there are only 276 foreigners who have declared their intention to become citizens of the United States. By the census of 1900. Now is the gentleman prepared to state that a single one of those citizens who are now voting could not become citizens of the United States today?

MR. CUNNINGHAM—Yes, sir, I am prepared to state, because the remarks made by the Chairman of the Committee—I believe it was the Chairman of the Committee, when he said there had been a custom for these foreigners to take out their first papers is correct, and the Democratic party did it, and in order to augment the Democratic majority. It was under Democratic auspices, and for Democratic purposes, and there are several in Jefferson County, who would be disfranchised under this proposition because they have not lived here for five years, and if there is one, Mr. President, that one is not provided as a single exception in the Democratic platform. In the discussion of this question, in my mind these questions were asked, and the delegates and candidates for office who made their pledges, as my distinguished friend, Mr. Beddow says, pledged these people that under the Constitution of the United States they were voters, and would not be disqualified, and the mass of them came up and voted for this Constitutional Convention.

MR. JENKINS—I very much dislike to see the spirit to throttle this Convention on a question like this. I insist that this Convention has acted positively on this question, and I consider that the action proposed is revolutionary in the history of Alabama, and the principles we have hitherto adhered to, and I want to say that when the bill calling the Constitutional Convention first passed the Senate in 1898 there was a clause in that bill passed without a dissenting vote that no foreign-born citizen residing in the State of Alabama who then had the right to vote should be disfranchised, and not a vote was cast against it. Now, Mr. President, I say that the impression has gone out all over Alabama

that those in Cullman County and Jefferson County, and all over the State, because they are all over the State. You can not go into a county, hardly, but what you will find some Scotchmen or Canadians who are good citizens, and as true to the principles of our government as we are ourselves. Yet we would disfranchise those people. Now, Mr. President, I differ from some of the gentlemen on this floor. We are not here so much to raise a high standard of citizenship and for the purification of the ballot, as we are to perpetuate white supremacy in Alabama. (Applause.) And when you strike down a single white voter who is now enlisted under the white plume of white Democracy of Alabama, you strike down the very principles for which we are here. Now we should stop a moment and think. You strike out this German vote, you strike out this Canadian vote, you strike out this Swiss vote, you strike out this British vote, the Scottish vote, now voting with the white people, and you endanger in that measure white supremacy in Alabama.

MR. SAMFORD—I would like to ask the gentleman how many Canadian votes it would disfranchise—citizens of Canada.

MR. JENKINS—I want to say that I cannot answer that question.

MR. SAMFORD—I would like to know how many German votes it would disfranchise.

MR. JENKINS—I will say in answer to the question of the gentleman, that in Walker county alone you would disfranchise perhaps five hundred.

MR. SAMFORD—"Perhaps"—I ask the gentleman——

MR. JENKINS—I want to state to the gentleman from Pike that I am not a walking dictionary of statistics.

MR. SAMFORD—I would ask the gentleman if he got that information from a "page." (Laughter.)

MR. JENKINS—Now I want to say this, that the great evil in Alabama today is not the few Germans in Cullman county or the Italians in Mobile, or Scotch in Jefferson county, but the great evil that hangs like a black cloud over Alabama is negro rule and black domination. I want to say, Mr. President, that every——

MR. O'NEAL—I understood you to say that there were large numbers of foreigners all over Alabama who had declared their intention to vote, and are now voters. I hold in my hand the census of 1900 which shows in the whole State of Alabama only 619 foreigners who declared their intention to become citizens.

MR. JENKINS—Who declared their intentions to become citizens. There may be next year 600,000. We do not know. (Laughter.)

MR. SAMFORD—In that case we want to stop this thing.

MR. JENKINS—I want to say that we want to open the doors and invite the German-Americans that are now filling up the States of Illinois, Wisconsin and Michigan to come to the South in order to do away with this negro system we have, and we can have these foreigners, these independent Germans and foreigners to come here and divide up these great plantations and get the peace, the prosperity and the civilization we have in the Northwest, and I want to welcome them here, and we ought to invite them, but how can you invite them if you are to put them on the plain lower than the negro that lives here. A great many can not speak the English language. How can they register under the first clause? Now, I say we are losing sight of the main proposition. The main proposition is white supremacy in Alabama, and every German-American that you disfranchise, or Scotchman or British or Canadian in that proportion you break down the very principle we met here to put upon its passage. I want to say another thing, Mr. President, people in this county vote by parties, and the few little votes in the primary or in the Convention that is foreign will not control the policies of a primary election, but the German vote in the election in August may control the results.

MR. COLEMAN—Mr. President, the committee has presented its views as it regards the best interest of the State of Alabama. We are no more interested than every citizen who is a member of this Convention. You have the same responsibility upon you. The question is whether or not you are willing to admit these men to exercise the franchise upon their simple declaration of an intention to become citizens of the United States. That is the whole question. Whether they can speak the English language or not, whether they have been here without regard to the length of time, whether raised under republican form of government or under despotism; whether they came to this country, imbibed the correct principles of love and life and liberty and happiness and security, and the rights of persons and of property, interested in securing proper representations, it is for you to say, and not for gentlemen who feel somewhat dependent upon a small constituency at home composed of person who are not citizens of the United States. I place the responsibility where it ought to be. The committee has done what, in its opinion, it thought best for the whole State. Now decide for yourself. Mr. President, I move to reconsider the vote by which the amendment from the gentleman from Jefferson, as amended, was adopted, and upon that I call the previous question.

MR. WILSON — I ask the gentleman to yield to me one moment. You have the floor after the previous question is ordered.

MR. PRESIDENT—Has the gentleman yielded?

MR. COLEMAN—You put me in a position I do not like to occupy, but I withdraw.

THE PRESIDENT—The question is on the motion to call for the previous question. The question is, shall the main question be now put?

Upon a vote being taken the motion was carried.

THE PRESIDENT—The question will be upon the motion to reconsider.

MR. COLEMAN—I will give the gentleman five minutes of my time.

MR. WILSON—In order that my record may not appear contradictory upon this question, I ask the Convention to hear me a moment. I voted in the outset against both of these amendments, the amendment proposed by the gentleman from Mobile, and the amendment proposed by the gentleman from Jefferson. I voted against reconsideration of the section mainly to let things stay done that we had done, and for that reason I intend to vote against the reconsideration of the amendment. It reminds me of an encounter which I at once witnessed between a carpenter and a tramp in my back yard. I heard some angry talking, and I went out to see what was going on. I was at breakfast. It sounded to me as if a fuss was up. Just as I approached them I heard the tramp say to the carpenter, in a menacing, threatening voice, that if he had to stop and chop wood everywhere he got something to eat, he would never get anywhere. I think if we stop and reconsider every time we pass a section, we will never get anywhere, and for that reason I vote against the proposition. I do not think it is a dangerous proposition as some of the gentlemen contend. In the first place only those foreigners who have declared their intention to become citizens at the time of the ratification can vote. Not as it is in the present Constitution that all those who may hereafter declare their intention, but all those who have declared their intention at the time of the ratification of the Constitution. Further those people lose their rights unless they beome citizens when they are entitled to become citizens; unless they complete their citizenship, as required by the Federal laws. I think that the proposition stated by the gentleman from Greene is unfair that foreigners who may not even speak the English language, who may know nothing of our institutions, and have no sympathy for our government, may vote. The same qualifications apply to him as to everybody else. If he owns three hundred dollars worth of property, he can vote, or if his wife owns it, or if he can read and write the English language, or has good character. He must come up to the test, and if he can come up to those tests and has heretofore declared his intention, why, it seems to me it is not the harmful proposition that the gentlemen have insisted.

MR. WATTS—I arise to a point of personal privilege. I desire to state that I have voted on this amendment under a misapprehension, and have voted each time against the amendment and each time I have done so under a misapprehension, and do not wish to be misunderstood when I vote in favor of the amendment.

MR. COLEMAN — Upon a great question like this, while anecdotes sometimes illustrate very well, it seems to me they are out of place. The foreigner who comes with three hundred dollars worth of property, who may have no knowledge of our form of government, and the probability he has none, that does not qualify him alone. The gentlemen lose sight of what constitutes citizenship in this country. It is necessary to sustain the form of government that we have. They must have some knowledge of it. They must not only have some knowledge of it, but they must be attached to the principles of government, and they cannot be simply from the fact that they have property. Now, Mr. President, sufficient time has been consumed. The question is with this Convention. So far as disfranchisement is concerned, it avails but little for one man to say so and so; and for another to say he does not so understand it. It does seem, however, plain that if we make a provision by which a man can become qualified, we do not disfranchise him. We must insert a provision by which he can never qualify as a voter, but we do not disfranchise him. He may disfranchise himself, as any other man may disfranchise himself, but certainly a provision of this kind does not disfranchise him.

MR. WEATHERLY—I desire to know if the third subdivision of Section 4, as to admitting persons of good character and who understand the duties and obligations of citizenship, would apply to these 619 foreigners, who have filed their first naturalization papers.

MR. COLEMAN—I do not know that I catch the point.

MR. O'NEAL—Good character would apply.

MR. WEATHERLY—Wouldn't they come on the same plan as the others?

MR. COLEMAN—If they are citizens.

MR. WEATHERLY—But if the amendment is adopted admitting these 619 foreigners—that is what I understand the number is—in order for them to vote, wouldn't they have to show up a good character under the temporary plan, and wouldn't they also become life electors?

MR. COLEMAN — They would, I think. They would be electors without ever becoming citizens of the United States or of Alabama.

MR. WEATHERLY—But they would have to show up a good character.

MR. COLEMAN—They are not citizens, but are made permanent electors whether they ever become citizens or not.

MR. MORRISETTE—Is it not a fact that if these amendments are adopted we are conferring a special privilege upon foreigners who have declared their intention to become citizens, that we are not conferring upon native-born citizens?

MR. COLEMAN—As a matter of course. Every member of the Convention knows that.

MR. MORRISETTE—Are we willing to do that?

MR. COLEMAN—I am not.

MR. MORRISETTE—Is there anything in the platform that we should confer upon foreigners anything that we do not confer upon our citizens? I did not make any such pledege.

A reading of the amendment was called for.

THE PRESIDENT—The question is upon the motion to reconsider the vote whereby the amendment offered by the gentleman from Jefferson was adopted.

MR. CUNNINGHAM—I call for the ayes and noes.

The call was sustained.

MR. GRAHAM (Talladega) — A parliamentary inquiry. Wasn't the amendment offered by the gentleman from Jefferson amended?

THE PRESIDENT—It was amended by unanimous consent. The amendment of the gentleman from Mobile was accepted by unanimous consent.

MR. LONG (Walker)—I ask for a reading of the section.

THE PRESIDENT—It seems to the chair that the section has been read three or four times, and the question is on a motion to reconsider. The ayes and noes have been called for and the call sustained. All those in favor of reconsideration will say aye and those opposed no when their names are called.

(During the following roll call Mr. Reese took the chair).

AYES

Messrs. President,	Bulger,	Coleman, of Greene.
Altman,	Byars,	Coleman, of Walker,
Banks,	Cardon,	Cornwall,
	Barefield, Carnathon,	Dent,

deGraffenreid,
Fletcher,
Glover,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Henderson,
Hood,
Howze,
Inge,
Jones, of Wilcox.
Knight,
Kyle,
Ledbetter,
Lowe (Lawrence),
McMillan (Wilcox),
Miller (Wilcox),
Moody,
Morrisette,
NeSmith,
Oates,
O'Neal (Lauderdale),
O'Rear,
Palmer,
Pearce,
Pitts,
Reese,
Renfro,
Robinson,
Rogers (Lowndes),
Samford,
Sanford,
Sloan,
Smith (Mobile),
Spears,
Tayloe,
Waddell,
Walker,
Williams (Barbour),
Williams (Elmore),
Winn,

TOTAL—56

NOES

Beavers,
Beddow,
Bethune,
Blackwell,
Brooks,
Browne,
Burnett,
Burns,
Carmichael, of Colbert,
Carmichael, of Coffee,
Chapman,
Cobb,
Cofer,
Cunningham,
Davis, of Etowah,
Duke,
Eley,
Fitts,
Foshee,
Foster,
Graham, of Montgomery,
Haley,
Heflin, of Chambers,
Heflin, of Randolph,
Hodges,
Jackson,
Jenkins,
Jones, of Bibb,
Kirk,
Kirkland,
Leigh,
Lomax,
Long (Walker),
Lowe (Jefferson),
Macdonald,
Martin,
Maxwell,
Merrill,
Murphree,
Parker (Cullman),
Parker (Elmore),
Pettus,
Phillips,
Pillans,
Porter,
Reynolds (Henry),
Sanders,
Searcy,
Selheimer,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Thompson,
Vaughan,
Watts,
Weakley,
Weatherly,
White,
Whiteside,
Williams (Marengo),
Wilson (Clarke),
Wilson (Washington),

TOTAL—63

ABSENT OR NOT VOTING

Ashcraft,
Almon,
Bartlett,
Case,
Davis, of DeKalb,
Eyster,
Espy,
Ferguson,
Gilmore,
Harrison,
Hinson,
Howell,
Jones, of Hale,
Jones, of Montgomery,
King,
Locklin,
Long (Butler),
McMillan (Baldwin),

Malone,	O'Neill (Jefferson,	Sollie,
Miller (Marengo),	Opp,	Stewart,
Mulkey,	Reynolds (Chilton),	Studdard,
Norman,	Rogers (Sumter),	Willet.
Norwood.	Sentell,	

PAIRS

AYES	NOES
Boone,	Proctor,
Craig,	Freeman.

So the motion to reconsider was lost by a vote of 63 noes to 56 ayes.

THE PRESIDENT PRO TEM.—The question before the house is the adoption of the section as amended.

MR. COLEMAN (Greene)—The motion to reconsider has been lost. This section has already been adopted.

MR. JENKINS—I make the point of order there is nothing before the house.

THE PRESIDENT PRO TEM.—The question before the house, in the opinion of the Chair, is the adoption of the section as amended.

MR. CUNNINGHAM—I move the previous question.

THE PRESIDENT PRO TEM.—The previous question is moved. Shall the main question now be put? As many as favor that motion will signify it by saying aye; those opposed no.

The main question was ordered.

MR. O'NEAL (Lauderdale)—I demand the ayes and noes on the adoption of the section. (Expression of dissent).

THE PRESIDENT PRO TEM.—The call was not sustained.

MR. O'NEAL—The call was never put.

THE PRESIDENT PRO TEM.—The call was put.

MR. O'NEAL—I don't think the house understood it.

THE PRESIDENT PRO TEM.—A demand is made for the call of the ayes and noes. Is the call sustained?

The call is not sustained.

MR. COLEMAN (Greene)—I rise to state to the delegates of the Convention my understanding was that the amendments adopted all along would depend upon the action of the Convention upon this first section.

THE PRESIDENT PRO TEM.—The Chair desires to say that the Chair recognized the gentleman from Greene as the Chairman of the Committee to conclude the debate.

MR. COLEMAN (Greene)—I just wanted to state that some of the delegates may have been absent on that day. Is that so, Mr. Beddow?

MR. BEDDOW—Yes, sir.

MR. COLEMAN (Greene)—And whatever amendments made to the different section all along to correspond, the understanding being that the other sections were to remain as they were with the amendments inserted, unless the amendment to the first section was reconsidered.

MR. BEDDOW—That is correct.

MR. COLEMAN—We may as well go to Section 1 now.

THE PRESIDENT PRO TEM.—The question before the house is the question of adopting the section as amended.

Upon a vote being taken, Section 1, as amended, was adopted.

MR. O'NEAL (Lauderdale)—I give notice that I will move to reconsider this vote tomorrow.

MR. BEDDOW—I rise to a point of order. You cannot move to reconsider but once.

MR. BLACKWELL—I make the point of order that we cannot have but one reconsideration of the same section.

THE PRESIDENT PRO TEM.—That matter will take care of itself when it comes up.

MR. CUNNINGHAM—If the Chair takes official cognizance of the motion to reconsider, I desire to make the point of order that it is not in order.

THE PRESIDENT PRO TEM.—The Chair thinks that the point of order is well taken.

MR. O'NEAL—That question cannot come up until tomorrow. I cannot make the motion until tomorrow, and how can the Chair rule before the question is before the Chair.

THE PRESIDENT PRO TEM.—The Chair understands the gentleman from Lauderdale to have made a motion to reconsider this vote, and——

MR. O'NEAL—Let me state my position. Under the rules of this House that goes over for consideration until tomorrow, that being the case, how can the Chair pass upon whether that is in order or not.

MR. CUNNINGHAM—I say that the motion is out of order.

THE PRESIDENT PRO TEM.—The Chair has ruled that the motion is out of order.

MR. O'NEAL—I appeal from the devision of the Chair.

Upon a vote being taken the ruling of the Chair was unanimously sustained.

Section 7 was read as follows:

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.

MR. COLEMAN (Greene)—Mr. President, the Section provides that those who participate in our primary elections shall be qualified electors. I move its adoption.

Upon a vote being taken Section 7 was unanimously adopted.

Section 8 was read as follows:

Sec. 8. No person, not registered and qualified as an elector under the provisions 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.

MR. COLEMAN (Greene)—There has been ample provision for all persons qualified to register under the provisions which have been made.

The latter clause of the provision of this Article shall not apply to any election held prior to the general election held in 1902, was to provide for municipal elections that came off under the present law before that time. Those elections will be held under the present law. I move the adoption of Section 8.

Upon a vote being taken the Section was adopted.

Section 9 was read as follows:

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.

MR. SAMFORD (Montgomery)—I have an amendment to offer.

Amendment offered by Mr. Sanford of Montgomery, was read as follows:

Amend Section 9 by adding at the end of said Section the following namely, the name of each elector whose ballot has been received must be immediately taken down by the clerks of election, on separate lists which shall be headed names of voters,' and called poll lists, and the number of the order in which each elector votes must at the same time be entered by the clerk against his name.

MR. SANFORD (Montgomery)—Mr. President, it has been said time and again that we are assembled here for the purpose of having pure elections. That is the primary object, it is said by some gentlemen of this Convention. If they are sincere in their declaration, that amendment is secure absolutely. Elections free from fraud is what we are after. It was the law of Alabama so far as I know from 1819 until after 1867 or 1868. The ballots were numbered so that in all contests of election the truth could be ascertained. The numbers were stricken out, however, after the Federal Government undertook to prosecute, and did prosecute the people of Alabama for alleged false voting. It was done for the purpose of rendering it impossible to convict men in Federal courts of their alleged crime. But inasmuch as we have gone so far, and it has been asserted by leading gentlemen that there never will be any danger of Federal interference in our elections again, and we have gone so far as to appoint the very same day for Federal elections to be held that State elections are held. The reason for blotting out the numbering of ballots twenty-five or thirty years ago no longer exists. The reason of the law having ceased, the law itself should cease, and inasmuch as by this we can absolutely contest all elections in which fraud has been charged, I hope that it will be adopted for the purpose of having fair elections, which have been clamored for so much by some of the gentlemen of this Convention.

MR. O'NEAL—I would like to hear the amendment read.

The amendment was read as requested.

MR. O'NEAL—That does not require any numbering of the ballot. I want to ask the gentleman a question, or rather make a suggestion. That does not require any numbering of the ballot, it only requires that it be done under the law. When you go to vote, the clerks take down your name and put number fifty or number sixty as the case may be opposite your name.

MR. SANFORD—That law has been abolished for years. They may have numbered the men in accordance with the regis-

tration list, but they have never numbered the ballot. My amendment provides for the numbering of the vote or ballot.

MR. O'NEAL—I want to call the attention of the gentleman to the fact that you do not require the ballot to be numbered in that amendment.

MR. SANFORD—That is what I do, or it was my intention to require it.

MR. O'NEAL—You stated that, but the amendment don't require it.

MR. deGRAFFENREID—It seems to me that all the matter contained in that amendment is purely legislative, and for that reason I move to lay it upon the table.

MR. SANFORD—Wait until I write it as I intended to write it.

Upon a vote being taken the motion to lay the amendment upon the table was carried.

MR. SAMFORD—Wait until the amendment is offered.

MR. O'NEAL (Lauderdale)—I move that the gentleman from Montgomery be given an opportunity to perfect his amendment. This is a matter of importance, and I do not think he should be treated rudely by this Convention. I move that he be allowed to perfect his amendment.

THE PRESIDENT PRO TEM—Is there objection to the request?

MR. WADDELL—Then the motion is out of order.

MR. HOWELL—I move that he have the privilege of perfecting his amendment.

MR. LEIGH—If I am in order, I move to reconsider the vote by which that amendment was lost, and to give the gentleman from Montgomery an opportunity to amend. I do not think he was treated right.

THE PRESIDENT PRO TEM—The amendment was tabled and not lost. The motion is out of order.

MR. JACKSON—I move to take it from the table.

MR. O'NEAL (Lauderdale)—The amendment of the gentleman from Montgomery is tabled. The gentleman from Montgomery now offers a different amendment.

THE PRESIDENT PRO TEM—The gentleman from Montgomery now offers a different amendment.

The Clerk will now read the amendment.

The amendment was read as follows: "Amend Section 9 by adding at the end of said section the following to wit: the name of each elector whose ballot has been received must be immediately taken down by the clerks of election on separate lists which shall be headed names of voters, and called poll lists, and the number of the order in which elector votes must at the same time be entered by the clerks against his name, and the votes shall be numbered as the name of the voter is numbered.

MR. O'NEAL (Lauderdale)—I simply desire to call the attention of the Convention to a principle of law which I think is important. The gentleman from Hale has stated that this is a matter of purely legislative detail. A number of States have decided as I remember that a law passed by the legislature requiring the numbering of the ballot is unconstitutional, because it destroys the secrecy of the ballot. One or two Western States which have decided that.

Mr. Jenkins sought recognition.

THE PRESIDENT PRO TEM—Does the gentleman from Lauderdale yield to the gentleman from Wilcox?

MR. O'NEAL—I do not yield now. I desire to make this motion. My remembrance is that those decisions hold that if you desire to number your ballots it must be——

MR. COLEMAN (Greene)—A point of order. There is no question before this Convention upon which the gentleman is making his remarks.

THE PRESIDENT PRO TEM—The Chair will state to the gentleman from Greene, that an amendment was offered by the gentleman from Montgomery. That amendment was tabled, and the gentleman from Montgomery offered another amendment and that is what the gentlemen seem to be discussing.

MR. LONG (Walker)—I rise to a point of order. I will state that the President has said on several occasions that no one delegate has the undivided attention of the Chair.

MR. O'NEAL (Lauderdale)—Have I the floor?

THE PRESIDENT PRO TEM—You seem to have it.

MR. O'NEAL—As this is a matter of importance, I desire to speak with reference to the law of the case. The authorities to which I desire to refer. In some of the States the courts have held that statutes providing for the numbering of ballots are unconstitutional, as impairing the secrecy of the ballot which is usually guaranteed by the State Constitution.

MR. BLACKWELL—Will the gentleman allow a question?

MR. O'NEAL—No, sir. I desire to make this motion, as this is a matter of importance, that this matter be referred to the Committee on Suffrage and Elections, which will meet tonight and the matter can be considered.

MR. deGRAFFENREID—I move to lay the motion of the gentleman from Lauderdale and the amendment of the gentleman of Montgomery both on the table.

MR. BLACKWELL—Upon that I call for the ayes and noes.

The call was not sustained.

Upon a vote being taken the motion to table was carried.

MR. ROBINSON (Chambers)—I move to strike out Section 9.

MR. COLEMAN (Greene)—I move to lay the motion on the table.

MR. ROBINSON—I will state to the distinguished chairman of the committee that I have the floor.

This section is purely legislative. The matter of challenge is now provided for in the election law of the State, and the Legislature ought to be allowed to make provisions for it hereafter. This would limit the Legislature. This only requires the party challenged to swear that the matters on account of which he is challenged is untrue. The legislature ought to go further and require him to swear to certain facts specifically as to his right to vote, and this should not become a part of the Constitution. This is a matter that ought to be provided for in the election law, just as it is provided for in the election law now. Put this in the Constitution and the Legislature is bound by it simple and alone. The election law providing for this question of challenge ought to require a man to swear more than the broad fact that it is untrue. There is no necessity for this in the Constitution. It ought not to be in the Constitution, and ought to be stricken out.

MR. KIRKLAND—I move to lay the motion of the gentleman from Chambers on the table.

Upon a vote being taken a division was called for, and the motion to lay on the table prevailed by 49 ayes and 43 noes, and the amendment was tabled.

MR. COLEMAN (Greene)—I move the adoption of Section 9.

Upon a vote being taken Section 9 was adopted.

Section 10 was read as follows:

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.

MR. FITTS—I move that we take this section up by subdivisions.

MR. COLEMAN (Greene)—The section ought to be read first. I was going to make that motion myself after it was read.

MR. FITTS—It will not hurt for me to make it.

THE PRESIDENT PRO TEM—The chair understands that this is not the proper time. A suspension of the rules would be necessary. Proceed with the reading of Section 10.

The Clerk continued to read Section 10, as follows:

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 successive 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 any 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 session 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 such 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 at which he resides. The registrars shall issue to each person registered a certificate of registration.

THE PRESIDENT PRO TEM—The Chair, upon reflection, is inclined to rule that the motion of the gentleman from Tuscaloosa would be in order.

MR. FITTS—I renew my motion then.

THE PRESIDENT PRO TEM—It is moved by the gentleman from Tuscaloosa that this section be taken up by paragraphs.

Upon a vote being taken, the motion was carried.

MR. COLEMAN (Greene)—Mr. President, we have done a good day's work today, and the Committee on Suffrage and Elections have a meeting tonight, and I move that we do now adjourn.

Upon a vote being taken, the Convention adjourned.

CORRECTION.

In proceedings of Monday, 29th, note following corrections:

MR. deGRAFFENREID—I desire to ask you if it is possible for any such fraud to be perpetrated. Does not the registration plan provide that there shall be a list of persons registered, sworn to by the registrars placed in the Probate office, and another list, duly sworn to, filed in the office of the Secretary of State? If that be so, how can any fraud be done?

SIXTIETH DAY

MONTGOMERY, ALA.,
Wednesday, August 1, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by the Rev. Dr. Lamar, as follows:

Oh Lord, our Father, we bow humbly to Thee this morning with grateful hearts for all of Thy mercies toward us. We thank Thee for that providence which has been upon these, Thy servants, during this session. We thank Thee that their lives and health have been precious in Thy sigh, and we come to Thee today, Lord, as we face the responsibilities of a new day, to ask divine guidance. Be Thou with these Thy servants. May they have righteousness and truth as their ideal. May the spirit of the Lord save from error, and if in our human weakness we shall make mistakes, Oh Lord, overrule Thou even our words for good. May the blessings of our God be upon these Thy servants. May that blessing be upon all of our people and all of their interest. May peace and prosperity be our heritage. Accept us in these our prayers, forgive all of our sins, wash us from every stain of iniquity, guide us in all of our efforts, and finally bring us to the land of everlasting life through Christ, our Lord. Amen.

Mr. Bulger here took the chair.

Upon the all of the roll 112 delegates responded to their names.

MR. SAMFORD—I rise to a point of personal privilege. In some of the remarks which I had the honor to make yesterday I find some of the sentences were misunderstood, and they have been incorrectly reported. In the fourth column nearly midway, I asked "Why should you make such a qualification as that?" That is proper. "How many would you qualify if you put in a mere property qualification? Many of the best men in Alabama." I did not say that at all, and that should be stricken out. "How many men would you disqualify by that first subdivision of the fifth section—men who cannot read nor write." That is proper. A little further down, speaking incidentally of Voltaire, the report, "Believing in nothing, he did not believe in God." I said "He did believe in God, but actually repudiated the great truths of Christianity." A little lower down it is said, "Your general literary attainments teach you nothing except a capacity may be to acquire," etc. That is not it. I said, "Your general literary attainments teach you nothing except to acquire great moral truths," etc. I wish to have those words that I have pointed out corrected.

THE PRESIDENT PRO TEM—The stenographer will make note of the correction.

MR. deGRAFFENREID—I desire to have the stenographic report of last Monday's proceedings corrected. On that day, while the gentleman from Wilcox had the floor, I asked him a question. The question as it appears in the stenographic report is incoherent and not sensible, and it affects somewhat the continuity of the very excellent speech of the gentleman from Wilcox. I do not desire to take up the time of the Convention in asking that this correction be made, and I handed the correction to the official

stenographer, and the correction is in the proceedings of yesterday, but it failed to show to whom that question was propounded. I ask that the correction be made.

THE PRESIDENT PRO TEM—The stenographer will make note of the correction.

MR. SOLLIE—I rise to a point of personal privilege. In the remarks submitted by me yesterday to the Convention, appears the words "enunciamento." I think the mistake is mine and not the stenographer's. I evidently should have said "pronunciamento." Perhaps I might have the privilege of making a word if I like to as much as Mr. Webster or Mr. Worcester, but I do not choose to claim it.

MR. LEIGH—In yesterday's report I am credited with making a motion to reconsider the vote by which Mr. Sanford's amendment was lost. The amendment was to number the poll lists and the ballots. The motion was not made by myself but by Mr. Jackson from Lee, and I request that the stenographic report be corrected so as to speak the truth.

MR. JACKSON—I assume the responsibility of having made that mistake. I wanted to assist the gentleman from Montgomery when a motion was made to table his amendment, while he was preparing to correct it.

MR. WHITE—On yesterday I asked to have the stenographic report corrected in the proceedings on Friday. I quoted from the remarks of the gentleman from Calhoun, but they are not correctly reported in yesterday's proceedings. In quoting fom him, "And the gentleman from Jefferson (Mr. White) would have us believe that the maintenance of good government is in danger under conditions now prevailing in this State." I said, "not in danger." I ask to have the correction made.

THE PRESIDENT—The stenographer will make note of the correction.

MR. DENT—I desire to have a correction made in the stenographic report. Where I asked to have a correction made on yesterday, I am credited with saying, like the gentleman from "Talladega," it should be the gentleman from "Tallapoosa." I ask to have the correction made. There are also some corrections I would like to have made in the remarks I made on yesterday. I ask the privilege of calling the stenographic reporter's attention to it. It is merely a difference of some periods and one or two words.

MR. BEDDOW—I desire to have a correction made in the stenographic report. On yesterday, when I was addressing myself to the matter of the reconsideration of the foreign element voting

that had heretofore been entitled to vote, I am reported as saying that "I had hoped upon mature reflection by this Committee on Suffrage, that has offered us such a magnificent plan, that the motion to reconsider would not be opposed." That is a direct contradiction to the remarks. I said, "I had hoped that the motion to reconsider would not be pressed."

Mr. President, while I am on my feet, I desire also to address myself to a matter of personal privilege.

THE PRESIDENT—The gentleman may state the question of privilege.

MR. BEDDOW—On yesterday afternoon the gentleman from Pike (Mr. Samford) in answering a speech that I made, took occasion to make the following remarks: "When it comes to the right of the son of a veteran of the wars of this country to exercise the right of franchise, the gentleman from Jefferson objects unless he is able to read and write, notwithstanding the fact that he may be as intelligent as any member upon this floor." I desire to say, Mr. President, that at no time during the consideration of this article have I objected in any way or by any vote of mine to the sons of any Confederate voting. I presume the point that the gentleman from Pike was driving at was that upon the vote upon the subdivision containing the descendant clause of the Suffrage article, I saw fit to vote with the minority report. I desire to say that my vote was cast not with a desire on my part to disfranchise the son of any Confederate veteran. I desire further to say that if the minority report had succeeded it would not have had that effect, because of the fact that there was in that same article, a section that allowed all persons of good character to vote, and under that I have claimed from the beginning that these sons of Confederate soldiers who are of the salt of the earth would not have been disfranchised. I was especially surprised that the gentleman from Pike should have made this attack upon me because less than a week ago, he and I in conversation with each other, defining our relative positions in regard to this matter; I explained to him that I proposed to vote with the minority of the committee, because while it looked as if the Suffrage Committee had gotten up a magnificent plan, but in that beautiful ship that it had constructed the committee had put an unsound plank; that by taking that out it would leave a perfect system that would disfranchise no man.

MR. ASHCRAFT—I rise to a point of order, the gentleman is not addressing himself to the question of personal privilege. He is making an argument against the gentleman from Pike.

THE PRESIDENT—The Chair is of the opinion that under the circumstances, he is complying with the rules of the Convention on the point of personal privilege.

MR. BEDDOW—I explained to the gentleman I thought that the putting in of that sub-division about the descendants of soldiers it would imperil the whole plan. At that same time he expressed himself as being satisfied that I was right in the stand I took, but he wanted it in there because there were a number of ignorant people throughout the State, that such a plank would be catchy to them, and would get a large number of voters for the ratification of this Convention. Now, to show that the vote as cast by me was not intended to disfranchise the son of any Confederate soldier——

THE PRESIDENT—The gentleman from Jefferson—does he propose to extend the point of personal privilege into an argument.

MR. BEDDOW—No sir, I am just explaining that I did not intend to vote to disfranchise the son of any Confederate soldier.

MR. deGRAFFENREID—That explanation has been made. As I understand he says he voted as he did because he thought it was unconstitutional.

THE PRESIDENT—In the opinion of the Chair, the gentleman from Jefferson has fully explained his position on the question involved, and the Chair is very sure that his position is entirely patriotic and well understood, not only by the Convention, but by the country at large.

Leaves of absence were granted the following delegates: To the Doorkeeper, Mr. Hassen, for tomorrow and next day; Mr. Proctor of Jackson on account of sickness of family.

The report of the Committee on Journal was read stating that the journal for the fifty-ninth day had been read and found correct, and the report was adopted.

MR. deGRAFFENREID—I move that the calling of the roll for the introduction of ordinances and resolutions, etc., be dispensed with, and that the call of the standing committees be dispensed with and the house proceed with the business that was before it when the Convention adjourned yesterday afternoon.

MR. PETTUS—I ask that the gentleman yield until I present a petition.

THE PRESIDENT—Does the gentleman yield?

MR. deGRAFFENREID—Yes sir.

MR. PETTUS—I ask to have the body of the petition read.

MR. CHAPMAN—I desire to introduce an ordinance.

THE PRESIDENT—The gentleman is out of order at present.

The clerk read the following petition:

To the Constitutional Convention, Montgomery, Alabama.

We, the undersigned citizens of the State of Alabama do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company; or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective, self-operative provision to that end.

Athens, Ala., July 23, 1901.

Thomas C. McClellan, editor; Robert Erle Lester, editor; J. H. Raney, builder; Robert Strain, farmer; John W. Bridgeforth, farmer; A. M. Lewis, merchant; C. L. McCormick, farmer; A. M. Cramer, merchant; N. S. Marks, farmer; M. M. Roseman, merchant; J. W. Cunningham, merchant; F. R. Raley, merchant; W. Yarbrough, clerk; N. S. Hollon, W. M. Barksdale, farmer; A. Anderson, cooper; B. Virsopstein, cooper; T. J. Turrentine, J. Bud, W. H. Nelson, John Rogers, farmer; Dave Touchstone, farmer; John J. Turrentine, attorney; W. J. Hogan, physician; George Malone, clerk; James C. Gordon, mechanic; George W. Smith, mechanic, Thomas F. George, hotel; A. N. Tillman, J. H. Beauchamp, J. R. Hoffman, M. D.; Ward Russell, H. H. Richardson, merchant; W. F. Jarrett, farmer; W. L. Maten, merchant; J. F. Walker, bookkeeper; J. L. McGarrick, merchant; A. C. Henry, minister of the gospel, W. J. Hatchett, farmer.

Referred to Committee on Corporations.

MR. CHAPMAN—I desire to introduce a resolution.

The clerk read the following resolution by Mr. Chapman of Sumter:

Whereas, the work of this Convention has progressed to such an extent that the early completion of its labor may be confidently looked forward to,

Therefore be it resolved, That the Committee on Rules be directed to ascertain and report to the Convention at as early a date as practicable when a day may be fixed for the final adjournment of this Convention.

Referred to Committee on Rules.

MR. deGRAFFENREID—Now, Mr. President, I renew my motion.

THE PRESIDENT PRO TEM—The gentleman from Hale moves that the call of the roll for the introduction of resolutions,

and the call of the roll of the standing committees be dispensed with.

Upon a vote being taken the motion was carried.

MR. HEFLIN (Randolph)—I desire to make a report of the Committee on Schedules, Printing and Incidental Expenses. I am directed to report back resolution No. 188 with a substitute.

The report was read as follows:

Report of the Committee on Schedule, Printing and Incidental Expenses:

The Committee on Schedule, Printing and Incidental Expenses instructs me to report resolution No. 188 with a substitute, which substitute the committee recommends be adopted.

John T. Heflin, Chairman.

Resolution No. 188, by Mr. Carmichael of 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 this 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 Journals, and that the printing and binding shall be paid for out of the State appropriation for printing and binding.

Committee on Schedule, Printing and Incidental Expenses.

Substitute for resolution No. 188:

A resolution to provide for the printing, binding and distribution of the Journal of this Convention.

Be it resolved by the people of Alabama in Convention assembled, that the Committee on Printing, Schedule and Incidental Expenses be authorized to contract for the printing, binding and distribution of 1,000 copies of the Journal of this Convention.

Be it further Resolved, That upon the delivery of 1,000 copies of the Journal printed and bound in accordance with the contract heretofore mentioned to the Secretary of State, he shall certify to the Auditor the amount due the publisher for the work, and the Auditor shall issue his warrant on the Treasurer in favor of the publisher for the said amount due.

Be it further Resolved, That one copy of the Journal of this Convention be delivered to each delegate and officer of the Convention, and to the persons who, under the existing law, the Journals of the House and Senate are delivered.

Be it further Resolved, That the sum of $2,000 or so much thereof as may be necessary be appropriated out of the moneys of the State otherwise unappropriated to pay for the printing, binding and distribution of the Journal of this Convention.

MR. SAMFORD—Yesterday morning I gave notice upon the vote of the Convention upon the report of the Committee on Legislative Department that I would move for a reconsideration—

THE PRESIDENT PRO TEM—If the gentleman from Montgomery will pardon the Chair, there is pending a report from a committee. When that is disposed of, the Chair will recognize the gentleman from Montgomery.

MR. HEFLIN (Randolph)—I ask that the substitute be printed and laid on the table until taken up by the Convention.

It was so ordered.

MR. SANFORD (Montgomery)—I said on yesterday that I would make a motion for the purpose of having reconsidered that part of the article on Legislation Department which requires the Legislature to meet quadrennially, instead of biennially, but I remember now that an ordinance has been introduced by one of my colleagues to rescind that provision, and therefore it is unnecessary for me to make the motion, and I decline to make the motion for a reconsideration.

THE PRESIDENT PRO TEM—Under the rules of the House, I would say to the gentleman from Montgomery that the motion is in the hands of the Convention, and it will require unanimous consent to withdraw the motion. Does the gentleman desire to withdraw his motion for reconsideration?

MR. SANFORD—I did not make the motion. I gave notice that I would make it, but I now decline to make the motion.

MR. WHITE—On account of the absence of the Chairman of the Committee on Suffrage and Elections, who is not well this morning, I have been instructed by the Committee to move a reconsideration of the vote by which Section 8 was passed, in order that a correction may be made which we found was necessary to be made. In other words, Section 8 provides for elections to be held after the general election in 1902 and prior to that time, but, as it was written it did not provide for the election in 1902, so that it could be held under the new Constitution, and, in order to offer a substitute I move a reconsideration of the vote whereby that section was adopted.

THE PRESIDENT PRO TEM—The gentleman from Jefferson moves to reconsider the vote by which Section 8 of the report of the Committee on Suffrage and Elections was adopted.

Upon a vote being taken, the motion to reconsider was carried.

MR. WHITE—I offer now the substitute for Section 8, which I have just sent to the clerk.

Substitute for Section 8 was read as follows:

Sec. 8. No person not registered and qualified as an elector under the provisions of this article shall vote in the general election in 1902, or at any subsequent State, county or municipal election, general, local or special; but the provisions of this article shall not apply to any election prior to the general election held in 1902.

MR. WHITE—I move the adoption of the substitute.

Upon a vote being taken, the substitute was adopted.

Mr. White sought recognition again.

THE PRESIDENT PRO TEM—The gentleman from Jefferson will pardon the Chair. The question recurs on the adoption of the section as amended.

Upon a vote being taken, the section, as amended, was adopted.

MR. WHITE—I am instructed by the Committee on Suffrage and Elections to offer a new subdivision of Section 10, and I ask to have it read, in order that the Convention may be in possession of it, to be taken up hereafter.

THE PRESIDENT PRO TEM—The gentleman from Jefferson will pardon the Chair. Under the rules of the Convention it is necessary now to read Section 10 to the Convention before we take up the consideration of Section 10.

MR. WHITE—Section 10, as I understand, has already been read.

PRESIDENT PRO TEM—I understand that we adjourned while the reading was pending.

MR. WHITE—Didn't we adjourn after a motion had been made to consider it by sub-divisions, which dispensed with the further reading of it? That is my understanding of the parliamentary situation. Besides, this does not make any change in Section 10. It is just an additional sub-division I want read for the information of the Convention, to be taken up when reached.

PRESIDENT PRO TEM—The Clerk will read the sub-division:

At the end of line 19 on page 13, insert the following:

"Any elector who registers for another, or registers more than once, and any register who enters the name of any elector on the

list of registered voters without such elector makes application in person or under oath on the form made for that purpose or who knowingly registers any person more than once, or knowingly enters the name upon the registration list as a registered voter when no one of that name applied to register shall be guilty of a felony."

MR. WHITE—I ask that it lie upon the table until it is reached in its regular order.

Now, I have been instructed by the Committee on Suffrage and Elections to report as a substitute for the first clause of Section 5, which was recommitted on yesterday to that committee, the following:

The substitute was read as follows:

Amend first subdivision of Section 5 so as to read as follows:

1. 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 worked or been regularly engaged in some lawful employment, business or occupation, trade or calling for the greater part of the twelve months next preceding the time they offer to register."

MR. LONG (Walker)—On yesterday, I offered an ordinance and it was referred to the Committee on Suffrage and Elections. I gave notice that I would ask them to report it. As a substitute for Section 5, and I now make inquiry of the acting chairman of that Committee as to what was done with that ordinance?

MR. WHITE—I will state in answer to the gentleman from Walker, that ordinance, together with a great many other suggestions, was considered at our meeting last night, which resulted in the agreement upon the part of the Committee to offer the substitute which I have just sent to the clerk's desk.

MR. LONG—I desire to make a motion to have the committee report that ordinance. On that I want to be heard and I respectfully invite the attention of every delegate on the floor to a reading of the ordinance that I offered as a substitute for Section 5. It does away with——

MR. deGRAFFENREID—I suggest that the gentleman is not in order. The gentleman can arrive at what he desires by offering that as a substitute for Section 5 now before the house.

MR. LONG—I make the point of order that I am in order, for the simple fact that I have already offered it, and the committee refused to report on it and I make a motion that they be requested to report on it by the majority of this Convention.

MR. HEFLIN (Chambers)—I make the point of order that the substitute now offered by the committee is before the Convention for consideration, and the ordinance offered by the gentleman from Walker is still in the hands of the Committee, and he now proposes while we are considering this substitute to make a motion requiring that committee to report, when the committee is not in session, and I make the point of order that he is out of order.

MR. LONG—The committee is never in session during the session of this Convention and according to that rule I never could make the motion. They could pigeon hole it forever. I want to see if the majority of this Convention is willing to allow this ordinance of mine to be reported. If there is any merit in it, I want it reported, and if there is no merit in it, I am willing for it to sleep in the grave yard of the committee room.

THE PRESIDENT PRO TEM—In the opinion of the Chair, the point of order made by the gentleman from Chambers is well taken.

MR. LONG (Walker)—Is there no way in which I can get this before the house? Am I denied the privilege? Will the Chair allow me to offer this now as a substitute for Section 5?

PRESIDENT PRO TEM.—It is the opinion of the Chair that it would be in order for the gentleman to offer his ordinance as a substitute for Section 5.

MR. LONG—I offer it as a substitute for Section 5, to be considered at the same time Section 5 is considered.

THE PRESIDENT PRO TEM.—The gentleman will place his amendments in the hands of the clerk.

MR. LONG (Walker)—It is in the hands of the clerk.

MR. WHITE—It occurs to me the question before the house has not been stated by the Chair, though I may have overlooked it myself.

PRESIDENT PRO TEM—The Chair will state that as the Chair was getting ready to state the question, the gentleman from Walker rose to a point of privilege.

MR. MORRISETTE—A parliamentary inquiry. Does the gentleman now make a motion to substitute his ordinance for the report of the committee. Is that the question before the house?

THE PRESIDENT PRO TEM.—In the opinion of the Chair, the gentleman from Walker has the right to offer an amendment to the amendment offered by the Committee. That is the parliamentary status of the question. The gentleman from Walker will

send up his amendment. The Secretary will read the substitute offered by the gentleman from Walker.

The substitute was read as follows:

Be it ordained that Section 5 of the report of the Committee on Suffrage and Elections be stricken out and the following inserted in lieu thereof:

Sec. 5. The General Assembly shall provide by law for the registration of all male persons becoming of age and all male persons who become citizens of Alabama on and after the 1st of January, 1903; provided, any law for registration made by the General Assembly shall require all applicants for registration after Jan. 1, 1903, to be eligible to register under all the requirements made by Section 2 of this article; provided, the General Assembly may make, by law, to become operative after Jan. 1, 1903, such other provisions for registering and voting not in conflict with this Constitution.

MR. deGRAFFENREID—I rise to a point of order. The gentleman's amendment is not in order. On yesterday this House, after consideration, adopted subdivision 2 of Section 5, which provides for a property qualification. That amendment goes to the whole section. It cannot be introduced unless the House reconsiders its action in adopting subdivision 2 of Section 5.

MR. LONG—I make the point of order that the President has already ruled on it. This is not an amendment, but a substitute for it, and the section has never been adopted.

MR. HEFLIN (Chambers)—I make the point of order that the Chair ruled this ordinance or amendment could be offered, but the Chair could not tell what was in that ordinance until it was read, and the point of order is made by the gentleman from Hale after it is read.

MR. LONG—Now, Mr. President and gentlemen of the Convention, there seems to be a deliberate attempt here to keep down an amendment on the most important section of this whole article. I am aware of the fact that we have to come against these twenty-five mighty giants when we oppose anything offered by the Committee.

THE PRESIDENT PRO TEM.—The gentleman from Walker will confine his remarks to the point of order raised by the gentleman from Chambers.

MR. LONG—I am confining myself to that point of order.

MR. HOOD—The section as a section is not up for adoption at this time. It is only the second subdivision, or the first subdi-

vision that is pending, hence it is not in order to offer a substitute for the entire section at this time.

MR. LONG—I have not offered that. I have simply offered this substitute at this time to be considered when this section is considered.

MR. HOOD—I insist upon a ruling.

THE PRESIDENT PRO TEM. — It is the opinion of the Chair—

MR. LONG (Walker)—I want to be heard on the amendment.

MR. OATES—It is not often that I rise to a question of order, and while I am not favorably impressed with the substitute offered by the delegate from Walker. I am of the opinion that it is in order, because only one subdivision of the section has been adopted. The section itself has not been adopted, and if this substitute should extend to the part which has not been adopted as well as to that which has been, it is in order, and this Convention can, under parliamentary law, adopt a substitute for the whole section, although a part of it has been adopted; because under the rules this Convention adopted for this purpose, you consider it by subdivisions and it is not the adoption of the whole section until it is adopted. Therefore, I say that the delegate from Walker has offered a substitute which is in order for discussion and action.

MR. WEATHERLY—Will the gentleman allow me to ask him a question?

MR. OATES—Certainly.

MR. WEATHERLY—We are considering the first subdivision of Section 5, are we not?

MR. OATES—We are.

MR. WEATHERLY—Is it in order to offer a substitute?

MR. LONG—I will state that I did not wish——

MR. WEATHERLY—Then is it in order to introduce a substitute to the entire section while we are considering the section subdivision by subdivision?

MR. HOOD—I ask for a ruling from the Chair upon the point of order made.

THE PRESIDENT PRO TEM—The gentleman from Walker is entitled to a respectful hearing.

MR. LONG—I hate to state private conversations that take place off of this floor, but the President of this Convention himself

told me I had a right to offer that, and call for the report of this committee on it this morning, and am I to be hand-shackled, bound, gagged and murdered here on a proposition that should be put before this Convention? I am even denied the privilege of offering it now as a substitute, to be considered along with the section. That is all I have to say, and I am willing to abide by the ruling of the Chair.

THE PRESIDENT PRO TEM. — It is the opinion of the Chair than when the Convention decided to pass upon this section by subdivisions, and have adopted all of the subdivisions except one, that subdivision being yet unadopted and unpassed upon, an amendment striking out the whole section would not be in order at this time.

MR. LONG—When would it be in order?

THE PRESIDENT PRO TEM.—The Chair will undertake to be prepared to meet that question when it properly arises.

MR. LONG—Does the Chair rule that I have no right to call on the Committee on Suffrage and Elections to make a report on my ordinance?

Have they a right to murder and strangle any ordinance in there which a majority of this Convention want reported? Are they to have absolute control over all ordinances? Is there no power to bring it out of there and force them to report adversely or favorably on an ordinance?

MR. FLETCHER—I call the gentleman's attention to rule 34, as follows: "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."

MR. LONG—I will ask for a ruling of the Chair on that. I refer the Chair to that rule.

PRESIDENT PRO TEM.—The Chair does not feel called upon to pass upon the inquiry of the gentleman from Walker, because his proposition——

MR. WALKER—I made it as a motion, not as an inquiry——

PRESIDENT PRO TEM.—Because his motion is not properly before the Convention.

MR. LONG—I now make the motion that the Committee on Suffrage and Election be requested to report on my ordinance, No. 208.

MR. GRAHAM (Talladega)—I make the point of order that the motion is not in order except upon a suspension of the rules.

MR. LONG—Do the rules have to be suspended before I can make a motion? Have I gotten so small that I cannot make a motion before this Convention? (Laughter.)

MR. HOOD—The point of order is that the motion to adopt Subdivision 2 of Section 5 is now before this Convention and the motion made by the gentleman is now out of order.

PRESIDENT PRO TEM.—In the opinion of the Chair, the point made by the gentleman from Etowah is well taken, and the gentleman from Walker is now out of order.

MR. WHITE—I move the adoption of the substitute for Subdivision 1 of Section 5.

MR. ROBINSON (Chambers)—I desire to ask this committee by what means can a person that is physically unable to write register? They make provision for those that are not physically disabled, and there are a class of people in Alabama that are physically disabled that have a good education. Take a man that is deaf and dumb. He may have a good education, he can write every word of the Constitution, but he cannot read, because he cannot speak. You take a blind man, he may be very learned and able to understand every line of it, but on account of that physical disability, he cannot read or write. You take a man of fine education, but from some physical defect—palsy or something of that kind, he is unable to write. That section does not make any provision for that class who are stricken down by physical disability, but they have the learning and education and can understand the Constitution and there ought to be some means in that section by which those unable to read and write may be able to vote. You take the deaf and dumb asylum at Talladega, that educates men and educates them well, and they can read and write well, and they understand the principles of this government, but under that section they cannot qualify because they are compelled to read and write. Then there are those unfortunate enough to have lost the use of their arm and cannot write, for instance. That section ought not to be adopted until an amendment to provide for cases of that kind is included. I wish to offer an amendment.

The Secretary read the amendment as follows:

Amend Section 5 of the report of the Committee on Suffrage by adding thereto the following additional provision: Third. All persons who by reason of physical disability cannot qualify under Subdivision 1 of this section, but who could so qualify except for such disability."

THE PRESIDENT PRO TEM.—The question is on the adoption of the amendment of the gentleman from Chambers to the substitute offered by the committee.

MR. HOOD—Is not that a third subdivision?

THE PRESIDENT PRO TEM.—The chair understands that to be the second subdivision.

MR. O'NEAL—A point of order. It is not in order to add a subdivision to the section until we dispose of subdivision one. We are considering, as I understand, Subdivision No. 1. The gentleman offers Subdivision No. 3. Is it in order, until we dispose of subdivision 1, unless he offers it as an amendment to Subdivision 1.

THE PRESIDENT PRO TEM.—I understand the gentleman from Chambers to offer this as an amendment to the amendment offered by the committee. If so it is in order.

MR. ROBINSON—Yes, sir, and it was prepared by a member of the committee.

MR. SMITH (Mobile) — I prepared that amendment as a member of the committee, and it was the best that I could do to accomplish the purpose that the gentlemen sought to accomplish. It looked to me though like there was a big hole in it. It was the nearest thing I could make, and I tried the hardest to meet the difficulty that the gentleman wanted to meet.

MR. WEATHERLY—What is the hole in it?

MR. SMITH—It says if a man is unable to read and write on account of physical disability, if except for such physical disability he could qualify under this section, then he shall have the right to vote. One of the provisions is that he should be employed the greater part of one year. Now how could you tell whether he would have been employed except for those disabilities, I don't know.

THE PRESIDENT PRO TEM.—The question before the Convention is on the adoption of the amendment offered by the gentleman from Chambers.

MR. WEATHERLY—Confine it to the reading and writing part of it.

MR. SMITH—There are plenty of people physically disabled, who cannot read and write but who can work and do work and make a good living.

MR. WHITE — When this section was re-referred to the committee, they again gave it their thoughtful and very patient consideration. The provision in this section with reference to physical disability, as I remember it, is almost an exact copy of the Massachusetts statute on that subject, and I will invite the attention of the Convention to the reading of the section itself: "First, Those who, unless prevented by physical disability, can read and write any article of the Constitution of the United

States." Now if that section and that language do not say that any man who can read and write any article of the Constitution but for a physical disability which prevents him from doing it, I do not understand the English language or the force of it.

MR. CUNNINGHAM — Have the courts passed upon the question, defining physical disability where the power to do a thing is supposed to be mental.

MR. WHITE—I have no doubt there are such decisions, but I do not recall them just now, but it is very clear to the layman's mind as well as to the professional men.

MR. CUNNINGHAM—I will ask the gentleman a question. Can you play the fiddle?

MR. WHITE—No.

MR. CUNNINGHAM—Is that a mental or physical disability?

MR. WHITE—It is possibly want of training. I suppose, of course, it would be a mental disability.

MR. CUNNINGHAM — Then scientifically the mind is as much a physical product of the original structure as the secretion of bile is by the liver, and it is a question in my mind if the mental disability is not a physical disability.

MR. WHITE—What we understand generally by physical disability is the result not of mental inactivity or mental disability, but something that relates to the physical part of man. For instance, if a man is blind, and he could read but for that fact, then he has the physical disability which prevents his reading. For instance, I suppose one third of the gentlemen in this Convention cannot read without artificial aid. They cannot see, yet they can read, as a matter of fact. The man who is deaf and dumb can read and he can write because he has means of reading and writing. He cannot read in the sense that we ordinarily read audibly, but he can read, write it down, and demonstrate that he can read, as a matter of fact. So it occurs to me that the committee has done the best it can. No one else offers a solution of this proposition, or offers anything better than that which the committee offers, therefore, I move the adoption of Subdivision 1 of Section 5 as reported by the committee, and I move to lay the amendment of the gentleman from Chambers on the table.

THE PRESIDENT PRO TEM.—The question is upon the motion of the gentleman from Jefferson to lay the amendment offered by the gentleman from Chambers upon the table.

MR. SANFORD—I ask for the reading of the amendment of the gentleman from Chambers.

The Secretary again read the amendment.

MR. ROBINSON—I ask unanimous consent to add that at the end of Subdivision 1.

MR. O'NEAL—I object.

MR. PETTUS—I ask to have it read, before consent is given.

THE PRESIDENT PRO TEM.—There is objection.

MR. ROBINSON—I ask leave to withdraw that amendment and offer another one.

THE PRESIDENT PRO TEM.—The gentleman asks unanimous consent to withdraw the amendment to Subdivision 1 of Section 5.

MR. ASHCRAFT—There was really no objection except that members did not know and they wanted a reading to know what it was.

THE PRESIDENT PRO TEM.—The Chair is not able to say what motive prompted the objection. The question is upon the motion to lay upon the table.

MR. HEFLIN (Chambers)—The gentleman from Limestone stated to the Chair when he made the objection that he would object unless he could have it read.

MR. OATES—I do not think the Chair fully understands the position of the delegate from Chambers. He asks leave to withdraw his first amendment and substitute another which he has just sent up to the Secretary's desk, which has not been read.

MR. O'NEAL—Is it open for discussion? If so, we want to discuss it.

THE PRESIDENT PRO TEM.—According to the understanding of the Chair, the status of the question is the gentleman from Chambers offers an amendment to an amendment. The gentleman from Jefferson, Mr. White, made a motion to lay upon the table, afterwards, the gentleman from Chambers asked unanimous consent to withdraw his amendment. It is the opinion of the Chair that pending a motion to lay upon the table, the gentleman from Chambers could not withdraw unless the gentleman withdraws his motion to lay upon the table.

MR. WHITE—I am willing to do it for the purpose of substituting one amendment for the other.

THE PRESIDENT PRO TEM.—The Chair hears no objection, and the gentleman from Chambers withdraws his amendment and offers a substitute.

The Secretary read the substitute as follows: "Provided that persons who can neither read nor write on account of physical disability shall be allowed to register and vote if otherwise qualified as provided in this subdivision."

Upon a vote being taken, the amendment was adopted.

THE PRESIDENT PRO TEM.—The question recurs upon the amendment offered by the committee as amended. The reading of the amendment is called for.

The amendment was again read.

MR. WHITE—I call for the previous question on the adoption of the first subdivision as amended and also upon the section —No I will not do that, I will withhold the call upon the section.

MR. SANFORD (Montgomery)—I call for the ayes and noes.

The call for the ayes and noes was not sustained.

A vote being taken the main question was ordered upon the subdivision.

THE PRESIDENT PRO TEM.—The question is upon the adoption of the substitute offered by the Committee as amended.

MR. ROBINSON — If the gentleman desires the ayes and noes on that I have no objection to it.

There were expressions of dissent.

THE PRESIDENT PRO TEM.—Does the gentleman from Chambers demand the ayes and noes?

MR. ROBINSON—Yes, sir, I will.

The call for the ayes and noes was not sustained, and upon a vote being taken the substitute as amended was adopted.

THE PRESIDENT PRO TEM.—The question recurs upon the adoption of Section 5 as amended.

MR. LONG (Walker)—I have a substitute.

The Clerk read the substitute as follows:

Be it ordained that Section 5 of the report of the Committee on Suffrage and Elections be stricken out and the following inserted in lieu thereof:

Section 5. The General Assembly shall provide by law for the registration of all male persons who become citizens of Alabama on and after the 1st of January, 1903, provided, any law for registration made by the General Assembly shall require all applicants for registration after January 1st, 1903, to be eligible to

register under all the requirements made by Section 2 of this Article; provided, the General Assembly may make, by law, to become operative after January 1st, 1903, such other provisions for registering and voting not in conflict with this Constitution.

MR. LONG (Walker)—Under that substitute of mine, the soldier clause, the grandfather clause, the descendants of soldiers, the good character, and understanding clause, would be stopped on January 1, 1903, this is a very—

THE PRESIDENT PRO TEM.—Permit the Chair to state the question. The question is on the amendment to Section 5 by the gentleman from Walker.

MR. LONG — That amendment of mine stops the soldier clause, the descendant clause, good character clause, and understanding clause on January 1, 1903, and it requires the legislature to pass a law in conformity with Section 2 of this article, which is a poll tax qualification of those from twenty-one to forty-five years of age, to apply—catch this point—only to those who become citizens after January 1, 1903, by becoming of age or living in the State of Alabama. A man who is refused registration prior to 1903 could not apply for registration under a poll tax clause. I think that is a fair amendment, it does away with the property and the educational qualifications, it also gives the legislature the right, if they see fit and proper, after the 1st of January, 1903, to enact a property and educational qualification, if they wanted to, to enact a soldier clause if they wanted to, to enact any other provision in this Constitution, but it requires them only to enact that part of it that relates to the poll tax. Now, Mr. President, I am and have always been opposed to a property and educational right of suffrage. Why, sir, at Charlottesville, at Monticello, it is chiseled on the tomb of Thomas Jefferson, that he was the author of universal manhood suffrage and universal religious freedom in the State of Virginia. What would that old man think today if he were to wake up and come down here and see Democrats advocating three hundred dollars' worth of property for the right to vote?

MR. FITTS—Will the gentleman yield?

MR. LONG—I will not yield now, Mr. President.

MR. FITTS—I just wanted to ask him when that "manhood" business got on that tombstone. The last time I looked at it it was not there.

MR. LONG—I hope this will not be taken out of my time. I know I am up against a shell game, and it will do no good, but I am here to speak my protest against a property and educational qualification. I have, sir, no respect for a clause in any suffrage report that allows a man, as I previously stated on this floor, to

vote because his wife is the owner of forty acres of land; I have no respect for a suffrage that allows a man to vote because he has a pittance of three hundred dollars. Why not make it three thousand dollars? Why not make it three hundred thousand dollars, yea, three millions of dollars for the right to vote? There is a class of people you want to knock out prior to January, 1903, and I am willing to go with you that far, but I am not willing to go beyond that and to say every citizen thereafter born in the State of Alabama shall possess three hundred dollars of property or be able to read and write the English language before he shall have the right to vote. Why, it is contrary to every principle of Democracy. I want a man to rise up here and honestly defend it, if there is any excuse for it. Have we become an oligarchy or become so base that we ignore every principle of Democracy which should represent the common people? Have we gone so far in our passion that we can go before the people of North Alabama and say that after 1903 you poor people will be disfranchised. I tell you it will disfranchise hundreds of them. It will leave it with the registrars to say who shall vote. Why, sir, under this understanding clause alone, between now and the 1st of January, 1903, you can register every man in this State, black and white. If you have nothing else but that, you can do it, because the man that has no understanding is a fool and should be in the asylum, and if he does not understand the duties of citizenship he is a villian and should be in the penitentiary. I am willing to go further than that and give you a soldier and grandfather clause up to January, 1903, but then and there I think a poll tax requirement would be sufficient. Now, Mr. President, instead of forty acres, why not make it forty acres and a mule. What is the difference?

MR. FITTS—The mule is the difference.

MR. LONG—The mule might be the difference, but there is no difference in character whatever. You go so far as to say that you have to live on the forty acres of land before you can vote. A man may live in town and own forty acres of land so poor that he could not raise a difficulty on it and yet you require him to live on it, in order to vote. That is the requirement here. I hope the members on the floor who are opposed to educational and property qualifications will consider this well. I believe it is absurd and unnecessary and inexcusable, because there can be no good reason for it. Why, sir, some of the best and purest men I ever saw were the poorest men. We believe that Lazarus was better than Dives; you would disfranchise Lazarus and enfranchise Dives.

MR. SANFORD (Montgomery)—Because he is living in hell—that is his home.

MR. LONG—Yes, and hell is not far from such a proposition as this. (Laughter.) I could respect it better if there was any

excuse for it. With my amendment, a man can register once after January 1, 1903. What more do you want? Why do you want to go to your property and educational qualifications? Why is it needed? I believe that a man should have both property and education in order to enjoy himself and fit himself for this world, but I don't believe that he should have it in order to be allowed to vote. I believe that a poll tax qualification after 1903 is sufficient. Now, gentlemen, I invite your careful attention to it and ask that you give it the consideration that it is entitled to. It is a question, and it will be a question that every man that goes upon the stump will have to meet. I can see no good in it, and no reason for it. Did we advocate it in the canvass? I dare say that there is not a man that spoke in favor of the Constitutional Convention in Alabama, and I was one of them, that advocated in a single speech that we would have a property and educational qualification for the right of suffrage. Had we advocated it, we would not be here in this Convention, this Convention would never have been called. You know I am speaking plain facts to you, and I am speaking the honest truth to you. Why I have heard it from the opponents of Democracy for twenty years, that the time would come in Alabama when the Democrats would advocate a property and educational qualification for future generations. I have denied it, but I see today we are about to enact it. It is but a step second only, in my opinion, to the destruction of the grand old party I love so well, it is departing so far from the landmarks, that we are not worthy of the name of Democrats any more—which is but the voice of the people—we have become a party advocating wealth, and to give wealth the right to vote. Why did not a committee in this Convention bring in a favorable report that a majority of the property owners and the owners only of property should vote? and that a majority of property should be required to carry a measure through. It was favorably reported by a committee in this Convention. That will be the next step, and it is but a step, scarcely a span between one and the other. If it is right to have $300, it is right to have $900, and the man that has $900 of property should be entitled to three votes to the man that has $300. Can you justify it? I appeal to you today, as men who have the interests of the Democracy at heart. There cannot be excuse given on account of white supremacy, because I tell you white supremacy can take care of itself and it will take care of itself in the registration between now and January 1, 1903.

MR. BAREFIELD—I wish to ask the gentleman a question.

THE PRESIDENT PRO TEM.—Will the gentleman yield?

MR. LONG—Certainly.

MR. BAREFIELD—If the property qualification is the only qualification under which a man can vote?

MR. LONG—It is the only qualification after 1903 except an educational qualification.

MR. BAREFIELLD—Well, then, suppose a man is not educated and has $300 of property?

MR. LONG—Then, he may vote, but suppose he is not educated and has not $300 worth of property, then he cannot vote. Is he any better because he has $300 worth of property or $3,000 worth of property? You make the difference right there in your own question. You say that a man is entitled to vote because he has wedded a woman who has forty acres of land or $300 of property, or has it in his own right, you might as well say that a man with a country mule only should vote.

President Knox resumed the chair.

MR. WADDELL—Did the House on yesterday not adopt the old rule limiting the debate to ten minutes on amendments?

THE PRESIDENT—The present occupant of the Chair was absent. The Chair is informed that the gentleman from Walker has about one minute more.

MR. LONG—Thanks to the interruption of the distinguished gentleman from Russell. The wicked flee when no man pursueth. (Laughter.)

MR. WEATHERLY—Mr. President and gentlemen of the Convention, it is somewhat astonishing to me that a gentleman of the intelligencee and quick apprehension of the gentleman who has just taken his seat should misapprehend the purpose and plan of suffrage as reported by the Committee, should so widely misapprehend it as his remarks show he has done. It is astonishing to me, too, that the gentleman should deliberately offer an amendment to this Section which definitely prescribed the qualifications of voters, and amendment which leaves it entirely to the Legislature—to their discretion to prescribe the qualifications of voters, after 1903. The gentleman has given us a very fulsome diatribe here against certain qualifications in this plan of suffrage, and yet by the very amendment that he has offered, he leaves to the discretion of the Legislature, the power to prescribe the very qualifications that he condemns. The last provision of his substitute reads as follows: "Provided the General Assembly may make by law to become operative after January 1, 1903, such other provisions for registering and voting not in conflict with this Constitution.

MR. LONG—Hasn't the Legislature always had that right? Haven't they always the right, and should they not have the right to do anything not prohibited by the Constitution?

MR. WEATHERLY—Oh, yes, not prohibited by the Constitution, but we propose to fix here definitely the qualifications for voters in the fundamental law, and we have already heard, I suppose, there is not a delegate on this floor who has not heard that at some time or other, objections made to leaving it to the Legislature to prescribe the qualifications of voters—in other words, it has always been the policy of our State, as I understand it, that the Legislature should be powerless to prescribe any extra constitutional qualifications for voters. Now the plan offered here by the committee is very simple. Between now and January 1, 1903, all persons who possess these simple qualifications in the temporary plan, will be let in to register and vote. Those coming of age after that date, the younger men, the coming generation, will have to possess the qualifications prescribed in this Section 5, reading and writing is one of them, occupation and some employment for twelve months in connection with the reading and writing clause, and then the possession of a very small amount of property, not the possession of wealth, but of a modest amount of property. Now the purpose of the committee was to fix some definite qualification, both simple and at the same time easily attainable, by the citizen, remembering always that those who are voters now are made life electors under the temporary plan. So it seems to me that the anger and zeal of the gentleman are entirely misdirected and he has gone further—he has put it in the power of the Legislature, not only to prescribe these very qualifications of reading and writing and the possession of property, but to do more; he has put it in the power of the Legislature to perpetuate the Board of Registrars so that they may perpetually require as a qualification for voting, good character and understanding of the duties of citizenship or any other kind of a clause. You cannot tell what the Legislature would prescribe under that power, which his amendment gives to them, and it is dangerous. I do not think the Convention care to hear further upon this subject, and therefore I move the previous question on this amendment and the section as reported by the committee.

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

MR. VAUGHAN—I move to lay upon the table the substitute of the gentleman from Walker.

MR. LONG—On that I call for the ayes and noes.

The call was sustained.

THE PRESIDENT—The question is to table the substitute offered by the gentleman from Walker.

The vote resulted as follows:

AYES

Messrs. President,
Altman,
Ashcraft,
Banks,
Barefield,
Bethune,
Blackwell,
Boone,
Brooks,
Burnett,
Carmichael, of Colbert,
Carnathon,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Cunningham,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Fletcher,
Foster,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Perry,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Hood,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Ledbetter,
Lomax,
Macdonald,
McMillan (Baldwin),
McMillan, of Wilcox,
Malone,
Maxwell,
Merrill,
Miller, of Marengo,
Miller, of Wilcox,
Morrissette,
NeSmith,
Norwood,
Oates,
O'Neal, of Lauderdale,
O'Rear,
Palmer,
Parker, of Cullman,
Pearce,
Pettus,
Pillans,
Pitts,
Proctor,
Reese,
Rogers, of Lowndes,
Rogers, of Sumter,
Samford,
Sanders,
Searcy,
Selheimer,
Smith, of Mobile,
Smith, Morgan M.,
Spragins,
Tayloe,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
White,
Willet,
Williams, of Barbour,
Williams, of Marengo,
Wilson, of Clarke
Wilson, of Washington
Winn.

TOTAL—94

NOES

Beavers,
Beddow,
Bulger,
Byars,
Cardon,
Davis, of Etowah,
Foshee,
Haley,
Hodges,
Howell,
Jones, of Bibb,
Kirk,
Kirkland,
Leigh,
Long, of Butler,
Long, of Walker,
Lowe, of Jefferson,
Lowe, of Lawrence,
Martin,
Moody,
Murphree,
O'Neill (Jefferson),
Parker, of Elmore,
Phillips,
Porter,
Reynolds, of Chilton,
Robinson,
Sanford,
Smith, Mac A.,
Sollie,
Sorrell,
Spears,
Thompson,
Whiteside,
Williams, of Elmore,

TOTAL—34

ABSENT OR NOT VOTING

Almon,	Fitts,	Opp,
Browne,	Gilmore,	Renfro,
Carmichal, of Coffee,	Harrison,	Reynolds (Henry),
Case,	King,	Sentell,
Davis, of DeKalb,	Locklin,	Studdard.
Espy,	Mulkey,	
Ferguson,	Norman,	

PAIRS

AYES	NOES
Burns,	Bartlett,
Stewart,	Cofer,
Craig,	Freeman,
Greer, of Calhoun.	Sloan,

So the substitute was laid on the table.

THE PRESIDENT—The question recurs upon the demand for the previous question on the section as amended.

MR. KIRK—I have an additional amendment to offer to Section 5.

THE PRESIDENT—The Chair will state for the information of the gentleman from Lauderdale that the pending question is a demand for the previous question on Section 5.

Upon a vote being taken, the previous question was ordered.

THE PRESIDENT — The question is on the section as amended.

MR. SANFORD (Montgomery)—I call for the ayes and noes.

The call for the ayes and noes was not sustained.

Upon a vote being taken, the section as amended was adopted.

MR. KIRK—Can I introduce an additional subdivision to Section 5?

THE PRESIDENT — It would be necessary to reconsider the vote by which Section 5 was adopted, before the amendment could be offered in the opinion of the Chair.

MR. WHITE—As I recollect on yesterday, the reading of Section 10 was dispensed with, and a resolution adopted that we should take up the section by subdivisions.

The Secretary will read the first subdivision:

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:

MR. OATES—I rise to offer an amendment to that subdivision, first paragraph.

THE PRESIDENT—Does the amendment of the gentleman relate to that paragraph?

MR. OATES—I think it does—to the first paragraph?

THE PRESIDENT—He has simply read the first paragraph which is not the first subdivision.

MR. OATES—I withdraw it then.

THE PRESIDENT—The gentleman can offer his amendment when the subdivision is reached.

MR. OATES—All right.

MR. REESE—I rise to offer the amendment to the paragraph which has just been read.

The Secretary read the amendment as follows: By adding after the word "electors" in the second line, the words, "except bastards, who shall not be registered unless their disability of legitimacy shall have first been removed by the Legislature."

THE PRESIDENT—The question is on the amendment of the gentleman from Dallas.

MR. REESE—Mr. President, I had hoped that it would not be necessary for me to suggest any amendment to the report of this committee. It is an able report; but, Mr. President, it is fortunate that the representation of this Convention is so largely scattered because local conditions in Alabama are different. We are making a Constitution to last a long time. Mr. President, I regard it as my duty to the Constituents—

MR. WHITE—I rise to a point of order. The amendment offered by the gentleman is not germane. The qualifications come entirely under Section 6.

MR. REESE—I make the point of order that the objection comes too late. The chair has submitted the amendment to the Convention, and it is a difference of opinion between the gentleman and myself.

THE PRESIDENT—It seems to the Chair that the point of order that the amendment is not germane should have been made when the amendment was offered and before the Chair submitted the amendment. The Chair will, therefore, overrule the point of order.

MR. WHITE—I admit the correctness of the ruling, generally speaking, but when it becomes a question whether it is garmane or not——

MR. REESE—Is this time to be taken from my ten minutes?

THE PRESIDENT—The gentleman from Dallas will please suspend while the Chair hears the question of inquiry from the gentleman from Jefferson.

MR. WHITE—In other words, it is no more germane now than when it was originally offered, and, by accepting an amendment wholly foreign to the subject, you may utterly ruin or destroy the section or paragraph. The point of order should have been made at the time that the amendment was offered but the question of whether it is germane or not, it seems to me, will arise and be always properly before the chair when presented. There is no time when it will not be in order.

MR. REESE—If the remarks of the gentleman have changed the opinion of the Chair, I would like to be heard.

THE PRESIDENT—The gentleman from Dallas will please wait until the Chair gets through hearing the gentleman from Jefferson. The Chair understands the rule to be, ordinarily, that where a matter of inconsistency arises as to amendments and the main question, that question should ordinarily be submitted to the Convention, especially as the Chair has entertained the amendment and submitted it to the Convention. While the gentleman from Dallas was discussing it, it seemed it would not be proper to rule it out of order. The Chair will overrule the point of order. If the Convention does not think the amendment germane and inconsistent with the section under consideration, the Convention can reject the amendment.

MR. REESE—An amendment covering this principle should have been offered to the section which we have passed, containing the prohibitions. I will say that this idea is one that has been nursed and has been slept with by my colleague (Mr. Burns) ever since this Convention has assembled and had he not been engaged on affairs of great moment at the time we passed Section 6, the amendment would have been offered to that section. In the constituency that I represent, after a careful examination of the prohibitions in this Article, it will leave my people in a dangerous condition. I am afraid to go back to my constituency with the proposition in this plank, and I have endeavored to ascertain some reliable information from the Committee on Suffrage without success. I am fairly familiar with the conditions in my county, and the neighboring town of Selma. Educational facilities there for the colored people have been unusually good; in many respects, Mr. President, better than for the white people. The Northern

people have done much for the negro about Selma. Mr. President, I consider it my duty to warn this Convention against refusing to put a proposition in here that will protect the supremacy of the white people in the county that I represent. Mr. President, this is a proposition that is a sound and moral one. In England and in every country from which we trace our civilization it is the law, and in the Ten Commandments that the sins of the father shall be visited upon their children to the third and fourth generation. Mr. President, barring the soundness and correctness of the proposition, and there can be no question of that, it will incidentally remove from active participation in the politics of this State a large and objectionable element. This amendment eliminates one of the most objectionable elements and classes that there is in the Black Belt. In the town of Selma, along the outskirts, in the lanes and alleys, are the hatching places of the class I would have eliminated—yellow bucks around every town, young fellows around every town, of the most disreputable class among the people. I would far rather trust the affairs of the State in the hands of the old slaves that we had before the war than to the element that we have about the bar rooms and crap dens of our towns. I am afraid, and solely afraid, that the people of my section will be afraid to trust themselves under the new regime, if this is allowed to continue. If this Constitution is adopted, the people that I represent will have burned the bridges behind them, and have cut off that which has been their salvation, and the salvation of the county that the President comes from, and the salvation of the northern counties of this State for twenty-five years. We will have to stand where this Convention puts us. Much has been said here, and I have gone far for a proposition that has not my personal sanction. I have supported the grandfather clause, in order that the poor white boys should not be deprived of their vote, because I thought that we had promised it, but the members of this Convention should not ram down on my people this class running around the towns of our Black Belt.

MR. HOOD—Would not your amendment disfranchise some white people in Alabama?

MR. REESE—I don't think the question needs answering.

MR. HOOD—Wouldn't an amendment like that have disfranchised Alexander Hamilton and Abraham Lincoln?

A DELEGATE—They are all dead.

MR. REESE—I yielded to the gentleman for an inquiry, not to engage in a controversy with him. It is of course a fact that there are some white men in this State who would fall within the category of this amendment, but, Mr. President, the talk has been from the hills of North Alabama as to what the poor white boys want, and I do not propose to put my people under the hand of

negro rule because it might disfranchise one or two bastards in the white counties of Alabama. We have none such in my county, we are a moral people, and I say further to North Alabama people, you must not have that class of white citizens. I say that if the gentleman from North Alabama will conform to the rules of morality adopted in my county they will have no trouble. It is right and proper. While the man himself is not responsible, there are others that are responsible, and he should bear the burden of his father's sin. The Committee on "Harmonies" can straighten this matter up, and I appeal to the members of the Convention to help us out. I hope they will give me an opportunity to go back and tell my people it is to their interest to support the action of the Convention. I hope the people of my section will feel that way, and I ask you to give me that opportunity.

MR. COLEMAN—The gentleman's authority that he quoted in justification of his statement, that the sins of the fathers should be visited upon the children, is not supported by that Book. It was a proverb in Israel that the "Fathers have eaten sour grapes and the children's teeth are set on edge," but the Lord declared against the proverb and said, "When the son hath done that which is right, he shall surely live; and that the son shall not bear the iniquity of the father." (Ezekial 18 chapter.) That is from the same authority that he cites. We have a pledge and have acted up to it here, that no white man shall be disfranchised. It is well known, and it is not necessary to call names, that in a neighboring county one of the leading citizens who has accumulated a large fortune labors under that disability, and there is a promising young attorney in this State who's equally unfortunate. It may be as the gentleman states that there are none of that kind in his county, but I must say if there are none, his neighboring counties have been frequent visitors to his own county, if there are any indications in color. I move to lay the amendment upon the table.

Upon a vote being taken the amendment was tabled.

MR. BURNS—I want to give notice that at the proper time I will reconsider.

THE PRESIDENT—The question will be upon the adoption of the paragraph as read.

Upon a vote being taken the paragraph was adopted.

THE PRESIDENT—The Secretary will read the next subdivision.

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 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 shall be in writing and subscribed by the registrar, and filed in the office of the Probate Judge of the county.

MR. REYNOLDS (Chilton)—Mr. President and gentlemen. While I arise here to discuss this question, I feel like this Convention looks at the opposition here as being of no importance and fourteen or fifteen men out of a body of 155 does seem very insignificant, but when we look at the vote calling the Convention, there is not so much difference after all, and when we take in consideration where the opposition vote came from the Convention cannot afford not to hear both sides of this question, for if it does there will be a time and place where the opposition will be heard. I read from The Montgomery Journal: A few days ago The Journal said that about a half dozen of the black belt counties had furnished about twenty thousand of the twenty-four thousand majority in the State for the Constitutional Convention. The exact facts and figures are: The black belt counties, or rather counties in which the negro population predominates, gave the Constitution 25,325 majority.

I am sorry I could not get an opportunity before to express my views on this important matter and I will not take up much time. I see some papers now getting restless. I read from a Decatur paper: Everything in Alabama is burnt up by the heat except a lot of Constitutional Conventioners who are too tough, and a few country editors who are too green to burn.

I reckon these are the editors that jumped on me about the free passes.

At the outset, I would respectfully ask that I be not interrupted, though I would be glad to answer any questions when I have concluded.

In speaking against the majority report of the Committee, I feel like the blind candidate seeking admission to the temple of the Holy St. John. However, I conceive it my duty, both to my

constituents and myself, to make known my objections. On account of serious illness in my family my attendance here of late has been irregular, much to my regret, as I desired to hear every argument pro and con. Even now I ought to be with the loved sufferers at home, but I think the majority report is greatly wrong in principle and calculated to work great injustice, and I am here to oppose it.

Mr. President, it is no doubt well known that I opposed the calling of this Convention and that I urged my friends to vote for "No Convention." We are here, though, and it behooves us, one and all, to study carefully the questions presented and do "what is right in God's sight." Now, we are confronted with the great problem of the Convention — reformation and restriction of the suffrage. I dare assert that no one will be heard to say that there is no intention to restrict the suffrage. The suffrage then, is to be restricted—limited, under the temporary plan, to those of good character, soldiers and descendants of soldiers—under the permanent plan, to persons of intelligence, or to owners of property over a certain amount. A mere cursory glance at the plans suggested would show that some persons, who are now entitled to vote, will be deprived of that privilege. We are told however, that the discrimination is to be confined to the negro—that no white man is to be disfranchised. Then, why, pray, have we a partisan board to pass on the qualifications of applicants? Right here I would ask, and I pause for a reply from the distinguished Chairman of the Committee, would you yourself vote for the plan suggested, if the Board of Registrars should, by the law itself, be composed wholly of men opposed to the Democratic party?

I want to ask my friend from Jefferson that question, and I pause for a reply. Would you vote for the adoption of the plan submitted under those conditions?

MR. WHITE—Just what I would do individually possibly would not be entertaining to the Convention, Mr. President.

MR. REYNOLDS (Chilton)—I never saw a lawyer in my life that did not know how to get out of answering a question. We common folks have to answer them. I impute to no one dishonorable motives, but it does seem that the organic law should not itself create a partisan political board. But, it is said, that those who hold the offices named merely happen to be Democrats and that they are good men. This would be no reply, however, for we all know their political affiliations. Now, I want to say that I would oppose my plan that would create a Board of Registrars consisting exclusively of members of one party, be that party Republican, Democratic or Populist. Judging from the election returns from Dallas, Lowndes, Hale, Greene and other black belt counties, the Democratic party has nothing whatever to gain from

a disfranchisement of the negro. Such disfranchisement would be beneficial alone to the parties in opposition to the dominant party in this State. We are all familiar with the fact that it was the large majorities from the black belt that have kept the Democratic party in power in this State. We hear it said that the negroes of the black belt actually vote the Democratic ticket. About this I do not know, nor do I doubt the honor and integrity of the officers named as registrars, but, in all candor, would it not be a little too much to expect them to disfranchise their party and political friends—those party friends, upon whose votes their reelection depends? Solely to disfranchise the negro? Why, I have been told by a gentleman of great political influence in his county—a gentleman, by the way, from a black belt county—that, in his county, the negroes would not be disfranchised, that the white people of his county had and have no idea of giving up this great political power and would not do so. That gentleman approves, so I understand, of the majority report.

During the course of this debate, it has been said that the officers are presumed to do their duty. That we should not indulge the presumption that they would act dishonestly. Yes, in the past, we were told that we must presume that the election officers would do their duty in accordance with law and justice. Has such been the case? As was well stated by the distinguished gentleman from Jefferson, we were called here to purify the ballot, to put an end to the frauds in our elections.

Mr. President, I have seen the Senate of Alabama itself, in a contested election, refuse to go into the justice of a case, but on a mere technicality—a doubtful one at that—deny to a people the right to choose its representative, and give a seat in that high and honorable body to one who was not elected, and this, too, in the face of proof so glaring and evident that no one has ever had the hardihood to deny the frauds. Honorable gentlemen, all, but the force of the party lash, political preferment, made them do that which they knew to a wrong. And I would respectfully add that a member of that Senate is now the honored Governor of this State.

Oh, we must not expect perfection this side the grave. "True, pity 'tis, tis true." We in the opposition, are not demanding perfection. We do demand that the power of the kings be curtailed. We prefer a limited to an absolute monarchy.

As to the grandfather clause. I am not a lawyer and must depend upon the opinion of those learned in the law. Upon one occasion, a case was being argued before that distinguished Jurist, who has been so highly lauded in this Convention, and it was contended that a certain brief filed in the case did not correctly assert the law. Upon inquiry, the judge was told that the brief

was written by Governor Jones, and he immediately replied: "Pretty apt to be right." I have heard, and I do not doubt it, that the Honorable Chief Justice of this State has said that the briefs of the distinguished gentleman from Montgomery ever asserted the true principles of the law and the proper application thereof. Knowing his honesty and integrity, I am constrained to take his view of that clause and believe that it is at least of doubtful constitutionality. And in this I am confirmed by the report itself. So, believing, under my oath, I will vote against that provision.

Mr. President, I am opposed to disfranchising white men, but, Mr. President, I favor disfranchising those not of good character. The vicious should not be permitted to vote, and if one cannot qualify under a good character clause, I am here to assert that he should be disqualified. We all know that the newspapers generally reflect the views of their constituents. With the newspapers, this grandfather clause does not seem to be in high favor, and I may add that I have yet to hear of a single person, outside of this Convention that wants that clause.

The character clause, however, might well be the instrument of great injustice and oppression, and in the hands of a partisan political board, no doubt exists that it would be so used. For myself, I would prefer the word reputation, as I take it that only those of known bad character are to be disfranchised, but I believe this provision is more for the purpose of turning voters in than turning them out. However, I would suggest to the members of the Convention that, in my part of the State, we send such men to the penitentiary. The great objection to the character clause is, as I have said, that it makes the registrars the judges of men's characters and, in the hands of a politically partisan board of registrars, is widely open to fraud. Under this clause the registrars could undeniably build up an electorate to their own liking. Is this to be desired? Then, why invite such fraud, especially in the face of the fact that we came here to purify the elections and the electorate, to close the gates of fraud and bar and double-lock them? It has been argued that the men of the Black Belt are honest and intend to carry out the provisions and spirit of this plan and disfranchise the negro and him alone. Suppose it should be found necessary to have the negro vote of the Black Belt to perpetuate the Democratic Party in power, think you not the means will be found by which, and the men by whom, this negro vote will be secured?

The Age-Herald says:

FIVE OTHER PROPOSITIONS

Congressman Bowle is mistaken when he says only one provision of the majority report of the Committee on Suffrage has been assailed. This is a mistake. The grandfather clause is as-

sailed because of its un-American nature, in that it makes heredity the basis of an electorate. But there are others, several others, that have been assailed. These are as follows:

First—A Board of Registration that can create a life electorate at will, there being no remedy that a poor man can resort to against oppression or injustice.

Second—The good character clause, which in the hands of politically appointed registrars is utterly indefinite, and very open to fraud. It makes the registrars the judges of men's motives and characters. This is also very un-American.

Third—The understanding clause, which requires a voter to understand "the obligations and duties of citizenship."

Fourth—a life electorate.

Fifth—The lawful occupation clause, and the naming of employers in five years preceding.

All of these in this singularly complicated plan have been assailed, and are daily assailed. Mr. Bowle has no doubt named the clause that is oftenest assailed, but the grandfather clause is by no means the only one. The other five have plenty of opponents in perhaps every couny in the State, and one of them should be adopted under the impression that it stands approved "unanimously" among the people."

Under the permanent plan, only those who can read and write any Section of the Constitution and who have been regularly engaged in some lawful business or occupation, trade or calling, for twelve months next preceding the time they offer to register, or those who have $300 of personal or $300 worth of realty in their own or their wife's name are permitted to register. Right here a pertinent inquiry would be, should we permit that man, who places his property in his wife's name for the purpose of defrauding his creditors, to qualify because his wife owns $300 of personal property? I, for one, do not believe that it is necessary for a man to be able to read and write to constitute him a good citizen—a citizen worthy to enjoy the privilege of voting.

True, under the grandfather clause, many of those who cannot read and write are enabled to register. But this clause is only temporary and no provision is made for descendants of soldiers who come of age after 1903. If the grandfather clause is good to 1903, why not always good? If the understanding and character clause is good until 1903, why not equally good thereafter? By the adoption of the permanent plan we will certainly disfranchise many white men after 1903. We have heard many delegates get up here and affirm that they would have to keep their pledge to the letter—the pledge not to disfranchise any white man except

for infamous crime. It seems to be, though, that that pledge had regard only to the first registration after the adoption of this Constitution, and not to any subsequent registration. Yes, you can tell your constituents that you have not disfranchised any white man. But suppose they ask what about their sons who come of age in 1903. Will your answer not be "disfranchised, if they cannot read and write, and have not been regularly at work the twelve months preceding the time he offers to register, or unless they own a certain amount of property?" Think you that your constituents care only as regards themselves alone, and no thought is taken for their posterity?

On the other hand, Mr. President, I do not believe that every man who can read and write is a good citizen. Some of our most intelligent people are the busiest in corrupting the ballot. As we all know, more money is expended in purchasing legislators and delegates to nominating conventions, than is ever distributed among the ignorant classes themselves. I might refer you to the Legislature of Pennsylvania, or to recent Congressional and Sheriff nominations in our own State.

Not only must a man be able to read and write, he must have been regularly engaged in some lawful business for the next twelve months preceding the time he offers to register. True, the honored and learned Chairman of this Convention explained to the Convention what was meant by that clause, but he and the committee did not go far enough—they neither guaranteed nor did they prescribe that the registrars would interpret that clause in a like manner. Suppose that, in the mining districts of this State, the employes should go on a strike for a month or more, and suppose the county registrars in those districts were favorable to the employers—the corporations—can it be doubted how they would interpret this clause and that they would deny those employes the right to register? Again, suppose the employes of a railroad strike, can it be doubted that the registrars, who would very likely ride on a free pass, would deny those employes the right to register, or withhold that right until they returned to work?

Virtue and manhood do not depend on the amount of property a man owns, nor should the qualification of a voter be wealth alone. But, if we are to abandon manhood suffrage and make the sole qualification one of property, we ought to be fair in our treatment of wealth. If $300 would qualify a person to vote, then a person who owns $600 should be given two votes, and so on in proportion. Under the plan here set out a person might possibly be the owner of $299 and yet not be able to qualify under the property clause. For, he must own $300 of personal property, or $300 of real property. Mr. President, I am opposed to special privileges. I believe that each man should be equal under the law. But, if any one is to be given special privileges, it should be the poor man

and not the rich one. Follow the plan of permitting a man to vote because he owns a certain amount of property, to its ultimate and legitimate conclusion, and you would have a Rockefeller for President and a Mark Hanna for Governor.

We hear it argued here that we have put in the grandfather clause, because we have to submit our work back to the people and so we must be careful to leave room for all to qualify. But in case this grandfather clause is declared unconstitutional, and the life electorate falls to the ground, as admitted, then will the Legislature be permitted to disfranchise any or all white men if it pleases, and not have to refer their work back? It seems to me that here we will be doing indirectly that which our consciences will not permit us to do directly.

We come to the registration plan. I am as much opposed to it as the other.

MR. SMITH—I will ask the gentleman if he is not opposed to this Convention and to everything the Convention has done?

MR. REYNOLDS—No, you have done some good things, and I have voted for them. I will state, in answer to the question, that I said in the outset that I was opposed to the calling of the Convention, but, Mr. President, that does not carry with it that I am opposed to reformation, and I say now, if this new Constitution would hold up, to my mind, better than the old one; if it puts Alabama upon a high plane, moral plane, such as you wanted before the Convention, I will say I am ready to help him ratify it, and will do all in my part of the State to ratify it, but if, on the other hand, I do not believe this Convention will do what we claim it will do, and if it is not better than the old one, I will say I will go back and advocate the adoption of the old Constitution and stand by the old ruts.

In case the registrars unjustly deny a citizen the privilege and right to register, we are told that he will have the opportunity of appealing to the courts. I dare say that there are some worthy citizens who could ill afford the expense. If the registrars should be bad and dishonorable men and register those not qualified nor worthy of the high privilege of suffrage, what remedy is provided? The lists are not subject to expurgation. An appeal might be made to the Supreme Court of the United States, but you declare that that august tribunal will not interfere. There is not the slightest doubt that thousands of white men will be disfranchised by the plan of registration here suggested. We all remember the registration plan under the Sayre election law as first passed. By it each voter was given a month in which to register, but that time was in the month of May, when no election was being held, when the farmers were the busiest with their work, and the necessary result was the disfranchisement of many white men, though no

qualifications, other than that of age, were required. I had the honor of being a member of the Legislature when that law, as regard registration, was repealed, and the argument there advanced for its repeal was that it worked a great hardship upon the voters. But here we have a board possessed with almost unlimited power, with the right to inquire of every applicant where he has been for the last five years what he has been doing and yet these registrars are not required to be in any one beat more than one day. This law tells the registrars that they shall do so and so, but if you violate it that is with you, your conscience and your God. It is in the common experience of all that those laws, to which no penalty is attached, are not only openly violated, but actually disregarded. Take, for example, the anti-pass provision of our present Constitution.

Gentlemen of the Convention, I beg of you to go slow and be sure that no worthy man be disqualified, and that you leave not his privileges and rights under the control of a partisan political board. History teaches us that rights once taken away are seldom, if ever, restored.

And I take this opportunity to warn you that there must be some provision adopted whereby the people will understand and know that the electorate will be fairly and impartially made up, and that there must be a further provision that will insure the people that their will shall be fairly and freely expressed at the ballot box and their votes counted as cast; and, by the eternal gods, the white men of this country will vote, though it be at the point of the bayonet or the muzzle of a shot gun.

MR. HEFLIN (Chambers)—Are you in favor of disfranchising any negro?

MR. REYNOLDS (Chilton)—Yes, sir; I am in favor of disfranchising every negro in Alabama who would sell his vote or barter his vote. I am as broad as you are, to get applause from the gallery. I am not in favor of disfranchising Booker Washington, and your plan won't do that.

MR. HEFLIN—Didn't you say a few moments ago in your speech that a plan that would take away from any man the right to vote is wrong?

MR. REYNOLDS—No, sir. If I said that I did not mean to so state. I say that I am in favor of disfranchising every negro in Alabama that is vicious, that will sell his vote or barter his vote in an election.

MR. HEFLIN (Chambers)—I just wanted the gentleman to answer yes or no.

MR. OATES—I have an amendment to offer.

The Secretary read the amendment as follows:

"Amend Section 10, first subdivision, in line two. Insert between the words 'person' and 'President' the following: 'Not more than two of whom shall be of the same political party.'"

MR. OATES—The older I get the more doubtful I am as to the correctness of my own opinion. I suppose it is because I examine and re-examine these opinions when they touch an important question. I offered this amendment, in the Committee and the Committee refused to adopt it and for a time, sir, I was disposed to acquiesce quietly in their decision, because they are men of ability, and many of them of experience and learning, and all patriotic, but on reflection I have resolved the thing in my own mind time and time again, and I have arrived at the conclusion that it was a mistake on the part of the Committee to reject this proposition, and I wish to give my views briefly to you, gentlemen of the Convention, why it is that I think this amendment ought to be adopted. It is not offered in any spirit or with the desire to differ with my colleagues on the Committee at all, but because I believe it is right, and now why do I say so. We know that there are visions among the people. We have two minorty parties, the Democratic, of course, being largely in the ascendency in the State. We have the Republican party and also the Populists, and I am glad to say of these gentlemen, that they are not like the opposition to Democracy was many years ago, entirely of an odious character, but we recognize among those of the opposition good men at this day, and there are some patriotic men among them. Now, sir, we are in power and what I say, I say not only at a delegate in this Convention, but as a life long Democrat, who has not always fully agreed with his party, but when I have not agreed, and the party has acted, I have never dissented, but have gone along with it and voted its ticket even when against my judgment. I offer this, sir, in a proper spirit, and I ask the delegates to think about it. It is simply this, that not more than two of the Registrars in each county shall be of the same political party. The section already requires that they shall be good men. I do not mean to be understood that the man elected from the other party should not himself be a good man, not at all, but the Democrats have the power and the proposition is for the Governor and two of the State officers to appoint these Registrars in the different counties. Every one knows that there is a feeling of opposition to the Board of Registration. You will find it even among the Democrats. Now, sir, haven't we precedence for this action? I am glad that as time progresses, legislators in Congress, and in the States, are more and more disposed to adjust the measures which are of a political or semi-political nature, to present conditions, and not utterly to ignore the minority. We have precedence for this, by both political parties—the great ones, I mean—the Demo-

cratic and Republican parties. Here in Alabama, Democratic Legislatures in the past provided for having one of the Judges of Election to be of the minority party, and there should be not more than two of the same party; they have provided also for markers of the different political parties, and it was commendable that such recognition should be given. We are all human beings and I trust patriotic men, and it is noble upon the part of any man to make a reasonable concession to him that differs with him in opinion and to treat him as a gentleman wherever his conduct warrants it. Now, I want to all the attention of these gentlemen to some facts. You take the civil service law, which has been indorsed by the Democratic party as well as the Republicans of the nation, and which was observed and maintained closely by the only Democratic President we have had since the war, Cleveland, during his administration, and by the Republican administrations as well. The language of that law is, in reference to the appointment of the Civil Service Commissioners, "Not more than two of whom shall be adherents of the same political party." There are three of them, and not more than two of them shall be of the same political party; so when the Democrats were in power there were two Democrats on the board, and one Republican, when the Republican party is in power, there are two Republicans on the board and one Democrat. Then take the Interstate Commerce Law, which was passed—

MR. BURNS—What would you do for instance in my county. We have not got any Republicans. Would we have to do without legislation because we could not get a respectable white Republican?

MR. OATES—Not at all. If in any county it was not practicable to be carried out, then of course, they would have the right to appoint three men, so as to come as near to it as they can. If they appoint all of them to belong to the same political party then that would be in violation of the law, when it is impracticable to do it otherwise, but I would not put into the law that exception. Now, you take the Interstate Commerce Law which was passed when both houses of Congress were Democratic, and Grover Cleveland was the President, and what is the language of that law. "That not more than three of the Commissioners shall be appointed from the same political party." There were five of them. There were three Democrats and two Republicans. Now sir, we go to the Board of General Appraisers of Customs. The language of that is "Not more than five of such Appraisers shall be appointed from the same political party."

THE PRESIDENT—The time of the gentleman from Montgomery has expired.

MR. OATES—I do not like to trespass, but I would like to have a few minutes more.

MR. WALKER—I move that the rules be suspended and that the gentleman be given ten minutes further time.

Upon a vote being taken the motion to suspend the rules was carried, and the time of the gentleman was extended.

MR. OATES — I thank the Convention, and the gentleman who made the motion. I would not accept the courtesy, if I had been able to present all of my illustrations. Now, sir, every delegate here knows that while that law was passed, the Board of Appraisers, during a Republican administration, that a citizen of Alabama, and there is no better Democrat in the State than he, and a man beloved by all of our people, was appointed by a Republican administration, as one of those appraisers. I allude to Judge Sommerville, who has a life appointment at $7,500 a year. I call attention to the law, to revisions in the law, establishing a Court of Private Land Claims, which does the same thing, provided that not more than two of the three judges shall be of the same political party, and then again, in the Indian Commission, known as the "Gause" Commission, that is now at work, that provides for minority representation, and that most estimable Southern gentleman and Democrat, Clifton R. Breckinridge of Arkansas, is upon that Board, appointed by a Republican President. Now, sir, these are illustrations of this kind of generosity or justice, for I believe it just. Why not allow a minority man, wherever it is practicable, on this Board of Commissioners? Now it may be said by some that he would drum up all of his party, and get every one he could to come and register. Let him do his best, if he wants to take that kind of course, but I presume that the Governor and his associates would not appoint such a blind partisan as would prostitute the office with which they have honored him by going out and hunting up these people. It would be a prostitution. I believe those gentlemen would look into the character of the man so as to appoint the third man of the minority party, or that they would appoint men who would not prostitute that office, who would endeavor to perform their duty patriotically and well. They would be there. Then it could not be said that this Board had acted improperly, and in a truly partisan spirit, and made improper registrations, because one man present there has a record of it and cannot the great Democratic party stand the fire that may be brought against it by any third man on this Board? We want it so that the evidence will go forth to all men that there is nothing crooked, nothing wrong about it, no improper registration, and while I have no idea there would be, I think this provision is entirely proper, and I favor it, not only as a delegate upon this floor, but I favor it as a Democrat, and I believe it is good party policy as well as a proper thing to do, and I hope the Convention will adopt it.

MR. WALKER — As stated by the gentleman from Montgomery, the proposition that he now presents to the Convention

was presented to the Committee on Suffrage and Elections and was fully considered by them, and it was deemed by them unwise and improper to embody in the Constitution, a provision of this kind. In the first place, a provision of this kind would give to the clause of this Constitution, a partisan political coloring. It would be in effect saying that this was a partisan political matter, and that there shall be two Democrats or a majority of Democrats, and a minority representation upon this quasi judicial board. It was not deemed advisable to put this plan before the Courts in the Constitution, as a political partisan scheme. Now, the gentleman, in the Committee, as well as in this House, has referred to certain actions in Congress when in the establishment of certain boards, or certain bodies, that provision has been made for an equal or a partial representation by the different political parties. That is true, but I think, gentlemen, that investigation will show that these provisions found their way into those laws because of the political complexion of the different parts of the legislature that passed those laws. It will be found, I think upon investigation, that some if not almost all of those laws have provided for political representation upon boards of that kind where possible, when there was a Republican President and Democratic Congress and Democratic President and Republican Congress, so that laws could not be gotten through, unless each party could have been recognized.

MR. OATES—I call attention to the passage of the Inter-State Commerce law, where both Houses were Democratic and Cleveland was President.

MR. WALKER—That may be true, as to that particular one, but I have no doubt, it will be found—

MR. REESE (Dallas)—Are there not counties in this State like my own, for instance, Dallas County, where no suitable Republican or Populite can be found, who would accept the office?

MR. WALKER—Plenty of them. I have no doubt, but gentlemen of the Convention, it is not proper for this Convention, I submit, to put this plan in the Constitution, upon the face of the law, to stamp it with the character of being a partisan board. Is a Railroad Commission in this State appointed in that way? Or any other commissions in the State established that way. Would it accomplish any good purpose to appoint, to establish, a board of two Democrats and one of some other political party. This matter was fully gone over by the Committee. The suggestion made by the gentleman now was fully considered, and it was deemed utterly unwise to stamp this provision with a partisan political coloring in the Constitution itself. I do not believe the provision could be carried into effect. I do not believe that the situation of the political parties in this State are such that suitable and proper men could always be found to fill these positions, and certainly

there is no good to be accomplished by putting this character of provision into the Constitution, we present to the Convention, and I move, Mr. President—

MR. PILLANS—I would like to ask the gentleman a question. Is it not possible forty years hence or twenty-five years hence this clause not being in this Constitution, there will be a great embarrassment found on the part of a large minority in the State, because a partisan majority have control of the elections of the State, absolutely and unquestionably.

MR. WALKER — The suggestion made by the gentleman from Montgomery would not obviate that difficulty. He does not propose to take away the partisan character of the Board at all, he proposes to make it partisan, and to make the partisanship of the dominant party ascendant on the board.

MR. WEATHERLY—If the gentleman will allow a suggestion—

MR. WALKER—In further answering the gentleman from Mobile, there will be twenty years from now any evidence in the Constitution, as we submit it to this Convention, of a partisan character having been attached to that Board. The gentleman now wishes to write in the fact that it was for the future to say that it was partisan in character.

THE PRESIDENT—Does the gentleman yield to the gentleman from Jefferson?

MR. WALKER—Yes sir.

MR. WEATHERLY—I want to make a suggestion. Does not the Board expire by limitation of law on the 1st of January, 1903?

MR. WALKER—Certainly, it is a Board of temporary character.

MR. WEATHERLY—That fully answers the gentleman's question.

MR. WALKER—Yes sir. Under the provision as offered to this Convention, there is no limitation upon the powers of the appointing Board in reference to political affiliations of the appointees.

MR. REYNOLDS (Chilton)—You state that the work of the Registrars expires in 1903. Their office expires, but when does the work of that Board expire?

MR. WALKER—I can not tell you.

MR. REYNOLDS (Chilton) — The office expires, but the work they do will not expire in 1903.

MR. WALKER—Of course they do not do temporary work.

MR. BURNETT—I would like to ask the gentleman if it is not a fact that the Democratic Party is the only party in Alabama who has gotten out any pledges to the people of Alabama that none will be disfranchised.

MR. WALKER—That is true as far as I know. I have heard of no one else.

MR. BAREFIELD—Then is it not incumbent upon the Democratic Party to carry out the party's pledge and is it incumbent upon the Populist or Republican to carry out that pledge?

MR. WALKER—That question answers itself. I move to table the amendment offered by the gentleman from Montgomery, and on that I call for the previous question on the Section.

THE PRESIDENT — The Chair will state the gentleman cannot move to table and move the previous question at the same time. He must take his choice.

MR. WALKER—I move the previous question.

THE PRESIDENT—The gentleman from Madison moves the previous question upon the amendment offered by the gentleman from Montgomery and the Section. Shall the main question be now put?

The main question was ordered.

MR. O'NEAL—I move to lay on the table, the amendment offered by the gentleman from Montgomery.

MR. OATS—I call for the ayes and noes.

The call was sustained.

THE PRESIDENT—As many as favor the motion to table the amendment offered by the gentleman from Montgomery will say aye and those opposed no when your names are called.

Upon a vote being taken the motion to lay the amendment of the gentleman from Montgomery upon the table prevailed and upon the call of the roll the result was as follows:

AYES

Messrs. President,	Brooks,	Coleman, of Walker,
Almon,	Bulger,	Cunningham,
Altman,	Burns,	Duke,
Ashcraft,	Carmichael, of Coffee,	Eley,
Barefield,	Carnathon,	Eyster,
Bethune,	Cobb,	Fletcher,
Boone,	Coleman, of Greene,	Foster,

Gilmore,
Graham, of Talladega,
Grant,
Greer, of Perry,
Haley,
Heflin, of Chambers,
Hodges,
Hood,
Howze,
Inge,
Jones, of Bibb,
Jones, of Wilcox,
Knight,
Ledbetter,
Lowe (Lawrence),
McMillan (Wilcox),
Malone,
Maxwell,
Merrill,
Miller (Wilcox),
Moody,
Morrisette,
NeSmith,
O'Neal (Lauderdale),
O'Neill (Jefferson),
O'Rear,
Parker (Cullman),
Pettus,
Pilans,
Pitts,
Reese,
Renfro,
Reynolds (Henry),
Robinson,
Rogers (Lowndes),
Sanders,
Searcy,
Smith (Mobile),
Sorrell,
Spragins,
Tayloe,
Vaughan,
Waddell,
Walker,
Watts,
Weatherly,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Wilson (Clarke),
Wilson (Washington),
Winn.

TOTAL, 73.

NOES

Banks,
Beavers,
Beddow,
Blackwell,
Burnett,
Byars,
Cardon,
Carmichael, of Colbert,
Davis, of Etowah,
Dent,
deGraffenreid,
Fitts,
Graham, of Montgomery,
Grayson,
Handley,
Harrison,
Heflin, of Randolph,
Henderson,
Howell,
Jackson,
Jenkins,
Jones, of Montgomery,
Kirk,
Kirkland,
Kyle,
Leigh,
Lomax,
Long (Butler),
Long (Walker),
McMillan (Baldwin),
Martin,
Miller (Marengo),
Murphree,
Norwood,
Oates,
Palmer,
Parker (Elmore),
Pearce,
Phillips,
Reynolds (Chilton),
Rogers (Sumter),
Samford,
Sanford,
Selheimer,
Smith, Mac. A.,
Smith, Morgan M.,
Spears,
Thompson,
White,
Williams (Elmore),

TOTAL—50.

ABSENT OR NOT VOTING

Bartlett,
Case,
Chapman,
Davis, of DeKalb,
Espy,
Ferguson,
Glover,
Hinson,
Jones, of Hale,
King,
Locklin,
Lowe (Jefferson),
Mulkey,
Norman,
Opp,
Proctor,
Sentell,
Sollie,
Studdard,
Willet.

PAIRS

AYES	NOES
Craig,	Freeman,
Macdonald,	Foshee,
Browne,	Porter,
Greer, of Calhoun,	Sloan,
Cornwall,	Weakley,
Stewart,	Cofer.

THE PRESIDENT — The question then recurs upon the adoption of the first subdivision as reported by the Committee.

Upon a vote being taken the first subdivision of Section 10 was adopted.

The second subdivision of Section 10 was read as follows:

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 any 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 session 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 such 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 at which he resides. The registrars shall issue to each person registered a certificate of registration.

MR. FOSTER—I have an amendment to that subdivision.

The amendment was read as follows:

"Amend Subdivision 2 of section by adding after the word 'county,' in line twenty-six, the following, 'except that in counties of more than one thousand square miles in area, such board may

consume seventy-five working days in completing the registration in such counties.'"

MR. FOSTER—I do not care to make any extended remarks upon that amendment. I was led to offer that by the conditions in my county. We have in the neighborhood of 1,400 square miles, and——

MR. WHITE—If the gentleman will permit me, I will say on behalf of the committee that this is a mere matter of detail, and it is the purpose of the Committee to give every one an opportunity to register, and we will accept the amendment offered by the gentleman from Tuscaloosa, if agreeable to the Convention.

MR. OATES—I would like to hear it read again.

The amendment was read as requested.

There being no objection, the amendment was allowed.

MR. FITTS—I desire to offer an amendment to the amendment.

Amendment by Mr. Fitts read as follows:

"Amend paragraph two of Section 10, by striking out the word 'once' in the seventh line and inserting the word 'twice,' and by striking out in line eighteen the words 'one day' and inserting the words 'two days.'"

MR. FITTS—The object of that amendment is simply to require the Boards of Registration to visit each beat in the county twice instead of once, and to require them to remain there two days instead of one day. The object is to secure a full and fair registration of the voters in the county. If the Board of Registration goes to a beat only once there is grave danger that all of the people will not turn out on any one given day; there is grave danger that in the larger beats some of them may not know of the first visit, and that the first visit will but serve to canvass and advertise the proposition that this thing is up. The mere fact of the first visit will be the means of advertising the fact that this registration is going on and in process. The Tax Assessor of the county makes two round, and the very fact of the first round being made, while some will turn out and others will not, will start the talk in the country beats, and a great many will hear of this registration by means of the first round that would not attend at the first meeting but will avail themselves of the second opportunity given to register.

MR. WEATHERLY—Does the gentleman bear in mind the provision in line 25, that "registrations shall not exceed sixty working days in any county?"

MR. FITTS—I do. That has been extended in the larger counties to seventy-five working days by the amendment already accepted.

MR. ASHCRAFT—In my own county, which happens to contain less than 1,000 square miles, we have eighteen beats. If the registrars are required to go twice and spend two days each time that would take seventy-two days. We could not possibly make it. Our county can well be registered in sixty days.

MR. FITTS—My suggestion is that there ought to be two rounds. It is easy enough by another amendment to this amendment to allow the time to be lengthened out the number of days that may be necessary. There ought to be no mistake about giving the people of this State an opportunity to register. It is bad enough indeed to have this registration system. It is probably the only practical way to meet the emergencies of the case, and enroll the voters, but there ought to be no mistake and no slip up in giving them the opportunity to register and become life voters under this temporary plan; that is, those who are eligible and can be registered under it. News does not spread rapidly in the country. The country beats are large in some portions of the State, and the people there are not in the habit of giving immediate obedience to any summons except the processes of the court. All the people who are entitled to register will not turn out if the registrars are to be in their beats only one time. It will take more than that. It will take the first opportunity which is offered to the thoughtful, and then it will take the second opportunity for the listless.

MR. WALKER (Madison)—Suppose all of the voters are registered in one day. Why require the registrars to go back to that beat on another day?

MR. FITTS—If they can certify that they have registered every voter in that beat on the first visit, then of course the law ought not to require a useless thing, but I think that they ought to go to the people as often as is necessary to give them an opportunity to register.

MR. BETHUNE—If I understand the gentleman's amendment, it means that the registrars must remain at each beat two days or go twice and remain two days each time?

MR. FITTS—Go twice and remain two days.

MR. BETHUNE—That would be four days altogether?

MR. FITTS—Yes, sir.

MR. O'NEAL—Why not amend so as to provide that they should remain there if necessary two days?

MR. FITTS—I am willing to accept that amendment. I know my time is short, but I know that there are portions of this State where this idea of having three men pass upon the rights of voters to be registered is the dangerous proposition in this subdivision.

This to my mind, is freighted with more danger than any other portion of this plan. The people object to the mere idea that three men are to be set up as the judges of the qualifications of the voters in this State. They object to this entire feature of the plan.

MR. HOOD—The amendment offered by the gentleman from Tuscaloosa would require one hundred and twenty days for registration in the county from which I hale—Etowah. In that county we have thirty beats. To require this Board of Registrars to visit each beat twice and to stay at each beat two days would require 120 days in that county. In the county of Etowah we have a town of nearly 5,000 people. It would only give four days under his amendment, to register the people in the town of Gadsden. We have two other towns in that county, one of about 2,000 inhabitants, and it would only give four days to register the voters in those two precincts. Now, Mr. President, it is provided here that these registrars may remain in any one beat longer than one day if necessary. If the sixty days' time named here is not sufficient in any one county, or in the several counties of the State, then if an amendment would be submitted extending the sixty days to seventy days or seventy-five days or eighty days, it seems to me that the trouble complained of by the gentleman from Tuscaloosa would be relieved. Now this reads, Mr. President, as follows: "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."

With that provision, if the sixty days is not sufficient, then that trouble can be relieved by giving a longer time than the sixty days and it would not get us in the attitude or in the condition that we would be in in Etowah county should the amendment of the gentleman from Tuscaloosa be adopted, and I daresay that there are many other counties in this State that would be in a similar condition. Any county that has twenty or twenty-five beats in it would be in the same condition. It would take one hundred and twenty days in Etowah county, as I have stated; so I move to lay the amendment of the gentleman from Tuscaloosa on the table.

Upon a vote being taken a division was called for, and the motion to table prevailed by 65 ayes to 31 noes.

MR. WILLIAMS (Marengo)—I have an amendment and the committee intimate that they are perfectly willing to accept it, to strike out 1,000 and insert 900 square miles.

The amendment was read as follows: "Amend the amendment as amended by Mr. Foster by striking out 1,000 and inserting 900."

MR. WHITE—The committee is willing to accept that and asks unanimous consent to accept.

Consent was given and the amendment was allowed.

MR. HOOD—I move to strike out the word "sixty" in line 25, and substitute in lieu thereof the word "seventy."

The committee agrees to that amendment.

MR. LONG (Walker)—I have an amendment.

MR. OATES—There is an amendment preceding that—the amendment striking out sixty days and putting in seventy. I rise to object to that.

THE PRESIDENT—The Chair submitted that question.

MR. OATES—I do not rise for the purpose of making a speech but I want to say that I think it is wholly unnecessary——

MR. LONG—I had the floor.

MR. OATES—This amendment precedes that.

THE PRESIDENT—The Chair was under the impression that he had submitted the amendment offered by the gentleman from Etowah, Mr. Hood, but finds that he has not done so.

MR. LONG (Walker)—Can I offer an amendment? It will not take but three minutes of the time of this Convention.

THE PRESIDENT—The Chair must first submit the other question. The committee asks unanimous consent to submit the amendment of the gentleman from Etowah. Is there any objection?

MR. OATES—I object because it is unnecessary in the small counties.

MR. WALKER—I offer an amendment to the amendment.

The amendment was read as follows:

By Mr. Long of Walker:

Amend second paragraph of Section 10 in line 30 after the word "Jefferson," by adding the following words, "and in all counties in this State, the Registrars shall spend two days in each beat

in the county." Provided all voters have not made application for registration during the first day.

MR. LONG—I ask that the commitee accept that.

MR. O'NEAL—I rise to a point of order. We practically laid an amendment of that kind on the table, offered by the gentleman from Tuscaloosa. I therefore move to lay it on the table.

MR. LONG—I thought I had the floor.

MR. O'NEAL—I rose to a point of order.

MR. LONG—I make the point of order that the amendment of the gentleman from Tuscaloosa required four days and this requires two days. This requires, gentlemen of the Convention, as much as two days at each beat, provided all the voters are not registered the first day. I think it is fair and just, and the committee has shown a disposition to give all the time necessary, and I hope it will accept this amendment. I am thoroughly satisfied that there are beats in my county where it would be impossible to register all the voters in one day. They need to go there more than once, but this requires them to do so if necessary.

MR. O'NEAL—You will notice that the first subdivision does provide that the Board of Registrars shall visit each precinct once, and oftener if necessary, so that if necessary to go more than once they have full power to do so.

MR. LONG—They are not required to do it, are they?

MR. O'NEAL—Yes, if it is necessary to go twice. If it is necessary for them to go more than once the law requires that they go oftener.

MR. LONG—I think the Registrars would be the judge of that. They might say it was not necessary to go more than once.

MR. O'NEAL—You can compel them to go, if they have not registered the voters you can mandamus them. I move to lay the amendment upon the table.

Upon a vote being taken the motion to table the amendment prevailed.

The question then recurred on the amendment offered by the gentleman from Etowah.

MR. ROGERS (Sumter)—Seventy days is too much. It is a very expensive proceeding, and it is to be supposed that in the appointment of those Registrars, men will be appointed who will make it their business to get out the vote that should be registered, and register them. We are going to appoint men in all these counties who have the interest of the State of Alabama at heart, and who will make every effort to get out that vote that should be

registered, and they can do it in going to the beat any one day, as well as oftener, and there is no use in extending this time.

MR. FITTS—And they are to be the judges of the vote that should be registered, are they not?

MR. ROGERS—Certainly.

MR. FITTS—There is danger in the whole thing.

MR. ROGERS—Yes, in the whole question, I believe, as stated once in history somewhere. But these men if you will give them seventy days will in all likelihood take up the seventy days. Now you take my county with 960 square miles. With twenty beats in it by this provision they can have sixty days. They could give three days to each beat in the county. That is a plenty. I do not see the necessity for putting in seventy days.

MR. O'NEAL—I simply want to call the attention of the Convention to the fact that if you amend it by making it seventy days, that we have already accepted an amendment which gives counties of 900 square miles seventy-five days, so the effect of it would be to give the large counties only five days more than you give the very small counties. I believe it is wise to leave it just as the Committee reported it.

THE PRESIDENT—The question is on the adoption of the amendment offered by the gentleman from Etowah.

Upon a vote being taken a division was called for, and the amendment was lost by a vote of 40 ayes to 55 noes.

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

MR. WHITE—On that I call for the previous question.

Upon a vote being taken, the main question was ordered.

Upon a further vote, Subdivision No. 2 was adopted.

Leaves of absence were granted as follows: To Mr. Norman for today; Mr. Gilmore for today, Friday and Saturday; to Mr. Ferguson for yesterday and today; to Mr. Coleman of Greene until Tuesday; to Mr. Grayson for Friday and Saturday; to Mr. deGraffenreid for Friday, Saturday and Monday.

MR. WILLIAMS (Elmore)—I ask unanimous leave to offer a short resolution that is of importance to every member of this Convention.

The resolution was read as follows:

Resolution No. 282, by Mr. Williams (Elmore):

In order that the full and complete text, report and proceedings of this Convention may be had by each and every member of this Convention, and by the State authorities as hereto provided, be it

Resolved, By this Convention, that the Secretary hereof be required to furnish to the printers of the "Official Reports of the Proceedings of the Constitutional Convention of Alabama," the proceedings of the first, second and third days of this Convention and order 1,000 copies thereof to be printed in like form and size as the stenographic reports and to be likewise distributed.

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

Upon a vote being taken the motion to suspend the rules was lost and the resolution was referred to the Committee on Rules.

MR. MALONE—I move that the privileges of the floor be extended to the Hon. J. B. Ward, member of the House of Representatives.

MR. MALONE—I move to amend that by adding the name of Hon. W. J. Hilliard.

MR. CUNNINGHAM—I move to amend that by adding the name of Mr. Huey of Jefferson.

MR. THOMPSON—I move to amendment by adding the name of Mr. Benners of Jefferson.

MR. HINSON—I move to amend by adding the name of Hon. J. R. Wood of Macon.

Unanimous consent was given to accept the amendments, and upon a vote being taken the motion as amended was adopted.

MR. GRAHAM (Talladega)—I move that the Convention be now adjourned.

A vote being taken the Convention adjourned.

AFTERNOON SESSION

Convention met pursuant to adjournment, there being one hundred and thirty-three delegates present upon the call of the roll.

Leaves of absence were granted to Mr. Martin of Calhoun, for Saturday, Monday and Tuesday; to Mr. Grant of Calhoun, for Saturday, Monday and Tuesday next.

THE PRESIDENT—The special order for this afternoon is consideration of the report of the Committee on Suffrage and Elections. The Secretary will read the third subdivision.

Third—The Board of Registrars shall register no person between the first day of August, 1902, and the Friday next preceding the day of 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 2 of this Article and not disqualified under Section 6, 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 unavoidable 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.

MR. WHITE—I desire to ask the reading clerk if the word on the 39th line you read "Section two" see if it does not read "Sections two and four?"

The Secretary read, "shall register all applicants having the qualifications prescribed by Section 2 of this Article."

MR. WHITE—I ask unanimous consent to amend by inserting after the word "two" the words "and four."

Unanimous consent was accorded.

MR. WHITE—I move that the subdivision as amended be adopted.

Upon a vote being taken the subdivision as amended was adopted.

The Secretary read the fourth subdivision as follows:

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 twentieth 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 session. 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 the county; such notices to be

published and such publications to be commenced as early as practicable in the first week of 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.

MR. WHITE—I move the adoption of that subdivision.

MR. SORRELL — I wish to offer an amendment, that the Board of Registrars should divide the time equally at each court house.

THE PRESIDENT—It is moved to amend where there are two court houses in a county, that the time be divided equally.

MR. WHITE—There are some counties that have three court houses, and the Committee thought over that very carefully. It is only for those very few persons who have not had an opportunity that these sittings are held, and it occurs to me that the Board of Registrars can determine at which one of the places they shall sit, and I move to lay the amendment on the table.

MR. SORRELL—Will the gentleman withdraw that motion a moment.

MR. WHITE—Yes, if the gentleman will renew it again.

MR. SORRELL—The object of my amendment is the accommodation of citizens of the county where two court houses are. Now in my county there are two court houses, it would be a great advantage and a convenience to the people of my county to provide that these registrars might divide the time of holding their sessions, hold half of the time at one court house and half at the other. There are counties in the State that have two court houses, and it seems to me it would be a convenience and one they are entitled to have. It would be a hardship to select one court house and require the people to go 25 or 30 miles, and my amendment provides they might divide the time and hold half of the session at one court house and half at the other.

MR. WHITE—I suggest to the gentleman they could do that now.

MR. SORRELL—Does not this article, as reported, provide that they shall elect at which court house they shall hold.

MR. WHITE—That don't prevent their holding at either or both.

MR. WALKER (Madison)—There are three court houses in some counties.

MR. HOOD—In view of the election in 1902 they only sit for two days, and they could not well divide the time between three court houses.

MR. WEATHERLY—Will the gentleman allow me to make a suggestion to him.

MR. SORRELL—Yes, sir.

MR. WEATHERLY — This registration is provided to be had only for two days preceding the general election in 1902. There are two court houses in several counties and in one county I believe there are three. It would be impracticable to divide those two days at the two or more court houses.

MR. HOOD—It would be impracticable even where they have only two court houses.

MR. WEATHERLY—Yes, for the temporary plan. I hope the gentleman will withdraw his amendment.

THE PRESIDENT—The question will be upon the amendment of the gentleman from Tallapoosa.

MR. WHITE—I move to lay the amendment upon the table.

Upon a vote being taken the motion to table was carried.

THE PRESIDENT—The question recurs upon the adoption of the subdivision.

MR. MALONE—I would like to offer an amendment there where there are two or more court houses that two additional days may be had at each court house.

THE PRESIDENT—The Chair cannot entertain an amendment which is not in writing.

MR. MALONE—There is no use writing it unless the Committee is willing to accept it, and I hope the Committee will do so.

MR. BULGER—I desire to offer an amendment.

The Secretary read the amendment as follows: "Provided that where there are more than one court house in the county the registrars shall divide the time equally between the said court houses, giving to each court house two days."

MR. WHITE—I make the point of order that that is the same amendment that has just been tabled.

MR. BULGER—I submit that the point of order is not well taken, because that amendment provides time for each court house; the other provided to divide the time given by the section. This amendment is that where there is more than one court house, if there are two or three that they shall spend two or three days at each court house. It seems to me, sir, that it is very important to my county. We have a large county, a large white population,

and we have a river running through the county dividing it as to territory and population almost equally, and some of our people would have to go thirty-five miles to get to register. Now it would cost all those people much more than it would cost the three registrars to get to the court house. We would have to have accommodation for something like 3,000 people, they would have to go to the trouble of traveling twenty-five to thirty-five miles and pay ferriage across the river. Now we propose instead of those 3,000 people going to the expense of paying ferriage and traveling from twenty-five to thirty-five miles that the three registrars go there and take their registration at the court house.

MR. deGRAFFENREID—The Section provides for two days before the election in November, that the registrars shall sit at the court house—how could they divide that time.

MR. BULGER—The amendment provides six days' work, if three court houses and four days' work if two court houses and one day if one court house.

MR. deGRAFFENREID—It is Friday and Saturday before the election.

MR WHITE—I would like to make this suggestion to the gentleman from Tallapoosa with his consent, that this is, only intended to cover those young men who had arrived at the age of 21 years between the first day of August and the first day of November in the year 1902, and a very few others who on account of some physical disability were not able to register in their precinct before that time—at the time the legislators were there.

MR. BULGER—The trouble about that suggestion is that the gentleman assumes that there will be but few who have not registered. There might be a great many.

THE PRESIDENT—Had the gentleman concluded his remarks?

MR. BULGER—I had not—I yield to the gentleman from Pike.

THE PRESIDENT — The gentleman from Bullock wants to ask the gentleman from Tallapoosa a question. Will the gentleman yield.

MR. BULGER—Yes sir.

THE PRESIDENT—Will the gentleman from Pike suspend until the question is asked.

MR. SAMFORD (Pike)—Yes sir.

MR. BETHUNE—Your amendment is that the Board hold two days at each court house?

MR BULGER—Yes sir.

MR. BETHUNE—What would you do with the other six days. They have to meet to hold their session in the respective counties during the entire third week in November, that is six days, and six working days prior to the 20th of November, and that is six more days? You have provided for six days where the Board meets twelve days.

MR. SAMFORD (Pike)—I do not come from a county that has two court houses, we are not so unfortunately situated, and yet I am familiar with the counties that have more than two court houses. These court houses have been established, these additional court houses, for the purpose of permitting the people who live within that territory of having the advantage as far as practicable of a county site. I observe that the plan as outlined by the committee does not provide for more than one Board of Registrars, and hence if we adopt the plan of only one Board of Registrars which occurs to me to be the proper thing, that it cannot be divided within the two days, and yet the contentions of the gentlemen are correct. Some provision should be made for these young men who will become of age just prior to the election, and these men who were deprived of the right to register at the time the registrars were going around the county. I do not think that the amendment of the gentleman from Tallapoosa is plain enough to cover the deficiency in the clause as reported by the Committee, but we are framing this registration law with the intention of making it as convenient to the people in the different counties as possible, and for that reason we ought to so frame this clause with reference to the counties that a man who is entitled to register just prior to the election would not have to travel thirty-five, fifty or sixty miles in order to do so, as in some cases in this State he would have to do. You take the county of Henry, and a man in some instances would have to travel ninety miles in order to register and be entitled to case his vote. In the county of Tallapoosa he would have to travel thirty or forty miles, in some instances, and cross a river, and in other counties in the State they would be put to great disadvantage, and this Committee ought to look at the wishes of the minority of this Convention and not ride behind a pride of opinion with reference to amendments and keep these gentlemen from getting relief for their people. It could very easily be done, this clause could be so arranged easily in conformity with the ideas of the Committee, so that two days might be given just prior to the election at each court house in the county. An amendment along that line ought to be added.

MR. BULGER—Will the gentleman permit a question? Is it not a fact that under Subdivision 4 they have six days now at the court house?

MR. HOWZE—May I interrupt the gentleman for a moment? I wish to offer an amendment which I think will be acceptable,—A substitute to the amendment of Mr. Bulger.

The Secretary read the substitute as follows: "Amend by striking out the words 'may elect at which court house they will hold such session' in the fifty-fourth line, and insert the words 'may divide the time equally between them.'"

MR. SAMFORD—I would ask the gentleman to put the word "shall" instead of "may."

MR. WHITE—We will accept that if it be agreeable to those gentlemen.

MR. BULGER—I withdraw my amendment.

THE PRESIDENT—The gentleman from Tallapoosa asks unanimous consent to withdraw his amendment. The Chair hears no objection and the amendment is withdrawn. The question is on the amendment offered by the gentleman from Jefferson.

Upon a vote being taken the amendment was adopted, and a further vote being taken the subdivision as amended was adopted.

The Secretary read the fifth subdivision as follows:

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 such examination makes any wilfully false statement in reference to any material matter touching the qualification of any applicant for registration shall be guilty of perjury.

THE PRESIDENT—The question will be upon the adoption of the subdivision.

MR. WHITE—I move its adoption.

Upon a vote being taken the subdivision was adopted.

The Secretary read the sixth subdivision as follows:

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 the 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.

MR. WHITE—I have an amendment that I am instructed by the committee to offer. It is simply to obviate the necessity of giving security for costs on an appeal.

The Secretary read the amendment as follows: "Amend subdivision, Section 10, by inserting after the word 'appeal' in the 74th line the following: 'without giving security for costs.'

MR. JONES (Montgomery)—I have an amendment.

The Secretary read the amendment as follows:

"Amend sixth subdivision, Section 10, by striking out the following words: 'Upon such trial the court shall charge the jury only as to what constituted the qualifications that entitle 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.'"

THE PRESIDENT—The question is on the amendment of the gentleman from Montgomery.

MR. JONES—I will not detain the Convention but a moment. If a man owns or has title to a twenty-five dollar yoke of oxen, he is entitled to trial by jury and the assistance of a Judge who cannot only advise the jury as to what the law is, but see that it is carried out. If he thinks injustice has been done he can set aside the verdict and grant a new trial. Under the provisions of this section the Judge sits there powerless, he advises the jury what constitutes qualifications, he may see that the evidence as applied to the law he gives them is utterly disregarded by the jury, and yet he is powerless, and the citizen who has a right to register is powerless who has no remedy. It is a novel proposition in our jurisprudence at least, and it seems to me that this section would better meet the judgment of our people if we allowed the courts to administer justice, to administer the law of the land, in that case

as in any other case. Certainly when there is a dispute as to a mule or a horse that ought not to entitle the claimant to it to any greater rights than the man who insists that he has a right to qualify under the section.

MR. deGRAFFENREID—In Section 13 of Article I of the old Constitution, under the subject of Declaration of Rights, I find this: "That in prosecutions for the 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." There are precedents in the history of the law of this State.

MR. JONES—Will the gentleman pardon a question.

MR. deGRAFFENREID—Yes, sir.

MR. JONES—If that be the law why not put in there "under the direction of the courts," if it means that.

MR. deGRAFFENREID—It is unnecessary, Mr. President, because the court directs all trials that come before it. We have departed from universal suffrage in Alabama, if the Constitution now being considered is adopted by the people. The reason for it, Mr. President, has been made plain by every man who has addressed this Convention upon the subject. In the black belt white supremacy has been maintained by fraud at the ballot box, by counting votes for candidates when those votes were not cast, or by changing votes from one candidate to another. In the white counties it has been maintained by the purchase of the negro vote. It is the purpose of the people to purify the ballot box. In order to carry into effect the provision of this Constitution we must have a Board of Registrars, but it was thought by this committee that it was more dangerous to the liberty of the citizen to permit a judge, skilled in the law, considering only the law to pass upon the question as to whether an individual possessed the right to vote, than it would be to allow a jury composed of his fellow citizens, residing in his county, knowing him, at elbow with him, to pass upon that question, and it was for that reason that this Committee adopted the provision to which the gentleman objects. It has got an analogy. It gets rid of the general charge at the hands of the court. The court stands before the jury and says, gentlemen of the jury, if you believe all the evidence in this case, this man is not entitled to registration. We thought that it comported more with the dignity of a citizen of Alabama that that could be passed upon by men who resided in the same neighborhood and county of the applicant rather than that it should be passed upon, as I said, by one man who knew not the defendant, and who looked upon it from a cold standpoint of the law. Why,

Mr. President, in ancient time, when the common law was forming, the witnesses to the case were the jurors in the case. The jurors had to come from the vicinage of the crime, because the law said that the man's neighbor, the man that knew him, the people that knew something of the facts and of the occurrence, would be more likely to render a just verdict than those who did not.

MR. WEATHERLY—Mr. President, the idea of the Committee in inserting this language in the clause, and which the distinguished gentleman from Montgomery moves to strike out, was that the people of the State could safely entrust the juries with the responsibility of deciding the issues of fact touching the qualifications of electors. In that, we did no more nor less than to follow the example of the distinguished gentleman from Montgomery, who proposed to leave it to the grand jury of each county to select——

MR. JONES—No, to recommend.

MR. WEATHERLY—To recommend those who shall be entitled to the privilege of the electorate. We thought if a secret body, sitting in star chamber sessions, could be entrusted with the responsibility of selecting those entitled to the electorate privilege, surely a jury of twelve, sitting in the open, hearing the evidence in the open, and charged by the judge as to the law, would not go very far afield in exercising a proper discrimination in that matter. The manner of the witnesses, their demeanor upon the stand. Although there might be no controversy in the evidence of the witnesses upon the stand, although technically, under the ordinary course of procedure, there might not be any controversy, yet we thought that it was safest to entrust to the jury even though there might not be conflict in the actual words of the witnesses, to trust to the juries of the counties, drawn from the body of the county, from the vicinage, men who knew, who were in touch with, the subject in issue, could be entrusted with the responsibility of deciding the question. That was our purpose. We have the utmost confidence in the juries. We do not suppose gentlemen would gainsay that; we do not suppose there is a member of this Convention who would hesitate for a moment to say that he had the utmost confidence in the juries of the country, and that they can be safely entrusted with the duty of deciding this question. I move to table the amendment.

MR. OATES—I ask the gentleman to withdraw that motion.

MR. WEATHERLY—I withdraw it.

MR. OATES—I did not catch fully the scope of the amendment offered by my colleague from Montgomery.

THE PRESIDENT—Does the gentleman desire the reading of the amendment?

MR. OATES—I would be glad to have it read.

The Secretary again read the amendment.

MR. OATES—Is there but the one amendment pending?

MR. JONES—Will the gentleman allow me to state it, as he evidently has not got it before him? It simply leaves the appeal taken to the Circuit Court to be treated as any other appeal.

MR. OATES—I understand it. The question was up before the Committee and I had prepared an amendment to this paragraph, but not so extensive. I do not know, but I am inclined to think, my colleague would be willing to accept it. It is simply to strike out the word "only" in the eightieth line, and I wish to state why I think that should be made.

MR. JONES—I will ask leave to withdraw my amendment, to allow the gentleman from Montgomery to substitute his amendment.

THE PRESIDENT—The gentleman from Montgomery asks unanimous consent to withdraw his amendment. The Chair hears no objection and the amendment is withdrawn.

The Clerk read the amendment as follows: "Amend Subdivision 6, Section 10, in line 80, by striking out the word 'only.'"

MR. OATES—Mr. President and Gentlemen of the Convention: The way it reads now—"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, etc." Now, as I understand it, the apprehension of the committee, and what they desired to avoid, was the court giving the affirmative charge on such a trial, one way or the other, and they desired to let the jury pass on it. I concur in that idea. I think that is entirely proper, but I think it is restricting the court too much to use the word "only." With that word in there, he shall charge only as to one thing, and he could not charge as to anything else. There might be conflicts in the testimony which it would be necessary for him to explain to give the jury an opportunity of determining. "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." It seems to me it is too restrictive upon the court. By striking out the word "only" I think it accomplishes the object of the Committee and I greatly prefer it and hope that that will be done.

MR. SMITH (Mobile) — The gentleman from Montgomery that first spoke (Mr. Jones) said that this was a novel proposition. I know that is eminently correct. So far as I know, the qualifications of an elector has never in the history of this country, been submitted to trial before a court or a jury, so that the proposition now to give to those people who are denied by the registrars the right to register, a trial of that question by a jury, is a novel proposition, and the gentleman could hardly expect in an entirely new proposition an old procedure in exact terms. In substance, however, it is not a novel proposition to have the right of man to participate in an election determined without a charge by the judge to the body ascertaining that fact. In the majority of the States, as it has been in this State, those qualifications, whether fixed or not entirely fixed, have been determined by a Board of Registration. In other communities, however, there have been in the history of this country a process of selection. In some places they were selected by the people; no trial of their suffrage but the people who had the right to vote simply got together and said what other citizens should have the privilege. No trial by a judge, no right of appeal, no other jurisdiction. They have had an election by legislatures, who simply got together and elected such people as they thought fit to participate in this right of becoming a member of the electorate. In that case there is no evidence, there is no trial, there is no charge. In other cases it has been determined by the two bodies who collected and selected men, sometimes the governing body of a town simply got together and they came in. Sometimes as to certificates of the character and qualifications of the people, sometimes without, and they sat there and without evidence determined that question. So it is not a novel proposition that some body, some representative of the body of the county should get together and from their general knowledge of the person, from the circumstances of that person in the community and their standing, select him and declare him to be a fit person to participate in this right. In fact, so far as I know, it is the only method, sometimes in one part sometimes in another, but it is the only method in this country whereby the right to vote has been determined. Now, we have gone a step further than any other State that I know of. We have declared that these electors shall determine in the first place whether a man has the particular qualifications we have laid down. If they determine it in favor of the citizen that ends it and that is as far as the majority of the other States have gone. We go further, however, in behalf of the right of the citizen and we say, if that Board determines it against you, you may appeal to a jury, you shall select that jury just as juries are selected for the trial of other causes. You have your challenges and the other side have their challenges. You may offer evidence as to your right and qualifications. It was the purpose of this Committee to allow a jury, a body of men selected from the

county, who would be familiar with the circumstances and the character of its people to determine as a fact from that evidence whether that man had these qualifications, or did not have them, and it was our purpose that the judge should not take that question away from that body of men by charges upon technicalities as to the law or as to the evidence. Mr. President, there was another purpose in it. We wanted to make this as simple a procedure as could be made and involve as few questions of litigation as consistent with the rights sought to be enforced. We did not care to have appeals to the Supreme Court upon a charge of the judge and the reversal and coming back, perhaps, a new appeal upon a number of technical questions arising out of the charge of the judge upon the various phases of the case, we wanted to reduce the litigation as far as it could be without sacrificing the right of the man who sought admission to the electorate.

MR. JONES—Will the gentleman permit a question? If the section stands as it is, is it the opinion of the Committee, if an appeal was taken to the Supreme Court—passed de novo on the facts.

MR. SMITH—No, sir.

MR. JONES—What is the appeal from?

MR. SMITH—Rulings on the evidence. Did the gentleman from Montgomery never hear of an appeal taken from the rulings of the court upon the evidence in a cause.

MR. JONES—I expect I have.

MR. SMITH—I expect the gentleman has. The purpose was to reduce it. We are here to some extent, trying an experiment, we are trying to frame under new circumstances a method for the purpose of reaching a higher electorate. The eyes of the world are upon us. There are many trying to criticize us. It doesn't make any difference what our plans are, we are subject to criticism, whenever there is an opportunity to do so. Suppose when this subject comes up, when being considered by people not altogether friendly to the State of Alabama and to the South and one learned judge of the circuit bench says our suffrage plank means one thing and before it is determined by the Supreme Court another Circuit Judge says it means another thing and still another judge says it means another thing. The doors for attack upon us will be thrown wide open and we will have the energetic newspapers undertaking to stir up strife, contending that the whole thing is fraudulent, that a number of learned judges have disagreed and that nobody knows what it means. The purpose of the Committee was not to go beyond the well settled method to determine this by the body of the county, when to go beyond it would necessarily throw the door open.

MR. OATES—If there is going to be such a difference in the judges on the Constitution, the provision would require him to charge what it means.

MR. SMITH—Pardon me, I don't so read it. I read that it requires him to charge what are the qualifications only and those qualifications are written in plain English and it is for the jury to say and not for the judge.

MR. OATES—As to what constitutes qualifications?

MR. SMITH—Yes, sir; and we have written what constitutes qualifications in this Article, and then it was the intention of the Committee which is borne out by the language that the jury should determine it.

MR. ASHCRAFT—I rise for information, if the word "only" is contained in this clause, suppose in a case on trial evidence has been given on behalf of the voter or the person apply to the register and the solicitor should ask the court to rule it out on the ground that it was hearsay evidence. Now, if the word "only" is retained in there, how could the court charge the jury that the evidence which was before them was hearsay evidence and that they were not authorized to consider it?

MR. SMITH—They could not, but in ruling it out could tell the jury so. It would not be a part of the charge of the judge to the jury. He could say, I sustain it, and rule out that evidence.

MR. ASHCRAFT—Wouldn't that constitute a charge?

MR. SMITH—No sir.

MR. OATES—If the word "only" be out, would it not still require the judge to charge the jury just as is required if you leave the word in there and simply allow him to charge something else outside. He could not give the affirmative charge with a word in there.

MR. SMITH—I construe it that he could—that is my view of it.

THE PRESIDENT—It has been moved to lay the amendment on the table.

MR. JONES—On that I ask for the ayes and noes.

The call for the ayes and noes was not sustained.

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

Upon a vote being taken the subdivision was adopted.

The Secretary read the seventh subdivision as follows:

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 shall be paid by the State, the bills therefor to be rendered to the Secretary of State and approved by him.

MR. WHITE—I move the adoption of that subdivision.

MR. SLOAN—I wish to offer an amendment.

The Secretary read the amendment as follows:

"Amend Section 10, seventh subdivision, by adding at the end, 'said registration board for each county shall be composed of one registrar from three different duly organized political parties as far as practicable, to be appointed on the recommendation of the County Committees for each party, respectively. If any party fails after thirty days to recommend some person for appointment, the Board shall make the appointment upon its own responsibility.'"

MR. WHITE—I raise the point of order that it is not germane to the subdivision.

MR. REESE—I move that the amendment be referred to the Committee on Wit and Humor.

THE PRESIDENT—The whole Section applies to the appointment of registrars.

MR. WHITE—I submit that it is contemplated at the end of the Section when we have gotten at the end of the subdivision.

THE PRESIDENT—This seems to be the last. This is the last subdivision, it appears to the Chair.

MR ASHCRAFT—I have an amendment.

THE PRESIDENT—So far as consistency or compatability of the amendment, Mr. Reed, in his book on rules, says "an amendment may be inconsistent or incompatible with the words left in the bill or with other amendments already adopted, but that is for the assembly to decide, and not for the presiding officer." It might seem to some a little out of place at this point, but it is not for the Chair to rule it out of order. Does the gentleman desire to discuss the amendment?

MR. SLOAN—Only a few words. I have not heretofore consumed any time of the Convention and would not at this time, had I not felt it a duty upon me to offer an amendment in justice to a large minority of the people of this State. Now, Mr. Presi-

dent, I have not lost all confidence in the Democratic Party. I did not mean to say that by offering this amendment, but I do think that this Board of Registrars is a modern Caesar, and now, Mr. President, I would like a representative of my party to have a share in the trinity. I do not think that the amendment offered by the gentleman from Montgomery this morning would have reached the results he was looking for, because the majority of the registrars would have been of one party—it matters not what party that is. I tell you when a close political campaign comes, partisanship will be shown, it will be shown in the Populist Party, it will be shown by the Republican Party and it likewise will be shown by the Democratic Party. Now, that is true, no delegate on this floor will dispute that proposition. It is certainly true and the adoption of this amendment will save, in my opinion, a great many appeals from the Board of Registrars. Now, if a man is ruled out from voting by the registrars, all of one party, he will feel that he is wronged. It matters not what he is ruled out for, or anything of that kind, the first impulse of his nature will be that he has been wronged. Now it may be possible that he will not be wronged. I do not say that the registrars of the Democratic Party will mean to wrong anybody, but I put it to you, if that will not be the first impulse of every man that is disfranchised under this proposition. Now there is nothing unjust about the proposition. Let us have representative from three political parties.

MR. deGRAFFENREID—Do you believe that these registrars want to disfranchise the white men of Alabama?

MR. SLOAN—Do I believe it?

MR. deGRAFFENREID—Yes.

MR. SLOAN—Yes.

MR. SLOAN—Well, I don't know.

MR. deGRAFFENREID—I want to find out—is that your opinion?

MR. SLOAN—Well, I don't know whether I believe that or not. I would like to ask the gentleman a question before he sits down. Do you believe it?

MR. deGRAFFENREID—I know that they do not.

MR. SLOAN — Let me ask another question—how do you know it?

MR. deGRAFFENREID—Because the Democratic party has pledged itself not to do so.

MR. SLOAN—Yes, the Democratic party pledged itself not to hold this Convention in session more than fifty days — now, what will you do with that proposition.

MR. deGRAFFENREID—Will you show to us where they made that pledge.

MR. SLOAN—I will ask this question, if there is a delegate in this house that will rise and say that they did not endorse the act provided by the Legislature for this Constitutional Convention?

MR. deGRAFFENREID—I am trying to find out where the Democratic party said it would remain only fifty days in session.

MR. SLOAN—I don't know, only that a candidate from our county came back, and told us and I thought it was true. I never found out that it was not. I hope the Convention will adopt this amendment. I think it is nothing but justice, and a large minority under the whole section as it is will not have representation before the Board of Registrars and I think they ought to have it.

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

MR. MORRISETTE—Will the gentleman from Blount permit an inquiry? I would like to ask the gentleman if in his experience in politics——

MR. SLOAN—This is my first experience, I want to tell you.

MR. MORRISETTE—To appoint one Republican, a Populist and a Democrat, if you will ever register any body?

MR. CHAPMAN—I insist upon my motion.

MR. MORRISETTE—I ask the gentleman to please answer my question. I ask it in good faith.

MR. SLOAN—I will answer the question. I think it will depend altogether upon the Registrars about that.

MR. MORRISETTE—One a Republican one a Democrat and one a Populite, could you get those three people together, on any proposition on earth. I never agreed with a Populite on any proposition in my life, and if I was a member of the board I could not agree with one.

MR. SLOAN—You remind me of the gentleman that was always fussing with his wife. She had been trying to please him in every way possible and when he came to his dinner she met him at the door with his dinner on a plate, and finally he found out he could not find any other way to get a row with her, he threw the plate on the floor and it broke all to pieces. He said, it is row I want and a row I am going to have. (Laughter.)

THE PRESIDENT—The question is on the motion of the gentleman from Sumter to table the amendment of the gentleman from Blount.

A vote being taken, the motion to table was adopted.

MR. WHITE—I move the adoption of the subdivision 7, and on that I call for the previous question.

MR. LOMAX—Will the gentleman please withdraw that—I have an amendment.

MR. WHITE—I withdraw it, but I hope the gentleman will renew it after the amendment is read.

The Secretary read the amendment as follows: "that the Legislature shall by law provide for the purging of the registration list of the names of those illegally registered or those who die, become insane, convicted of crime or otherwise disqualified as electors under the provisions of this Constitution.

MR. WHITE—I will state to the gentleman from Montgomery that we have just such a provision as that which I think will be more appropriate at another place.

MR. LOMAX—I did not know. I will withdraw my amendment.

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

A vote being taken the main question was ordered, and a further vote being taken the subdivision was adopted.

The Secretary read an amendment to Section 10 to be inserted at the end of the section and numbered subdivision 8, introduced by the committee, as follows:

"Any elector who registers for another, or registers more than once, any registrar who enters the name of any elector on the list of registered voters without such elector makes application in person or under oath on the form made for that purpose or who knowingly registers any person more than once, or knowingly enters the name upon the registration list as a registered voter when no one of that name applied to register."

MR. WHITE—I move the adoption of that subdivision.

Upon a vote being taken the subdivision was adopted.

MR. FITTS—I make the point of order that the section has not been adopted. I move the adoption of the section as a whole and call for the ayes and noes.

THE PRESIDENT—We have adopted it subdivision by subdivision and we have adopted each one of the subdivisions and it does not seem to the Chair to have a separate vote upon each section.

MR. WEATHERLY—I was just going to submit, Mr. President, we have been adopting a section as a whole and the purpose is to cut off a substitute for the entire section.

MR. PRESIDENT—The question will be on the adoption of the section as amended.

Mr. Fitts sought recognition.

THE PRESIDENT—The Chair asks pardon for not submitting the question for the ayes and noes. It will be submitted now. Is the call sustained?

The call was not sustained.

The Secretary read the section as follows:

Section 11.—The Board of Registrars in each county shall, on or before the first 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 names 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 first 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 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 first day of January, 1903, shall remain an elector during life, and shall be required to 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.

MR. WHITE—I move the adoption of Section 11.

MR. SPRAGGINS—I have an amendment.

MR. VAUGHAN — I wanted to suggest to the Committee, where it says reside, it ought to be resides.

THE PRESIDENT — Does the gentleman from Jefferson catch the suggestion of the gentleman from Dallas.

MR. WHITE—I did not hear it.

MR. VAUGHAN—I wanted to call the attention of the Committee to a grammatical error in the fourth line of Section 11 the word "reside" shall be "resides."

MR. WEATHERLY—Yes, sir.

MR. WHITE—Mr. President, we accept the correction and ask leave to have it corrected by unanimous consent.

Unanimous consent was given and the correction was made.

Mr. Spraggins offered the following amendment to Section 11: "To amend Section 11 by adding after the word 'county' in the third line the following words: 'showing the age of such persons so registered.'

MR. WHITE—We accept that or at least we will ask unanimouse consent of the House to accept that amendment.

Unanimous consent was given and the amendment was adopted.

MR. CARMICHAEL (Coffee)—I want to know a little about this section. It seems to me if I heard it correctly the general election in 1902, the November election, will be held under the new registration. I would like to ask the acting Chairman of the Committee if this is correct. Will not the general election in 1902 be held under the new registration.

MR. WHITE—Yes, sir; certainly.

MR. CARMICHAEL—Well, how will Probate Judge of each county have the lists of the registration made up to the time in his possession in order that he may make copies from them as required under the present law to send out to each beat, each polling place, if the lists are not turned in prior to January, 1903. Of course they could be turned in but there is no provision made here for a partial return of the list up to that time. It seems to me the section, as I understand it, is a little lame.

MR. WHITE—The idea is each voter will have a certificate.

MR. CARMICHAEL—And will have to present that certificate and there will be no list.

MR. WHITE—The list contemplated to be made is a permanent record not for that purpose, but a permanent record to be kept in the office of the Probate Judge and Secretary of State.

MR. CARMICHAEL—If a man loses his certificate he has to get another, as under the Sayre election law, before it was amended by the Code.

MR. WHITE—Provision is made for getting a certificate at any time without cost.

MR. LONG (Walker)—I rise to a point of order. I want to ask a question. Does he object to having the color given. I know three or four negroes in Alabama known as "Tom Long."

MR. CARMICHAEL—Mr. President, it seems to me a little hard for a man to present that certificate where he has to vote. He might have moved to another beat, and it is true the legislature will have the right to make changes and additions to this election law not in conflict with the Constitution, but serious trouble might arise at the first election, it seems to me in this regard. At present the people are used to not keeping their certificates, but to going there and voting. There is a quasi permanent list now.

MR. LONG (Walker)—I would like to—

THE PRESIDENT—Does the gentleman yield?

MR. CARMICHAEL—Yes, sir.

MR. WALKER—It would be impossible for the list to be furnished to the Probate Judge or any one else because the registration continues up to date of election and is not completed until after the election in 1902.

MR. CARMICHAEL—I just wanted to know about that. I am not especially interested in it, but I thought perhaps it would be better to have this—I have no amendment to offer. I asked for information more than anything else.

MR. THOMPSON—I desire to offer an amendment.

The amendment was read as follows:

"To amend Section 11 by adding at the end thereof the following, 'the Circuit Courts, or courts of like jurisdiction, shall have the authority to strike from the roll of registered electors the name of any person not legally on such roll, upon application of any qualified elector, when shown the reasonable satisfaction of such court that the name of such person was illegally on such roll, and the trial by a jury may be had upon the demand of either the applicant or the elector, such trial to be without cost to either party for such trial."

MR. WEATHERLY — Will the gentleman allow a suggestion?

MR. THOMPSON—Yes sir.

MR. WEATHERLY—As stated by the Acting Chairman a while ago, when Mr. Lomax of Montgomery, made a motion to the same effect there is an amendment to be offered by the Committee at the proper place authorizing the Legislature to provide for

purging the list. I thought perhaps that might be satisfactory to the gentleman.

MR. THOMPSON—I do not understand that the amendment as offered by Mr. Lomax went to the extent that this does. As I understand it, that simply provided for purging the list of those who have died or become insane, or convicted.

MR. WEATHERLY—Oh, no, all who are illegally registered.

MR. THOMPSON—Then I withdraw that amendment.

MR. WHITE—Mr. President, is that amendment withdrawn.

THE PRESIDENT—It is withdrawn.

MR. WHITE—Then I move the adoption of the Section, and upon that I call the previous question.

THE PRESIDENT—It is moved that the Section as read be adopted, and upon that the gentleman from Jefferson moves the previous question. Does the gentleman from Jefferson withdraw his motion in order to permit the gentleman from Etowah to offer an amendment. He has sent one to the desk.

MR. WHITE—I did not, but I will withdraw it.

THE PRESIDENT—The Secretary will read the amendment of the gentleman from Etowah.

The Secretary read the amendment as follows:

"Amend Section 11 by inserting in line two, after the word '1903' 'or as soon thereafter as possible,' and in line six, after the words '1903' the words 'or as soon thereafter as possible.'"

THE PRESIDENT—The question is upon the amendment of the gentleman from Etowah. The gentleman from Etowah.

MR. DAVIS (Etowah)—I take it that these words while they have the mandatory "shall" in there are intended to be merely directory. It is certainly possible that some untoward circumstance might prevent these registrars from certifying.

MR. WHITE—I think if we put the word "practicable" instead of "possible," the Committee will accept it.

MR. DAVIS—That is all right. I would be glad to have the word "possible" substituted.

Unanimous consent was given for the change to be made.

THE PRESIDENT—The question is upon the adoption of Section 11 as amended.

Upon a vote Section 11 was adopted as amended.

The Secretary read Section 12 as follows:

Sec. 12. From and after the first 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 of his employer or employers, if any, during such period. Any applicant for registration who refused 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.

MR. WHITE—I move the adoption of the Section as read.

MR. PRESIDENT—The question is upon the adoption.

MR. WHITE — I ask you to wait a moment, we have an amendment.

MR. LOMAX—Mr. President, I offer this amendment, "By adding to Section 12, 'the Legislature shall by law provide for purging the registration list of names illegally registered, and of those who may die, become insane, convicted of crime, or otherwise disqualified as an elector, under the provisions of this Constitution.'"

MR. WHITE—I wish to state to the gentleman from Montgomery that the Committee has accepted the amendment.

MR. LOMAX—I simply desire to make a statement that this amendment is the adoption of the idea of Chancellor Kelly, expressed in a letter read to the Convention some days ago.

MR. REESE—Will the gentleman allow a question? I could not hear the reading distinctly, does that provide for cases after the first registration, or go into disabilities that might have existed at the time of the registration?

MR. LOMAX—I think it covers all registrars, sir. It gives general authority to the Legislature to make provision for purging the registration list at any time.

MR. REESE—I desire to ask a further question. Under that provision could they go into and purge this registration list of people who have not registered on account of having good character?

MR. LOMAX—They could only be purged for causes set out which does not include I think such a case as you state. I will ask the Secretary to read the amendment.

The Secretary again read the amendment.

MR. REESE—I do not like to find any fault with the amendment the Committee has accepted, but I suppose these gentlemen have carefully considered these questions. I think that by this amendment, if passed, is presented a dangerous proposition. It may be dangerous. It may be loaded or not. But I think it is a proposition which before it is enacted in the organic law of this State should have received the consideration of this Committee on Suffrage. It may be that I would be prepared to support it. I think it is possible that under that amendment the guarantees that have been put here, and that we have been referring to in this report, might all be swept away, and, Mr. President, I am opposed to the adoption of it at this time. I think the Committee ought to consider it and I move therefore that the amendment be referred to the Committee on Suffrage.

The President—It is moved that the amendment offered, with the section, be referred to the Committee on Suffrage and Elections.

MR. PILLANS — As a substitute, I shall, after addressing myself to the question, move to lay on the table the amendment offered. Mr. President, in the adoption of the Constitution of 1868, I think we have had in Alabama a registration plan. I think I am safe in saying because I became a voter in '68. I have practiced law since 1870, and while I do not know all the law, I think I am safe in saying that we have never found it necessary to provide by law for purging a registration list although we have registration after registration in the State of Alabama. This is a novelty introduced without any sufficient reason for it given, and the novelty I can see no foundation for. Look at the consequence that might flow from the adoption of this novelty. We are guarding as far as possible the right of the citizen to vote, to go on the registration list. We are doing what we can to have a fit electorate for the State of Alabama; we are guarding it with all caution and care we can and yet here is a proposition to leave to the Legislature the right to purge those lists in any manner it may see fit, possibly without notice to the electors. We do not know how his name or the names of sundry electors. Where is the necessity for this? If a man is registered and finds his name cannot be voted afterwards, and has never been voted lawfully afterwards, and has never been found in the experience of the State necessary to go annually through the list and purge the list where is the necessity of introducing this novelty and disturbing the harmony of the report. For that reason I move to lay the amendment on the table as a substitute for their motion.

MR. WHITE—I hope you will withdraw the motion to table for a moment. I will renew it for you.

MR. PILLANS—I withdraw.

MR. WHITE — The gentleman from Mobile says we have never yet had occasion in Alabama to purge a registration list. A reply to that may be made in this way. We have never before had a life list. This is the first time in Alabama we have ever provided for a life list and we know of necessity men will die, some will be raised, some will move from one precinct to another, some will move from one county to another, some will move from the State entirely and this simply means that the Legislature shall provide for purging this list of names that might be used for illegal purposes.

MR. REESE—May I ask a question?

MR. WHITE—I yield to the gentleman.

MR. REESE—With that provision in there, purging it of the names of persons who have been illegally registered, would that not tend to open the flood gates wide open so that any name could be stricken off them, and with your temporary plan of registering the people until 1903, be any protection to them, to men who have got their names on there, and if they have it there for life, as long as they behave themselves.

MR. WHITE—I will answer that this way. It will not open the flood gates unless the flood gates have been opened too late with any improperly and illegally, and if the flood gates have been opened for that purpose, then the flood gates ought to be opened to let them out. Certainly we can trust the law of the land and the officers of the State in enforcing that law to see that justice is done to every section and to every voter.

MR. HARRISON—I desire to ask the acting chairman if the Legislature would have it, but there are people in Alabama who are afraid now that a vast number of people will be illegally registered, that is that there will be a fictitious registration, and this provision carries with it confidence to the country, that if such is done, it shall be obviated. In fact it has been charged on the floor of this Convention that such is the case, and I hope, Mr. President —yes there are a great many things I might say, but it seems to me that this is quite sufficient, and I hope that the motion to table the amendment will not prevail, and I renew it at the request of my friend from Mobile.

MR. PILLANS—I would ask, Mr. President and gentlemen of the Convention, whether it is not a fact that the registration of the electors in Alabama has not been a registration that lasted for long periods, years before there was a new registration ordinarily.

MR. WHITE—That is not my information, not since I have been in the State, that has not been so. That may have been so in the distant past.

MR. PILLANS—I will ask the gentleman if it has not been the experience of this State since the Constitution of 1875, there

have not been exceeding four registrations, and if so, how many in excess.

MR. WHITE—Admitting that that is so, though I do not admit it, that is not a good reason why this list should not be purged, it ought to be purged.

MR. O'NEAL—I will ask a question. This uses the words "Purge the registration list of names illegally registered." Now suppose the Board of Registrars should admit a man of bad character. Are you to give the Legislature power to revise that action?

MR. WHITE—No, sir, that is not contemplated by that at all. That is a discretion vested in this board that cannot be divested by some subsequent proceeding.

MR. O'NEAL — Well, is the Legislature then to determine who is legally or illegally registered?

MR. WHITE—No, sir, the Legislature does not have anything to do with that except to enact a law by which it may be done, if it is ascertained to have been done. I hope the motion to table will not prevail.

THE PRESIDENT—The question is upon the motion to table the amendment offered by the gentleman from Montgomery.

MR. WILLIAMS (Elmore)—I make the point of order the motion to re-commit was made before the motion to table.

THE PRESIDENT—That is true, but the motion to table outranks the motion to recommit and has precedence, and the motion to table must first be submitted under our rules. If the gentleman will examine the order of precedence of motions in his book of rules——

MR. O'NEAL—Is that subject to amendment?

MR. WILLIAMS—My purpose was that if it was not in order, then I would move to table the motion to recommit.

THE PRESIDENT—There is already a motion to table pending. The question is upon the motion to table the amendment offered by the gentleman from Montgomery.

Upon a vote being taken, the motion to table was lost.

THE PRESIDENT—The question now is upon the motion of the gentleman from Dallas to recommit the section and amendments to the Committee on Suffrage and elections.

MR. HARRISON—I desire to advocate that motion. I think so far as the right of the Legislature to make these lists conform to the provisions of the Constitution, it would have ample power

to do so without any mandate in the Constitution itself, but from a casual reading of this amendment, it occurs to me that the Legislature is given a supervisory power over the Constitution itself, which I do not think it ought to have. I think to carry out the idea that had first been suggested in advocacy of this amendment that it was to take names off of the list of those who had died, or been convicted or where there had been any judicial ascertainment of a disqualification, the Legislature would be duty bound to carry into effect the provisions of the Constitution, but I am unwilling, and our Chairman of this Convention would be unwilling, for the Legislature to supervise or rehear the action of the registrars or any tribunal designated by the Convention for the purpose of passing on an elector.

MR. LONG (Walker)—How could it provide unless given authority by the Constitution, to take a man off for life, when, under Section 13 here, it says that unless he becomes disqualified under the provisions of this Article?

MR. HARRISON—He is to remain so for life, provided he is not disqualified.

MR. GRAHAM—I move to lay the motion of the gentleman from Dallas on the table.

MR. O'NEAL—Let us discuss the matter a moment.

MR. GRAHAM (Talladega)—I did not think a discussion ought to come up on a motion to recommit. The merits of a proposition are not properly discussed, and I renew my motion to lay the motion to recommit on the table.

MR. REESE—I desire to ask for an aye and no vote.

The call was not sustained.

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

Upon a vote being taken, the motion to table was carried.

MR. THOMPSON—I desire to re-offer my amendment as a substitute for the amendment offered by the gentleman from Montgomery.

The Secretary read the amendment as follows: "Amend Section 12 by adding at the end thereof the following: 'The Circuit Courts, or courts of like jurisdiction, shall have the authority to strike from the roll of registered electors, the name of any person not legally on such roll, upon the application of any qualified elector, when it is shown to the reasonable satisfaction of such court that the name of such person was illegally on such roll, and a trial by jury may be had upon the demand of either the applicant or

the elector, such trial to be without cost to either party to such trial.' "

MR. THOMPSON—I do not care to make a speech on that. I simply say to make its meaning clear: The only difference between that amendment and the one offered by the gentleman from Montgomery is that it is self-executing, and it places now in the hands of the courts this matter of purging the list, instead of leaving it to the discretion of the General Assembly. It provides that upon the application of any qualified elector, to the Circuit Court, the name of any person improperly on the roll may be stricken from it, upon proof being made to the court sufficient to reasonably satisfy the court that such person was illegally registered. That does not leave it subject to rejection that has been suggested that some one could urge against the ratification, that this was left within the province of the Legislature to name any arbitrary cause by which names might be stricken from the roll, but it provides that the courts, which, of course, means the courts of the county in which such person was registered, shall pass upon that question, and on that matter a jury trial may be had. A jury trial has been mentioned here in other instances in this Article. A trial may be had before a jury, and they must be reasonably satisfied that such person was illegally registered. Now then, gentlemen, I think this amendment would go a long ways to satisfy the opposition and meet objections that have been made that it was the deliberate attempt or purpose of some people to pad this registration roll to register the negroes in the Black Belt. This is a sufficient guarantee against that.

MR. MACDONALD—I rise to a point of inquiry. Does not your amendment merely provide for the ascertainment by the court as to whether or not the elector was in the first instance properly entered upon the list? Is not the court limited to that inquiry, and not to matters that occur afterwards?

MR. THOMPSON—I do not so understand the wording. It would apply to those who are illegally on the roll at the time the application is made to the court whether he is dead, convicted, insane, or whether he was never in existence; whether there was never any such person.

MR. MACDONALD—Does not your amendment say whether properly registered in the first instance. As I caught the word, it seemed to be better that way.

MR. THOMPSON—I did not mean for it to be that way, and do not think it does.

MR. HOOD—I will state that the committee are of the opinion that this matter should be considered in the Committee further and that the whole matter should be recommitted.

MR. THOMPSON—Then I will make a motion that the section with amendments, be recommitted to the Committee on Suffrage and Elections.

MR. WHITE—I wish to say in behalf of the Committee that we have no objection to that.

A vote being taken the motion to recommit was carried.

The Secretary read Section 13 as follows:

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.

MR. WHITE—I move that the section be adopted.

Upon a vote being taken, Section 13 was adopted.

Section 14 was read by the Secretary as follows:

Sec. 14. 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 provisions 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.

MR. WHITE—Mr. President, it is thought by a number of the Committee that the amendment about which we have been debating, and which has just been recommitted, will most properly come in Section 14, than in Section 12, and I therefore ask to have Section 14 passed until the Committee has acted upon the matter that was just recommitted to it.

MR. O'NEAL—Let us adopt Section 12, then.

MR. WHITE—We cannot adopt Section 12 now, because that has been recommitted. We can go onto the other sections.

THE PRESIDENT—You ask to have Section 12 passed temporarily?

MR. WHITE—Section 14.

THE PRESIDENT—It is moved that Section 14 be taken up after the other sections have been disposed of.

A vote being taken the motion was carried.

The Secretary read Section 15 as follows:

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.

MR. WHITE—This is simply a copy of the old constitution. I move its adoption.

MR. OATES—Before that motion, I rise to a point of Parliamentary inquiry. The words are used all along there "The General Assembly and in the Legislative Department "Legislature" has been adopted. The inquiry is to ascertain if the Committee on Harmony, Consistency, etc. would have the right to change those words to read "legislature."

THE PRESIDENT—It seems to the Chair that the Committee would have that right. The question is on the motion to adopt.

A vote being taken the section was adopted.

The Secretary read Section 16 as follows:

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.

MR. WHITE—I move the adoption of that section. It is an exact copy of the old section in the old Constitution.

Upon a vote being taken, Section 16 was adopted.

The Secretary read Section 17 as follows:

Sec. 17. Returns of elections for all civil officers who are to be commissioner by the Governor, except Secretary of State, Auditor, Treasurer, Commissioner of Agriculture and Industries, Attorney General and Superintendent of Education and for members of the General Assembly, shall be made to the Secretary of State.

MR. WHITE—That is exactly as it is in the old Constitution, except that it adds the new officers that have been made constitutional officers since that time. I move its adoption.

MR. REESE—I would like to ask a question.

THE PRESIDENT—Does the gentleman yield?

MR. WHITE—Yes sir.

MR. REESE—It says, returns of elections for all civil officers who are to be commissioned by the Governor, except the Secretary of State, Auditor, Treasurer and Commissioner of Agriculture—now where do the returns of the officers go to.

MR. HOWZE—There ought to be an amendment offered before it is put, and Lieutenant-Governor ought to be put in, and I make a motion that it be amended and that Lieutenant-Governor be put in after the word Governor.

MR. JONES (Montgomery)—The Lieutenant-Governor is not required by the Constitution to be commissioned by the Governor. He is declared elected by the Speaker of each house.

MR. HOWZE—Neither are the members of the General Assembly commissioned by the Governor. They are in here. I withdraw the amendment.

THE PRESIDENT—The Chair had submitted the question on the adoption of the Section, and has taken the ayes, and now wishes to hear from the noes.

A vote being taken, Section 17 was adopted.

Section 18 was read by the Secretary as follows:

Sec. 18. The poll tax mentioned in this Article shall be $1.50 upon each male inhabitant of the State over the age of 21 years, and under the age of 45 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.

MR. SAMFORD (Pike)—It seems to me that the regulation of the poll tax should not be taken entirely out of the hands of the Legislature. We ought to consider in this connection the fact that we are attempting to make a law which we hope may continue in force a number of years, and at some subsequent time, the General Assembly or the people, might see fit to make some changes in the poll tax laws as they now exist. I don't doubt that some effort will be made along that line unless this restriction is placed in the Constitution. I desire to submit an amendment for the consideration of the Convention, and I think it deserves some thought. I have no pride of opinion with regard to the amendment, but I shall favor it.

The amendment was read as follows: "Amend by striking out in Section 18 all before the word 'poll,' in the third line."

MR. SAMFORD (Pike)—I want to strike out everything before the word "poll", in the third line, and let that be the beginning of the section.

(Mr. Weatherly sought recognition).

THE PRESIDENT—Let the Chair state the question first. The question will be on the amendment offered by the gentleman

from Pike to Section 18, as reported by the Committee on Suffrage and Election.

MR. WEATHERLY—I think the gentleman from Pike leaves out of mind the fact that the payment of the poll tax is made a prerequisite to the qualification for voting. Heretofore it has been just the amount and the payment of the poll tax and nothing more, but after the ratification of this Constitution, should it be ratified, it will become a qualification for the exercise of the electoral franchise, and the people of the State want to know definitely what it is they will vote to pay.

MR. SAMFORD (Pike)—The amendment I suggest would have the effect to keep the payment of the poll tax as a part of the qualifications.

MR. WEATHERLY—But the amount would change. This is the only place, as I recollect it, where the amount of the tax is mentioned, and the age. Now the Committee did not think—and I believe I am speaking for the whole committee in saying so—that it would be well to leave it to this, that or the other Legislature to change that amount from a dollar and a half to two dollars or three dollars, or perhaps five dollars, or more, or change the age or have a fluctuating qualification according to the fancy or caprice or political complexion of the Legislature. We think the people prefer to have it known definitely what the qualifications shall be. For that reason, I trust that the amendment offered by the gentleman will not be adopted. I move to lay the amendment on the table.

Upon a vote being taken, the motion to lay the amendment on the table prevailed.

MR. REESE—I desire to offer an amendment.

The amendment was read as follows: "Amend Section 18. Strike out in second line 'forty-five' and insert 'sixty.'"

MR. CARMICHAEL (Colbert)—I have an amendment to the amendment, which I desire to offer.

MR. REESE—Have I the floor?

THE PRESIDENT—Yes, sir. Do you desire to yield for the purpose of hearing the amendment to the amendment read?

MR. REESE—Yes, sir.

The amendment to the amendment was read as follows:

"Amend Section 18 by inserting after the word 'law,' in the third line, the following: 'Providing that the male inhabitants of the State who shall be over the age of forty-five years at the adoption of this Constitution, shall never be required to pay a poll tax.'

Also by striking out in Section 18, in line two, the figures '45' and inserting the figures'60.' "

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

MR. WEATHERLY—I ask for the reading of the amendment. There was so much confusion I did not hear it.

The amendment was read as requested.

MR. CARMICHAEL (Colbert)—I presume it will hardly be necessary to explain the effect of the amendment if the gentlemen of the Convention have paid attention to its reading.

MR. OATES—I call the attention to the use of the word "adopted." The adoption of this Constitution refers to its adoption by the Convention.

MR. CARMICHAEL—I ask unanimous consent to substitute "ratification" for "adopted."

This article says the poll tax shall be a dollar and a half, and, with the amendment, it would apply to all under the age of 60 who would not now be exempt by law, provided that those over the age of 45 years, at the ratification of this Constitution shall never be required to pay a poll tax.

Now, I have never seen why a man at 50 years of age should not pay a poll tax. I suppose that there was never any particular reason for it. It certainly seems to me that a man at 50 or 55 or 60 years of age would be just as able, and, under just as much duty, to pay a poll tax as a man of 21 years. The amendment does not affect those citizens who, at the time of the ratification of this Constitution, are over the age of 45, and I hope the amendment will be adopted.

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

THE PRESIDENT—The Chair will recognize the gentleman from Jefferson.

MR. HOWZE—I was going to make the same motion. I think it very unwise for us to change the policy of the State in this matter of poll tax now. It would certainly be increasing taxes which we are pledged not to do. I, therefore, move that the amendment and substitute be laid upon the table.

MR. REESE—I will ask the gentleman to withdraw his motion for just a few minutes that I may make a few remarks.

MR. HOWZE—If he will renew it, I will withdraw it.

MR. REESE—Here you are constructing a plan by which the Black Belt will live or die. I have no confidence in the proposition that is made here by the Suffrage Committee, except the poll tax provision. That is the safest. This other is experimental. I believe a small poll tax to be collected at the time these gentlemen have provided will help the Black Belt and enable us to preserve ourselves. In my section, a man gets 45 years of age very soon. He has to work the roads until he is 45, and nearly every negro in the county that has been a man for five years is 45 years of age, and if we are going to turn loose a voter who is otherwise not qualified when he reaches the age of 45, you leave my people in a bad fix. I hope this Convention will not table the proposition. I hope you won't leave us in the fire where we cannot march up ten thousand strong in my county to help you adopt this Constitution, but if you keep on like you are doing here to try to let in ignorant and thriftless people in other sections, I am glad to have them vote. But, Mr. President, we cannot surrender ourselves to the negroes for the purpose of allowing a few thriftless men in North Alabama to vote, and Mr. President, I tell you to mark my word, if you put the proposition to our people where they are distrustful of the results—of what these provisions will mean to them —if the black belt is distrustful of what their future will be under this Constitution, the results will at least be uncertain.

MR. CUNNINGHAM—Is it not a fact that this is not a tax but a voluntary contribution to the State?

MR. REESE—Yes, sir.

MR. CUNNINGHAM—Therefore it would not be raising the taxes.

MR. REESE—It would not.

MR. CUNNINGHAM—And there if any citizen after forty-five years of age prefers not to pay his poll tax and disfranchise himself, it would be a voluntary action on his part. It is a good thing and ought to pass.

MR. O'NEAL—I think so.

MR. SLOAN—The gentleman said the man who was a man for five years in his county was of the age of forty-five. I will simply ask the gentleman how old he is.

MR. REESE—I speak of the negroes who want to keep from working the road, and a man who would lie out of road duty would avoid a poll tax.

MR. CUNNINGHAM—I think this amendment here has raised an exceedingly important and practical question. I myself do not look upon it as raising taxes, and I with the gentleman from Dallas endorse the sentiment that this is one of the principal

measures we will have for the regulation of the suffrage when the permanent plan goes into effect. The amendment as it now stands and was accepted by the gentleman from Dallas, will not be retroactive on any citizen who has reached forty-five years of age at the time of the ratification of this Constitution. I do not know whether this Convention is ready to act on this amendment at this time and I therefore move that this section with the amendment be recommitted to the Committee on Suffrage and Elections.

MR. OATES—I do not like the provision reported by the committee requiring a poll tax to be paid from the age of twenty-one to forty-five years, and no further. They have in this report declared against any law for the enforcement of the collections of the poll tax. If there is no law for its enforcement, what is the objection to extending the age? If a man chooses not to pay because he is over the age of forty-five years that is his business. The poll tax, by the very terms of the Constitution, is to be devoted to the public school education in the counties where it is collected. Now, when there is no provision of law to coerce the collection, it is necessarily a contribution for school purposes, and in the general plan, if any one is so small that he will not contribute a dollar and a half per annum to the noble purpose of educating the children of the State, he is denied the right to register and vote. It seems to me that is a fair proposition, and there is no hardship in it at all, and if you put the age limit upward, I would say sixty years, but gentlemen should observe the fact that the present constitution has no such limitation. The provision says that "all taxes levied on property, etc., in this State shall be assessed in exact proportion to the value of said property; provided, however, the General Assembly may levy a poll tax not to exceed a dollar and a half on each poll, which shall be applied exclusively in aid of the public school fund, in the county so paying the same." Why put on any limitation at all? If disposed to put on any I would say sixty years of age and not forty-five. It is not in the present Constitution. It has not been at all except by an act of the Legislature. They saw proper to put on that limit, to excuse a good many from paying it. But this Convention works a very great many changes, and would it not be safe to leave it to the Legislature to say whether there would be any age limit at all, and if so put it up after this Constitution is ratified. It seems to me that the action of the committee in attempting to limit to forty-five years was unfortunate, and that part ought not to be adopted. If there is to be an age limit at all, then I am in favor of the amendment offered by the delegate from Dallas fixing it at sixty years. If the will of the Convention is not to fix an age limit, then the present Constitution leaving it to the Legislature is and will be the solution, and I believe probably the best. That is all I desire to say.

MR. LONG (Walker)—The men over forty-five years of age are very willing for the young fellows under forty-five to pay until

they are sixty. They would be excused, and fellows about my age, a little over forty, would have to pay the dollar and a half for fifteen years longer. I am opposed to class legislation of any kind, and I am in favor of this section exactly as reported by the committee. I think it is a wise one. While it is true that the age is not in the old Constitution, yet it has been in the act of the Legislature ever since almost the old Constitution was adopted, and even prior to that time. As so many of the people of Alabama have become accustomed to it, if you put it in there making it a dollar and a half up to 60 years of age, while it makes no difference to me, there are a great many people in Alabama who will object to it—hundreds and thousands of them. The distinguished gentleman from Jefferson says it is not a tax. I differ with him. Anything is a tax that a man has to pay out of his pocket to support the Government. You might say the tariff is not a tax. It is just as much a tax as an advalorem tax. It is worse than that, it is taxing a man for the right to breathe the air, or the right to vote. There is no advalorem in it.

MR. OATES—Do you think it would be a hardship to require a man to pay a dollar and a half for the purpose of education.

MR. LONG—It is very easy for some men to pay a dollar and a half, but it is hard for some men to pay.

MR. OATES—If he has no property to pay on, he ought to pay something.

MR. LONG—He has already paid between 21 and 45 years of age. I think that is enough. While a dollar and a half is a very small matter to us, perhaps, to the farmer who has six or seven sons, if all of them have to pay a dollar and a half, it will have the effect of driving many of them from supporting this Constitution. I am strictly opposed to any change in this clause, and unless the Committee wants this recommitted, I shall move to lay the motion to recommit on the table.

THE PRESIDENT—The gentleman from Walker moves to lay the motion to recommit the Section and amendment on the table.

Upon a vote being taken a division was called for, and the motion to table was declared carried by a vote of 54 ayes to 53 noes.

MR. O'NEAL—I call for a verification of the vote.

Upon a verification of the vote being had, the result was 49 ayes to 53 noes, and the motion to table was lost.

MR. HEFLIN (Chambers)—I move the previous question on the motion to recommit.

MR. LONG (Walker)—I move a verification of the vote again by calling for the ayes and noes, and make the point of order that that is the only way that it can be verified.

MR. HEFLIN (Chambers)—A verification has been had, and I make the point of order that the gentleman is out of order.

THE PRESIDENT—It seems to the Chair if the gentleman desired to have a verification by the ayes and noes, he should have asked for it before trying a verification by a division, and that after a matter has been submitted to a verification by division, it is too late to call for a verification by the ayes and noes.

The gentleman from Chambers moves the previous question on the motion to recommit. Are you ready for the question?

The main question was ordered.

MR. SANFORD—I call for the ayes and noes.

THE PRESIDENT—The question is now on the motion to recommit Section 18, and the pending amendment, and the ayes and noes are called for. Is the call sustained?

The call was not sustained.

Upon a further vote being taken the motion to recommit the pending amendment to the Committee on Suffrage and Elections was carried.

MR. COBB—I desire to offer an amendment.

THE PRESIDENT—An amendment is not in order.

MR. LONG (Walker)—I ask for a verification of the vote by the ayes and noes.

THE PRESIDENT—The call was made for the ayes and noes and the call was not sustained.

MR. LONG—But I ask for a verification.

THE PRESIDENT—Is the call sustained? The call is not sustained.

MR. LONG—I did not think it would take thirty to have a verification.

THE PRESIDENT—It seems to the Chair it would, otherwise a vote is taken a member could ask for a verification and in that way repeal the rule.

MR. LONG—I want to call the attention of the Chair that a moment ago I asked for a verification by the ayes and noes and the Chair overruled it by saying I was too late; that it has been verified by a division. At that time the motion was laid on the

table and the point was made to verify the vote and a number of the members did not vote then, and I called for a verification by the ayes and noes and the Chair ruled me out.

THE PRESIDENT—The Chair ruled a moment ago that when a vote was to be verified any gentleman may call for a verification by division or by the ayes and noes, but the Convention cannot be expected to sit here indefinitely, taking verification of votes——

MR. LONG—I withdraw my call for a verification. I just simply wished to show there were two sides to the question——

THE PRESIDENT—The gentleman is not in order to discuss the question. The Chair heard him very patiently, and now the Chair is ruling on the question. And now when the Chair submits the question on a call for a verification by the ayes and noes, the Chair submits a call to the Convention. The call was not sustained. It seems to the Chair the ayes have it, and the ayes have it, and the matter is referred to the Committee on Suffrage and Elections. The Secretary will read Section 19.

MR. SANFORD (Montgomery)—I intended to offer this amendment to Section 18.

MR. O'NEAL (Lauderdale)—I move that he be allowed to file it, and that it be referred to the Committee on Suffrage and Elections.

Unanimous consent was given for the amendment to be referred to the Committee on Suffrage and Elections.

Section 19 was read as follows:

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.

MR. SORRELL—I have an amendment.

MR. WALKER (Madison)—Will the gentleman excuse me a moment?

MR. SORRELL—Certainly.

MR. WALKER—On behalf of the Committee I desire to offer an amendment, in the first line, by inserting after the word "Article," "or subdivision thereof;" in the third line after the word "Section," by adding the words "or subdivision;" in the fifth line after the word "Article," add the words "or subdivision," and in

the sixth line after the word "Section" add the words "or subdivision."

The amendment was read as follows:

"Amend Section 19 by adding in the first line after the word 'Article,' 'or subdivision thereof;' by adding in the third line after the word "section" the words "or subdivision;" by adding in the fifth line after the word "article" the words "or subdivision," and by adding in the sixth line after the word 'section," the words "or subdivision."

MR. WALKER (Madison)—I ask unanimous consent on behalf of the Committee on Suffrage and Elections to insert the amendment read by the Secretary.

Consent was given.

The amendment by Mr. Sorrell was then read as follows:

Amend Section 19 by adding at the end thereof the following: 'Provided that any law enacted by the General Assembly as provided for in this section shall not become operative until ratified by a majority of the qualified electors in this State."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Tallapoosa.

MR. SORRELL—Mr. President, we have been here for ten days discussing this all-important question of the report of the Committee on Suffrage and Elections. We have been patient, we have been interested, but no more so than the people whom we have the honor to represent. We have differed. Members of this Convention have differed upon the great questions that were presented by this majority report. Great and eminent lawyers on the floor of this Convention have said that in their belief, some sections of this article are unconstitutional. They have presented their views at length, while a majority of us have thought and believe yet that this report is the best report that could be adopted—the best suffrage plan for Alabama that could be adopted. We have believed and believe yet, that the report of the majority Committee is constitutional, and that it will stand the test of the higher courts. But in the wisdom of the majority of that Committee, and in view of the fact that there was a question as to the constitutionality, they have seen fit to bring in Section 19 of this report, which provides that perchance the courts were to decide that any clause or any section of this article was unconstitutional, that the legislature shall have the power to correct that, and to enact, if you please, such a law as will remedy the defect pointed out by the courts, and that question is left absolutely in the hands of the legislature. For fifty years it has been deemed wise that no amendment to a Constitution should be left entirely to the legislature, therefore we have engrafted in every Constitution since 1861, the wise provision that

no amendment to the Constitution could be made by a legislature. It could only be suggested by them, and would only become a clause in the Constitution when it was ratified by the people. I see, Mr. President, no good reason at this time why we should depart from that time-honored custom—a custom that has met the universal approval of the people of Alabama since 1861. Now, if it was essential during all of these years to throw around the legislature this safeguard, I submit that it is dangerous today to tear it down. I submit that if it was essential in the days gone by to say that the legislature shall not amend the Constitution without the consent of the people, that it is more essential to do it now because we are dealing with a question in this convention that is nearer to the hearts of the people of Alabama than any question that has claimed our attention for more than a quarter of a century. If the United States Supreme Court were to declare a single section of it unconstitutional, then what? We are thrown back then into the hands of the legislature, and say to them that for the first time in a half century, we propose to give into your hands the right to amend that defect in such a way as will meet your approval without submitting it to the people of Alabama for ratification. Now, sir, I have as much confidence in the legislators of Alabama as any man, but I do not believe that we should leave this Constitution in such a condition that, by the remotest possibility, the legislature could ever have the right to create a section in this Constitution that tends to prevent any man from voting, or that prescribes his qualifications, without submitting it to the people for their ratification as this presents itself, if the contingency were to arise, and I hope, gentlemen of the Convention, that it never will. But, if the Supreme Court were to decide a single section of this instrument unconstitutional, and the legislature should meet and enact a law, we would be absolutely at their mercy. The time has never been in Alabama when the right of the people in this State to vote was ever left to the legislature of this State, or that the legislature was ever given the power to enact a clause in the Constitution without the sanction and approval of the people. I submit to you, gentlemen of the Convention, that if it has been necessary for half a century to throw those safeguards around them that today the necessity exists far more than ever before, because the people are awake to this question. The eyes of every citizen of Alabama are turned upon us, and when we go home to our people and ask them to ratify this Constitution, what will be the first question they will ask? It will be, will the suffrage clause in your Constituion stand the tests of the courts. We say we think it will, but we say we have provided a safety valve that if it does not stand the test, that if it is declared unconstitutional the legislature of the Sate has the right to remedy that defect and make a perfect Consituion. Do we remember that the people of Alabama when we asked the honor at their hands of representing them on the floor of this Convention, said to us: We demand of you that you

pledge us that you will send back to us the instrument that this Convention makes for our approval. We gave them that assurance. We have lived up to it, but in every article sir tha we send back to them for their approval—in the light of the fact hat there are grave doubts in the minds of some men as to its constitutionality—I say in the very article the regard as most impotant that we send back to them for their endorsement, we have theprovision that if perchance that article on the suffrage is wrong, we have turned you over to the people of Alabama in the Legislature, and have delegated to them the right to legislate and amend your Constitution and make it a perfect instrument, to comply wih the requirements of the highest courts of this country. We lave done more, we have provided that it may become operative without your approval. I submit to you that when you go hone to your people and ask them to ratify this, they will ask you "Suppose there is a clause in this that is unconstitutional, shall the Legislature meet here and we be turned absolutely over to thir mercy, and have nothing to do with what they say except to accept the situation and say no more?" I submit to you, gentlemen of the Convention that it is but fair and right to say if that contingency happens, submit back to the people the act of the Legislaure. Are those members of the Legislature to be more trusted than the one hundred and fifty-five men that make up this Convention and the people with one accord rise up and ask us—demand of us—that we return to them the instrument we frame as the organic law, for their approval, and I submit to you are we to be less trusted than the Legislature. Are we to come here and say notwithstanding this fact we will place it in the power of the Legislature to enact a suffrage law—a plan—by which the peope of Alabama may be permitted or refused to vote? Are we to leave it absolutely at the mercy of the Legislature? I submit that it is unsafe and unwise, and I hope that the section with the amendment will be adopted.

Mr. Cobb sought recognition.

MR. SANFORD (Montgomery)—I have an amendment to the amendment.

THE PRESIDENT—The gentleman from Macon caught the eye of the Chair, does the gentleman yield to the amendment offerred by the gentleman from Montgomery.

MR. COBB—Yes, sir.

The following amendment offered by Mr. Sanford of Montgomery was read:

Amend the amendment by adding the words "at an election expressly held for that purpose."

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Montgomery to the amendment offered by the gentleman from Tallapoosa to the section as reported by the committee.

MR. SORRELL—I am willing to accept the amendment.

MR. COBB—Without entering on anything like an argument on this question, it seems to me the gentleman from Tallapoosa is correct in the position he has assumed. This is the first time in the history of Alabama, and may be in the history of any State, when the power has ever been attempted to be conferred upon the Legislature to make a Constitution. The power contained in this section is the power to make a Constitution for Alabama. Suppose the courts should declare the whole instrument void, then what? Or suppose the courts should declare section after section void, on account of conflict with the Constitution of the United States, then what? Or in any event the Legislature of the State of Alabama can supply that deficiency, in other words, can make a Constitution in direct violation of that provision, which we will insert in this instrument, providing for the manner in which the Constitution itself shall be amended. A change in the organic law in the State of Alabama has never been permitted except by a direct vote of the people, either in Convention assembled, or in ratifying some amendment proposed by the Legislature, but in either event the views of the people must be heard upon the proposition to amend their organic law. I do not believe it is wise to depart from it in this instance, and I do not believe we should hesitate a moment to adopt the amendment proposed.

MR. DAVIS (Etowah)—It seems to me the gentleman has an entire misconception of this section. I have tried to read it over carefully, and I cannot see what process of reasoning they can arrive at the conclusion that the Legislature has under its provisions become a fundamental law making body. It simply provides that in case this Constitution or any article of it shall be declared unconstitutional the Legislature can remedy the defect by a two-thirds majority vote. That is not making a Constitution. Whatever law they enact could be repealed by a subsequent Legislature.

MR. COBB—Do you assert here that the meaning of this is that whatever the Legislature might do in supplying that deficiency, would be simply a legislative enactment?

MR. DAVIS—I do.

MR. COBB—And is not to become a part of the Constitution?

MR. DAVIS—No, sir; most certainly I do not think it becomes a part of the Constitution.

MR. COBB—If your view is correct—doesn't it make the matter infinitely worse—wouldn't you have Legislature after Legislature tinkering with the Constitution?

MR. DAVIS—I think, Mr. President, that the Legislature has been able to do some law-making in the past without having become a blot on the body politic, and I believe we can trust the Legislatures in the future to do some, especially when this safeguard of two-thirds majority vote in each house is required. I can see no danger arising from that situation. In fact, I think it makes it eminently safe, in view of the fact that this does not look like conferring the power to make a Constitution on the Legislature, and I, therefore, move to table the amendment.

MR. JENKINS—I will ask the gentleman to withdraw the motion.

MR. DAVIS—I will withdraw on condition you renew it.

MR. LOWE (Jefferson)—There is no man upon the floor in whose judgment I have a higher regard than the gentleman who has immediately preceded me, but this provision, Mr. President, it seems to me, is the very milk of the coconut. This provision means to confer upon the Legislature, to be assembled from year to year, the power to provide for the qualification of electors. Mr. President, if the gentlemen were as confident as their distinguished leaders have told us they were of the constitutionality of the provision that they submit to us, why would they have a provision here like this? Why would they say if they were sure that they were right—and they have told you that they are sure, and you cannot doubt that they believed at the time they told you they were sure, that they were sure—if they were confident of it, why would they put in a provision that conferred upon the General Assembly the right to prescribe the qualifications of voters? We declared before we came here that the result of our deliberations should be sent back to the people for their ratification, and yet you have a saving clause—the shrewdest suggestion in the whole plan (I will never call it a scheme again)—the shrewdest suggestion in your whole plan is that when your plan has been declared unconstitutional, you will give to the General Assembly the right to prescribe the qualifications of voters and not send it back to the people; that is what is done in Section 19. When your plan has been declared unconstitutional, and your distinguished lawyers get up before the people, they will have no other opportunity except to assail the court for fraud, or for not dealing fairly, and then your General Assembly will prescribe the qualifications for the voters of this State. Will that weigh on your consciences? Will that be a discharge of your duty when you have declared that the result of your deliberations should be submitted to the people? Will that clear the conscience of the delegates and each delegate of this Convention?

And that is the proposition, Mr. President. The proposition is to make an election plan which, when declared unconstitutional, provides for the conferring upon the General Assembly of the power to make the qualifications of voters. Now, why do the majority here appeal for the previous question? Why do they constantly demand to cut off debate, and try to run over the minority horse foot and dragoons? There has not been a time in Alabama since 1861, when the majority of the white men in Alabama have not needed the minority of the white men in Alabama, and that time is not coming. It is not in sight; yet, they will appeal for the previous question, and make motions to table, and deny the right of debate on these various provisions that come up.

Now, I ask the member of this Convention to consider that last provision—Section 19—which is not only iniquitious in itself, but which throws light on the purpose of the whole plan. I do not want to be severe, I do not want to criticise the motives and purposes of my neighbors. I hope they are inclined to be as far and as honest, as I trust they will concede it is my purpose to be, and yet, standing here, I protest to you against this plan, and particularly against the nineteenth section of the plan.

MR. SANFORD (Montgomery)—Could it be amended?

MR. LOWE (Jefferson)—It can be amended, and should be amended, or it should not be adopted. Now, why should I take this position? It is not because I am inspired simply by the pride of personal opinion. I have earnestly and anxiously, and I believe most of you will admit, worked to promote this Convention, to provide for fair elections, and yet right here this Convention is providing to perpetuate unfair elections in Alabama, and I shall continue to protest against it. I shall hold my opinion against the universal opinion of this Convention, when I see men around me today that I know to be the pink and flower of the Democracy of Alabama. When they almost universally decide one way, but I would be untrue and unfair to my constituents if I failed to protest against what I see in the plan, and, to my mind, which has been devoted, gentlemen of the Convention, to this matter of elections in Alabama for years, and to speak on this question, when I see in this plan a perpetuation of fraud in Alabama. I would be untrue to myself and to the people that sent me here if I failed to protest against it. I think, Mr. President, that Section 19 should be amended. I think it should be stricken out. If the gentlemen who proposed the majority plan are satisfied with its constitutionality, why should they provide for a contingency of the courts deciding it unconstitutional. Give us a constitutional plan, a plan so plain and simple that the courts even could not be in any doubt about it. Give us a plan so plain that the common people can read it and interpret it and understand it, and which will not need the construction of your courts. Otherwise, gentlemen of the Con-

vention, our work here will have proved a failure, and disappointmen to the people of Alabama. If you give them a plan for fair elections that needs the construction of your courts, you will have failed in the duty which the people sent you here to discharge.

THE PRESIDENT—The time of the gentleman has expired.

MR. OATES—This is not a trivial question, but one which demands serious consideration. It is an innovation upon anything that we have had in Alabama. It has seemed to me all the time that it was, if otherwise free from objections, of doubtful propriety to be put in here. It seems to me that it advertises to the world an apprehension upon the part of this Convention that some other part of the Constitution may not stand the test of the court and may be overturned. The language is that if any part of it shall be held unconstitutional or inoperative by any court of competent jurisdiction, that then the Legislature shall be empowered to deal with it, and remedy the defect occasioned by such decision. A court of competent jurisdiction is not very definite. It is not as the gentleman who preceded me supposed, the Supreme Court of the United States. Some one suggests that a justice of the peace might pass upon it. That would scarcely be considered a court of competent jurisdiction, but our Circuit Court and our City Court, where the question may be raised as to the constitutionality of any clause in this instrument, would have the right to pass upon it. Then it will be subject to an appeal to the Supreme Court of Alabama, and might go on to the Supreme Court of the United States. Then, again, the illegality of the different clauses of the Constitution may be attacked before any of the courts of the United States. All of these are competent courts to pass upon this question. Now, sir, we attempt here to confer upon the Legislature the right to remedy the defect if one should come up by reason of the decision of the court, and it is not quite so broad as was supposed by my learned friend, the delegate from Macon.

MR. COBB—Was it or not the idea of the Committee that the action of the Legislature in the matter proposed here should become a part of the Constitution of Alabama—yes or no?

MR. OATES—In answer to that question, it anticipates just what I was entering upon in stating that I thought the delegate's proposition was a little too broad. I do not think it would necessarily be enacting a clause of the Constitution. Though it would be an attempt to supply a defect in it, and I think that it is very questionable whether a Constitutional Convention can confer upon a legislative body to change or amend any part of the Constitution. This, for instance, provides that if one Section was declared to be inoperative and unconstitutional then the Legislature must supply it by some kind of legislation, possibly by a two-thirds vote, which is tantamount to making or remaking a clause of the Constitution so it would not be thus obnoxious. Now it is very ques-

tionable in my mind whether this Convention would have any right to confer such a power as that upon the General Assembly.

MR. COBB—Do you hold that the action of one Legislature under this provision could be repealed and revoked by a succeeding Legislature, or would it be subject to modification?

MR. OATES—I doubt that, because the Constitution here authorizes the action.

MR. COBB—It would not be subject to repeal or modification by the succeeding Legislature, would it?

MR. OATES—That is a legal question—

MR. COBB — Let us deal fairly with each other, and then does not it become a part of the Constitution, and if it can be so repealed, are you not attempting to confer power upon the Legislature to disregard the Constitution, which is a limitation upon the power of that body.

MR. OATES — I think if my friend will not consume any more of my time—

MR. COBB—They are pretty hard questions, I know.

MR. OATES—This Section provides that upon any other section becoming inoperative by any subsequent adjudication of a court, the General Assembly shall have authority to remove the defects in like manner as there are herein provided. It is a sort of splicing process that it attempted to be conferred. In the condition of my voice I cannot talk well, and I think the gentlemen understand it. While I would like to dwell upon it longer the hour is growing late, and I will conclude my remarks by moving to lay this Section on the table.

MR. WEATHERLY—I move that we adjourn.

MR. OATES—I move the previous question.

MR. O'NEAL—I move we adjourn.

THE PRESIDENT — The gentleman from Montgomery moves the previous question on the Section and amendment.

MR. WALKER—I will ask the gentleman from Montgomery to withdraw that. The opponents of this Section have had the entire discussion, and those who favor it have not had an opportunity to present the question.

The motion was withdrawn.

MR. WALKER—I move that we do now adjourn.

Upon a vote being taken the Convention adjourned.

CORRECTION.

Mr. Ashcraft is reported as saying:

We have also observed that the young man who has put forth energy and skill sufficient to have a capacity to read and write, although some of them had few opportunities, as a class, have the sense of responsibility which will insure a reasonable exercise of the elective franchise:

This report contains errors, he said:

We have also observed that the young men who put forth energy and skill sufficient to acquire the capacity to read and write, although some of them may be unworthy, as a class they have a sense of responsibility which will insure a reasonable exercise of the elective franchise.

In report of his remarks on July 31, 1901, Mr. O'Neal is reported as saying:

Now I say that if there was a man who deserted, let us throw over the man the broad mantle of charity and forgive. Then sentence is correct except the word forgive, which should be "forgiveness."

Also, "What did he do when he deserted? Committed a crime against the laws of war, punishable with death, and to say that a man could have served honorably who had deserted. The above sentence is incomplete. The sentence was as follows: "What did he do when he deserted? He committed a crime against the laws of war punishable with death, and to say that a man could have served honorably who had deserted would be to give no meaning, force or effect to the word 'honorably.'"

Also the following sentence:

"The last words of the great Captain of the North." The sentence was as follows: "In his last words—the great Captain of the North."

The following corrections should be made in remarks of S. H. Dent on Wednesday, July 31:

It is really one of the curses of this country that we are afraid of it as I sometimes think. Begin the next word "When" with a capital letter. Strike out the period after "holy" and insert a comma, also strike out the period after the word "that." Change "stretch" to "strip." The sentence beginning with 'We hear," should be changed into "When I hear." Strike out the period after the word "kept." Change "if" in the sentence "if a man labors," etc., into "when."

In proceedings of 58th day in remarks of Mr. Winn, should real as follows:

"In 1861 I enlisted "for the war" in the Barbour Grays, commanded by that splendid Virginia gentleman and brave Captain Eugene Blackford, now residing at Sudbrook Park, Md."

In the proceedings of the 59th day, note the following correction:

Mr. Reese is reported as saying "I believe if you were to go before the people as it is, I believe that it would create disgust among them." What he did say was, "I believe if you were to go before the people as it is, I believe that it would create distrust."

In the remarks of Mr. Long in the proceedings of the 58th day the following sentences should have had quotation marks: "We will have softened ground and unrobed the spirit of party zeal and driven the bandit propensities skulking to their dens;" "a population of millions of immortal beings engrossed in a proporiton far beyond any other in the world in the toils of agriculture, manufacturing and commerce," and the closing words should be at last, at last danger's troubled night is o'er and the star of peace returned." The words Missionary Ridge should be Cemetary Ridge. The remark as to timidity of capital, etc., is wrongly attributed to Mr. Jones of Montgomery.

SIXTY-FIRST DAY

MONTGOMERY, ALA.,
Friday, August 2, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by Rev. Mr. Marshall as follows:

"Oh, Lord, our Heavenly Father, we come before Thee with praise and thanksgiving that Thou hast brought us unto another day, with all its privileges and its duties. We pray Thee for grace and strength to sustain us in the discharge of every duty and for an appreciation of our privileges. May we appreciate the privilege of life, health and strength, food and raiment, of law and order, and above all may we appreciate the privilege of eternal life offered to him that cometh unto Thee. Give us, we pray Thee, strength that we may overcome temptation, grace that we may endure trial

wisdom that we may discern what is right and courage that we may discharge every duty. May we lean upon Thee. May we look to Thee for strength and for help. May the words of our mouths and the meditation of our hearts be acceptable in Thy sight, O Lord, our strength and our Redeemer. Have mercy on us according to Thy loving kindness and according to the multitude of Thy tender mercies. Blot out all of our transgressions. Bless each and every member of this Convention and bless their families. Bless us all according to our every need, and guide us through this day, through all life, and at last in Heaven receive us, we ask for Christ's sake. Amen.

Upon the call of the roll, 108 delegates responded to their names.

Leaves of absence were granted to the following delegates. Mr. Henderson for Saturday and Monday; Mr. Sorrell for this afternoon; Mr. Knight for tomorrow and Monday; Mr. Williams of Elmore for tomorrow and Monday; Mr. Williams of Barbour for Monday and until 12 o'clock Tuesday; Mr. Kirkland for Saturday and Monday; Mr. Sollie for the afternoon session of today and tomorrow; Mr. Heflin of Randolph for Saturday.

MR. SANFORD—I desire to have corrected something in the stenographic report. They made the correction yesterday morning and they attributed what I said the day before to my friend (Mr. Samford) from Pike County. Now, he has such reputation and character that he can bear many things, but I do not wish to impose any of my sayings upon him. It is said that Mr. Samford said so and so. I would suggest to the stenographers if they would put after Mr. Samford "of Pike" and after Mr. Sanford "of Montgomery" it would be better. It should be Sanford instead of Samford on the first page.

MR. SAMFORD (Pike)—On yesterday morning, by reason of the lateness of the train, I was delayed in coming into the morning session for about an hour. During my absence, I notice in the stenographic report that the gentleman from Jefferson (Mr. Beddow) in rising to a point of personal privilege, said "I explained to the gentleman (referring to myself) I thought that the putting in of the subdivision about the descendants of soldiers, would imperil the whole plan. At that same time, he expressed himself as being satisfied that I was right in the stand I took, but he wanted it there because there were a number of ignorant people throughout the State that such a plank would be catchy to them, and would get a large number of votes for the ratification of this Constitution." I want to say as a matter of personal privilege that the statement is not accurate. What I did say to the gentleman from Jefferson was that while I thought perhaps the clause as to good moral character would cover the entire white race, that there was a lack of confidence among a great number of the citizens of this State

as to what that clause meant, and that I wanted the grandfather clause put in in order to create confidence among my people, and I did not state it was for the purpose of catching the ignorant vote.

MR. SAMFORD (Pike)—I ask unanimous consent to make a report from the Committee on Engrossment. I desire to report Resolution No. 195 with an adverse report. The Committee also instructs me to report Resolution No. 199, with an adverse report.

MR. ROGERS (Sumter)—I rise for the purpose of making an explanation. Yesterday Mr. Fitts, it is reported, said "There is danger in the whole thing." I understood the gentleman to say, "That is the gist of the whole thing." That was in the interrogatory he made me yesterday about the registrars and my reply.

MR. FITTS—What page?

MR. ROGERS—Third page, fourth column.

MR. FITTS—I think that is what I said.

MR. ROGERS—I wanted to make that statement. I thought he said "that was the gist of the whole question. I want to say I do not think there is any danger about the registrars to the peace and happiness of the people of Alabama. I think in this system we have devised the only possible means of putting this law into execution. It matters not what sort of law you enact, you must always have officers to carry that law out, and I believe the registrar system is the very system, and the only system which any people can adopt to preserve the liberties of all the people, and to keep out of the electorate the vicious and the ignorant. That is the correction I wish to make.

MR. GRAHAM—I am requested by the Committee on Suffrage to ask that the Convention excuse them a few minutes.

THE PRESIDENT—The Committee on Suffrage ask unanimous consent to sit for a few moments during the Convention. There is no objection.

MR. ROGERS—Yesterday was what?

THE PRESIDENT—Thursday.

MR. ROGERS—The stenographic report is headed Wednesday, and should be corrected.

The report of the Committee on the Journal was read stating that the journal for the sixtieth day had been examined and found correct, and the same was adopted.

Resolution No. 199, reported by the Committee on Engrossment was read, as follows:

Resolution No. 199 by Mr. Howell (Cleburne.)

Resolved, That what ever clerical assistance may be necessary to be employed by the Enrolling and Engrossing Clerk of the Convention be paid for at the rate of 15 cents per hundred words for such assistant clerical work.

Amended by Mr. Carmichael (Colbert.)

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. SAMFORD (Pike)—I am instructed by the Committee to say that in the consideration of those two resolutions we ascertained that if at any time the Engrossing Clerk needed clerical assistance, it could be furnished by the Secretary of this Convention, and for that reason the committee decided——

THE PRESIDENT—Is there any motion made with reference to the resolution?

MR. SAMFORD (Pike)—I move that it be laid on the table.

Upon a vote being taken, the motion to lay on the table was carried.

The Secretary read Resolution No. 195 with an adverse report from the Committee on Engrossment.

Resolution 195 by Mr. Carmichael (Colbert.)

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.

MR. SAMFORD (Pike)—I move that the resolution be laid on the table.

Upon a vote being taken, the motion was carried.

MR. SAMFORD (Pike)—I move that the Convention recess until 10 o'clock to await the report of the Committee on Suffrage and Elections.

Upon a vote being taken, the motion was carried.

At 10:05 the Convention reconvened.

MR. CUNNINGHAM—I desire to introduce a short resolution:

THE PRESIDENT—The gentleman asks unanimous consent to introduce a resolution.

The consent was given

MR. CUNNINGHAM—I move that the privileges of the floor be extended to D. Y. Huffman an ex-member of the Legislature.

Mr. Cunningham took the chair.

MR. WADDELL (Russell)—I ask unanimous consent to introduce a short resolution.

Unanimous consent was accorded.

The Clerk read the resolution as follows:

Be it resolved that the Secretary of this Convention be and he is hereby authorized to contract with some competent person for the enrollment, on animal parchment, with India ink, the Constitution upon its adoption by this Convention.

Referred to the Committee on Engrossment.

MR. GRAHAM (Talladega)—On behalf of the Committee on Education I move that the consideration of the report of that Committee be made a special order after the consideration of the present special order which is the report of the Judiciary Committee.

MR. WATTS—I understand the motion is to make it a special order after the report of the Committee on Judiciary.

THE PRESIDENT PRO TEM—That is the present special order.

MR. PITTS (Dallas)—A great many of the other Committees have reported, and their reports took the regular course and they should not be displaced.

MR. GRAHAM—I do not wish to displace any committee, except the Committee on Municipal Corporations, and that committee is willing.

MR. PITTS—I represent the Committee on Representation and I object to that. I don't see why a committee which has reported among the first, should be displaced. It will only take a short time to dispose of those reports. I object to it.

PRESIDENT PRO TEM—The question is upon the motion of the gentleman from Talladega.

Upon a vote being taken, the motion was lost.

MR. HOWELL—I move sir that the privilege of the floor be accorded the Hon. W. J. Alexander of Calhoun.

Upon a vote being taken the motion prevailed.

MR. BURNETT—I rise to a question of personal privilege. Yesterday's stenographic report said that I asked this question of

the delegate, Judge Walker: "I would like to ask the gentleman if it is not a fact that the Democratic party is the only party in Alabama, who has gotten out any pledges to the people of Alabama, that none will be disfranchised." That question should be accredited to my friend from Monroe, Mr. Barefield.

MR. WHITE—I move the regular order be dispensed with, and that we commence on the special order where we left off on yesterday.

On a vote being taken, the motion was adopted.

MR. BURNS—In the stenographic report, second page, last column, I find the following: "Mr. Burns—What would you do for instance in my county. We have not any Republicans. Would we have to do without legislation because we could not get a respectable white Republican?" I did not ask anything about the legislation, and I did not say "we have not got." Neither did I say that we had no Republicans. I said distinctly we did have a Republican who was too big for the job and would not take it at $20 a day. Now I care not particularly so far as I am concerned, what it says, but I do not want it to go out that I said we did not have any Republicans when we have the most prominent Republican in Alabama, as proud, as good, and as true and able a Republican as there is in the Southern States. An ex-sheriff, ex-circuit judge, ex-Congressman and ex-United States District Attorney. He has hundreds and thousands of friends amongst the staunchest Democrats in the blackbelt. He is a member of a large and lucrative law firm. He is a brother of my distinguished and excellent colleague, and his name is George H. Craig.

MR. SLOAN—I desire to ask the gentleman a question, did you not say that there were no Republicans in the county except negroes?

MR. BURNS—No sir, I did not say any such thing, your ears are as bad as the stenographers. (Laughter.)

MR. WHITE—The Committee on Suffrage and Elections has instructed me to report Section 12 which was referred to the committee on yesterday, as it was before the Convention at the time the amendment by the gentleman from Montgomery was offered, having covered the matter included in the amendment offered by the gentleman from Montgomery in Section 14 as a substitute. Therefore I move the adoption of Section 12 as it stood, before the amendment of the gentleman from Montgomery was offered.

THE PRESIDENT PRO TEM—The question is on the motion of the gentleman from Jefferson.

A vote being taken Section 12 was adopted.

MR. WHITE—Section 14, I believe, is the next matter before the Convention.

I have a substitute for Section 14, as adopted by the Committee. It is an amendment to Section 14, I should have said.

The Secretary read the substitute as follows: "By adding at the end of the section the following: "The Legislature shall by law provide for purging the registration lists of the names of those who die, become insane, convicted of crime, or otherwise disqualified as electors under the provisions of this Constitution, and of any whose names may have been fraudulently entered on such lists by the registrar, provided that a trial by jury may be had on the demand of any person whose name is proposed to be stricken from the list."

MR. WHITE—I move the adoption of the amendment.

PRESIDENT PRO TEM—The question is upon the adoption of the amendment. Does the gentleman desire to address the Convention upon the amendment.

MR. WHITE—No sir, I think it is perfectly plain and the matter was discussed on yesterday.

MR. JENKINS—There is something in the closing line that I think ought to be stricken out, it says, "No primary election in this State shall be made compulsory." Now, Mr. President, I do not think that ought to be put into the Constitution.

MR. O'NEAL—I rise to a point of order.

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

MR. O'NEAL—The question before the Convention is the amendment offered by the Committee on Suffrage. The gentleman is not speaking to the amendment.

MR. JENKINS—I propose to amend the whole section, to strike out the amendment as offered and also this part of it.

THE PRESIDENT PRO TEM—The point of order is well taken. The gentleman will confine himself to the pending amendment.

MR. JENKINS—The pending amendment is to purge the lists of voters, as reported by this committee. Now we have been here fifty days, trying to perfect a system by which we can get the people of Alabama on the roll of voters in this State that we know and believe are entitled to be there. We pass this temporary plan, and it goes back to the precincts, and these people are put upon it, but by this amendment, if you pass it, you place it in the hands and in the power of the Legislature, to undo in a measure what we

propose to do here today. We do not know that our friends are going to be always in the Legislature. Five years from now the Legislature of Alabama may be Republican, ten years from now, it is possible that it will be, and perhaps sooner than that and if you open the door to tamper with the lists, with the rolls as made up by the temporary plan, you invite the Legislature in the future in Alabama when we lose power to come here and strike from the rolls of voters men who by common consent and agreement at home are put there, and whom the people in the precinct want to be there, and I say, Mr. President that this is too dangerous a proposition to be put in the Constitution. The people see right before them now that this measure is in their control and they are willing to vote for it. When you say, however, after the plan is perfected, and our names are on the roll or list of voters, some Republican Legislature or some hostile Legislature can come here and through a technicality or something that we do not now dream of, spring a question upon us and strike us from the roll, they will not allow this Constitution to pass.

MR. GRAHAM (Talladega)—Will the gentleman permit a question?

PRESIDENT PRO TEM—Will the gentleman yield?

MR. JENKINS—Certainly.

MR. GRAHAM—I want to know if the gentleman has any objection to taking the names of the dead, the insane, those convicted of crime, and those fraudulently put upon the registration off, if it is done by a jury of the country; if he has any objection to purging the registration as to those—none others are named in an amendment?

MR. JENKINS—I want to say when a man dies, he can no longer vote.

MR. GRAHAM—I heard that he could. (Laughter.)

MR. SAMFORD (Pike)—Will the gentleman yield to a suggestion?

MR. JENKINS—Certainly.

MR. SAMFORD—Hasn't it been the rule that they continue to vote in certain section in this State for the last twenty-five years?

MR. JENKINS—I want to say that that charge has been made in the past, but it is not true, and so far as I know no dead man has ever been voted in my county.

MR. SANFORD—May I ask the gentleman one question?

MR. JENKINS—Yes sir.

MR. SAMFORD—I understand when you say that has not been done, you confine it to your own knowledge?

MR. JENKINS—Well I don't think——

MR. REESE—I rise to a point of order. This matter is not germane to this germane and it is a useless consumption of the time of this convention.

THE PRESIDENT PRO TEM—It seems to the Chair that the amendment provides for purging the list of the dead. (Laughter.)

MR. REESE—The Chair misunderstood me. I say the interruptions and questions asked this gentleman are not germane and it is a useless consumption of the time of the Convention.

THE PRESIDENT PRO TEM.—The Chair will overrule the point of order.

MR. JENKINS—I yielded to the gentleman. We have in the blackbelt in Alabama, nothing to conceal as to what we have done in the past, and we do not propose to stand here and allow anything to pass to discredit us. What we have done we have done open and above board, and we have no apologies to make.

MR. PORTER—I wish to ask the gentleman a question.

THE PRESIDENT PRO TEM—Will the gentleman yield?

MR. JENKINS—I hate to be discourteous, but there have been so many questions, and my time is limited, therefore I must decline to yield. Now, Mr. President I say this, that if you want this Constitution adopted, you must not tie any strings to it, in the way of the hereafter, that after this roll is perfected, that some Legislature can come here and allege frauds. That roll ought to be a sacred roll, when it is made, so that the white man can feel the peace and security in it that he feels in the permanency of things that God Almighty has made to last forever, as long as he is a citizen of this State. If you will allow that impression to go out to the old soldiers who are allowed to come under it, and the others that we have made exceptions of, they will vote for it, but if you have any technicalities hedged around it, or any questions of fraud or doubt cast upon it, or if you give the power into the hands of any other tribunal, to pass upon the question, other than this Constitutional Convention, and as interpreted by the Supreme Court of the land, you will strike down the confidence of the people in the plan proposed.

THE PRESIDENT PRO TEM—The gentleman's time has expired.

MR. WHITE—I move the previous question on the pending amendment and Section.

THE PRESIDENT PRO TEM—The previous question is demanded on the pending amendment and Section.

MR. JENKINS—I rise to a question of personal privilege.

THE PRESIDENT PRO TEM—The gentleman will state his question of personal privilege.

MR. JENKINS—I understood the gentleman to yield for me to introduce an amendment to the amendment.

THE PRESIDENT PRO TEM—The Chair did not so understand the gentleman from Jefferson.

MR. WHITE—I understood that the gentleman's time had expired, and the Chairman had so ruled.

MR. O'NEAL—The gentleman stated that he would offer it before he concluded his remarks.

THE PRESIDENT PRO TEM—He failed to do so. The question is the motion for the previous question on the pending amendment and Section.

The Secretary again read the amendment.

A vote being taken the amendment was adopted, and on a further vote being taken, the Section as amended was adopted.

MR. WHITE—I have a substitute for Section 18, adopted by the Committee, and ask that it be offered in lieu of it and all amendments.

The Secretary read the substitute as follows:

"The poll tax mentioned in this Article shall be $1.50 upon each male inhabitant of this State over the age of 21 years and under the age of 60 years who would not now be exempt by law; provided those male inhabitants of the State who shall reach the age of 45 years on or before the 1st of January, 1903, shall not thereafter be required to pay a poll tax. Such poll tax shall become due and payable on the 1st day of October in each year, and become delinquent on the 1st 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. The poll tax shall be applied exclusively to the support of the public schools of the county in which it is collected."

MR. WHITE—The change in the substitute from that in the original Section consists in this: That after January 1, 1903, those arriving at 45 years of age shall be subject to a poll tax until they arrive at the age of 60 years. That does not affect, however, any person who is now 45 years of age, and who is exempt, or who will be exempt on January 1, 1903, so that it does not affect any

person who now is exempt from the payment of poll tax, nor any one who would be exempt on January 1, 1903. It was believed by the Committee and urged before the Committee with great force, that this is really the only available arrangement. I say it was determined by the Committee and urged before it with great force that after January 1, 1903, when the permanent plan goes into effect that the poll tax provision is the only thing that will give permanent relief to the country, and therefore the change was made.

MR. FITTS (Tuscaloosa)—Mr. President, this to my mind is a very dangerous proposition. This is in one sense an increase of taxation, there is no other way of looking at it. This is a very serious menace to the ratification of this Constitution. There are a great many men in this State who are 39 years of age, 40, 41, 43 or 44 years of age, who are poor men, and who have been looking forward already to the time and counting the years up to the period when they would be relieved of the payment of poll tax. Little as it seems to men who occupy seats upon this floor, it is an important factor to men of little material substance, but of considerable character in various portions of the hill country of this State. These men have seen their brethren go under the rope, pass the age of 45 and escape the payment of poll tax for the balance of their lives. They are almost up to that point themselves. They are looking forward to the point where they themselves will be free, that within a year or two of the time when they would be free from it, these men have been expecting it. It is a part of the unwritten law of the State, as old as the oldest man, a part of the air we breathe, that the working of the roads and the paying of poll taxes ceases at 45 years of age. They have been looking forward to it, taking it into account in their expectations, it is a part of their unwritten law, part of the fabric of the country and they expect to be relieved of it when they reach 45 years of age. There are possibly a number of these men approaching that age, who have been looking forward to this relief, and if you write down in the Constitution that they shall pay a poll tax for fifteen more years of their lives, it is a serious matter, and if it is not serious they allow their imaginations to give it a serious turn, it becomes serious, and as little as you think about it, there are thousands of men in this State who are ranging about the age of 40, who will take this as a matter to themselves, they will bring it home to themselves and they will say that the payment of a poll tax for fifteen years of my life when I was about to be relieved of it, when I was just about to be freed from it, and it will put a bad taste in their mouths, so to speak, and it will set them against the ratification of this Constitution. Now, Mr. President, it does not meet this objection in the least to say that this is not a tax that can be collected by law and that it is a voluntary contribution to the school fund. Is the highest tax because in addition to making it a

poll tax, you have made it a qualification to exercise the suffrage. It is useless to say that he need not pay it, because if he does not pay it he disfranchises himself, and you put upon him a Collector stronger than the strong arm of the law when you restrain him from the ballot box if he does not pay it. It is an increase of taxation, a violation of the Democratic platform, that taxes should not be increased by this Constitution. Conceal it as you will, it is a tax which he must pay in order to vote, it is a tax which the collector cannot collect from him, but which the law collects from him before he can vote. It is an increase of taxation because no matter how little the increase is, it is not for us to judge how much increase the people will bear without a murmur, it is an increase and in many instances, it is an increase from twenty-two dollars and fifty cents to twenty-four dollars, as the case may be, by men who are coming close to the period when they would be freed from the further payment of a poll tax. It is useless to say patriotism will prompt its payment and inspire an approbation of this article in the Constitution. Patriotism is good enough to be talked about, but when patriotism is connected with the payment of the tax, the payment of the tax comes nearest home, and patriotism takes a back seat. They do not believe that there is any necessity for a change of the conditions under which they have been reared. A change of condition under which they have seen other man pass out from under the obligation to pay a poll tax, a change of the condition under which their fathers and their fathers' fathers passed out from under the obligation to pay a poll tax. Gentlemen of the Convention, it is an increase of taxation. The fact that you say you cannot collect it by law does not change it because the very strongest obligation that can be put upon a poor man—the fact that if he does not pay it, his right to vote is gone he will regard it as a tax, he will pay it as a tax and he will vote but he will murmur and be discontented. Therefore I offer a substitute for the report of the committee, the section as it was originally reported by that committee.

MR. SMITH (Mobile)—I want to offer an amendment to the section as amended.

THE PRESIDENT PRO TEM.—The gentleman from Tuscaloosa did not send up his amendment.

MR. FITTS—Here it is. I offer that as a substitute for the report of the committee.

MR. SMITH—There is pending an amendment to the report of the committee. I offer an amendment to the amendment or substitute for that amendment.

MR. FITTS—I offer the original section as a substitute.

MR. SMITH—I understand you do. That operates under the ruling here as an amendment. I was not appealing to the gentleman from Tuscaloosa for a ruling.

MR. FITTS—No, and I am not appealing to you, but I am insisting upon my rights. None of us are judges of that. He is up there (pointing to the Chair). We are on an even about that.

MR. SMITH—I rose to a point of order.

THE PRESIDENT PRO TEM.—What is the point of order submitted by the gentleman from Mobile?

MR. SMITH—That the section pending was the motion offered by the committee. For that there has been offered a substitute by the gentleman from Tuscaloosa, which under the rulings of this body is treated as an amendment. I now offer a substitute for that substitute which is a second amendment and I submit it is in order.

MR. REESE—I make the point of order that Section 18 is the matter before the house, and for that the committee offers an amendment. Now the gentleman from Tuscaloosa offers as a substitute the original section reported by the committee. It is running in a circle, and he has got back, he offers the same thing for which the committee substitutes an amendment. I make the further point of order that the gentleman from Tuscaloosa did not give notice that he would offer it, and the gentleman from Mobile did actually offer the amendment, and the gentleman did not offer his.

MR. FITTS—I did offer it.

MR. ROGERS (Sumter)—In order to accomplish the purpose of the gentleman from Tuscaloosa, it will be necessary for him to move for leave to introduce the original section, he could not offer it as a substitute, when there was an amendment to it. The original section was there already, and that would be tautology. How can you substitute a thing for the same thing? It could not be a substitute for the matter was there itself, therefore he had nothing before the house at all. The gentleman from Mobile is in order to offer an amendment to this substitute and the original section.

MR. LONG (Walker)—I move to lay the substitute on the table.

THE PRESIDENT PRO TEM.—I understood the gentleman rose to a point of order.

MR. WHITE—I rise to a point of order, and that is that the substitute offered by the gentleman from Tuscaloosa is out of order. The committee offered a substitute for the original section. Read it there, Mr. Secretary, and see if it is not a substitute.

THE PRESIDENT PRO TEM.—The Chair will ask whether a substitute or amendment?

THE SECRETARY—Substitute for Section 18 by Committee on Suffrage and Elections.

MR. WHITE—That will do. The committee offers that as a substitute for Section 18, the original. The gentleman from Tuscaloosa offers Section 18 as a substitute for the substitute. That cannot be done, it is already before the house as a substitute, and he cannot offer in turn the original as a substitute for the substitute.

MR. REESE—If the substitute offered by the committee is laid upon the table, would not the question recur on the original section?

MR. WHITE—Of course.

MR. REESE—It is the same thing, the proposition of the gentleman from Tuscaloosa.

MR. WHITE—It is only as to the parliamentary status that I speak.

MR. FITTS—I want to state this point of order which I think to be sound, that is that Section 18 as originally reported by the committee was sent back to the committee on yesterday afternoon. They reported this morning from the committee another Section 18, to take the place of Section 18, another section new and independent to take the place of Section 18. That is before the house now. I move to substitute for that something else; it matters not that it is the same thing which happens to be here recommitted. The old section is back to the Committee recommitted, and they this morning brought in a new and independent section, and I asked to substitute something for that. It simply happens by chance that that is the same thing they had yesterday, but that ought not to prevent the rule that I have a right to offer a substitute.

MR. WHITE—If you are allowed to offer the original as a substitute for the substitute, why cannot we offer a substitute,

MR. FITTS—The substitute has nothing to do with it. This morning the Committee offered something else.

THE PRESIDENT—It appears that the Committee reports the substitute for the original section, numbered 18. It, therefore, has the parliamentary status as an amendment to the original section. The gentleman from Tuscaloosa moves to substitute for the substitute the original section. It, therefore, takes the place of an amendment to the amendment, and the Chair will have to hold that the gentleman's substitute is in order, and there being

two amendments pending, the gentleman from Mobile is out of order. The pending question is a substitute offered by the gentleman from Tuscaloosa, which is the original section he offered as an amendment to the substitute submitted by the Committee.

MR. ROGERS (Sumter)—I propose to address myself to the pending question as to increasing taxes. It is not an increase of taxation because it is the old rate at one dollar and fifty cents. That is a sufficient answer to that proposition. The second proposition is that it is a voluntary contribution, and, therefore a reduction of taxation and not an increase on the face of it. The third proposition is that the property holders of the State of Alabama are contributing now about $825,000 to the education of the sons of these poor men for whom my friend from Tuscaloosa pleads, voluntarily contributing nearly one-half of all the revenues of the State of Alabama for the purpose of benefiting the children of these men when he says are not patriotic enough to contribute one dollar and fifty cents for this cause. I do not believe it of the poor people of the State of Alabama. I do not believe that the poor people of the State of Alabama are so wanting in interest not only in this country, but in their own offspring, and I say, Mr. President that if there are men in the State of Alabama who, having received from the people of the State of Alabama funds to educate these children, are not willing to contribute the small pittance of one dollar and fifty cents to add to this fund, we do not want them as voters or citizens; they ought to leave the boundaries of the State of Alabama. We are not here, Mr. President, to cater to that sort of sentiment; we are not here, Mr. President, to stand up for capital or for labor; but we propose to put them both upon the same broad basis, the friends of both and the enemies of neither. Mr. President, it does seem to me that we have heard enough about the barefooted boy whose daddy is the barefooted man. The boy who wears shoes has some rights as well as the boy that goes barefooted, and the man who wears shoes has some rights in the State of Alabama, as well as the man who goes barefooted. We propose, Mr. President, that the property of the State of Alabama shall educate these children. Why? Because it is recognized that there is some necessary connection between ignorance and vice and intelligence and good government. That is why we do it. We propose to educate these people, and when a man is so wanting in a sense of what is right and proper and just, not only to the country but to himself, as to refuse to adopt the great plan of suffrage in the State of Alabama which will eliminate from its ranks the ignorant and vicious. I say he is so ignorant and vicious the sooner we get rid of him, both as a voter and as a citizen, the better for the State at large. Now, another proposition: Suppose a family composed of a man and his wife and three children, which makes up about the average of the families of Alabama—the poor

man who has no property upon which he pays taxes—when he contributes one dollar and fifty cents poll tax, he gets back four dollars and fifty cents in actual money for the education of these children. Men here who talk about the poor people of the State of Alabama put too low an estimate upon the virtue and the intelligence of the people of this State. The poor people of Alabama can be approached reasonably upon any proposition, and when you go to one of these men and talk to him reasonably; when you get down out of your sky-scraping oratory and wind-jabbing, dander jack business, and talk to him calmly and reasonably as a citizen, he listens to you; he hears you, therefore, Mr. President, knowing these people, being reared among those people, knowing these poor people from my infancy up, and, knowing how patriotic and loyal they are, I say that when we get to that proposition, I venture to say they will respond gladly to it, and I move the previous question.

MR. O'NEAL—I hope the gentleman won't do that. Some of us want to discuss it. The Committee has not been heard at all.

MR. ROGERS—I am speaking for the Committee. I will say to the gentleman I speak at the request of the Committee.

MR. SAMFORD (Pike)—I desire to ask the gentleman from Sumter if he will not withdraw the motion for the previous question. I would like to make a few remarks.

MR. O'NEAL—So would I. I would like to speak about five minutes.

MR. SAMFORD (Pike)—It is a matter that involves a question of considerable importance, and the Committee ought not to want to cut off debate on a question like this.

MR. ROGERS (Sumter)—I withdraw the question, then, Mr. President.

MR. O'NEAL—There has been a misapprehension from the beginning. We all recognize under the temporary plan, we were able to carry out the pledges made to the people of Alabama, and remove the vicious and incompetent. The difficulty was in the permanent plan in 1903. We say that any man who can read and write or owns a certain amount of property can vote. When, then, would be the condition in this State?

Let us take the census of the United States. We find, for instance, in the County of Dallas, there are twenty-two hundred and eighty-eight white people who are literate, and three thousand one hundred and eighty-four negroes that are literate; so in Marengo, and in all of the counties of the Black Belt, you find that the negroes who can register and vote under your clause will out-number the white people. The gentleman says we are under pledge

not to increase taxation. What is taxation? A contribution to the support of the Government. Is this a forced contribution? No man is obliged to pay it unless he choose to do so. There is another proposition. The gentleman from Tuscaloosa talks about the pledge which we made to the people of Alabama in reference to taxation.

What, I ask the Convention, is the paramount pledge that we made to the people of Alabama? It is to secure permanent white supremacy in this State, and are we going to violate that pledge? Unless we adopt the report as made by this Committee, we do not lay our suffrage upon the rock as we ought to do. Why? Everybody knows that illiteracy among the negro race is rapidly decreasing. Everybody knows that unless we put some additional safeguard around this provision, which authorizes every negro who can read and write to vote, the Black Belt, if the vote is counted as cast, will be under negro domination. Every delegate from the Black Belt in the Committee on Suffrage this morning made that statement. Whose opinion are we to take? Are we to take the opinion of those of us from the white counties, when every man who represents a county in the Black Belt this morning, with the solemn responsibility resting upon him, stated before that Committee that this provision was absolutely essential to the preservation of white supremacy in that portion of Alabama? Is there any man in this Convention who has so little patriotism that he looks only to the benefit of his immediate county? I say that this Convention is broad and patriotic enough to consider the interest of the State at large and not the interest of any county in North Alabama or in some other section. I tell you, gentlemen, if we frame a provision here on suffrage, that allows any section of the State to be under the domination of the ignorant and vicious your Suffrage Article is a failure. Now, we propose to remedy that and when we offer the remedy, the gentleman says it is increasing taxation. I will say as to the white counties of North Alabama—we are not white entirely, the negroes predominate in many counties in North Alabama; they predominate in Lawrence and almost in Morgan and in Limestone and Madison, and in other counties in that section of the State; and I tell you the people of North Alabama are not opposed to this provision. All through that section of the State there is an overwhelming demand for better schools and better education. When you go before the people of Alabama and tell them this is a vountary contribution for the schools of the State, I tell you no provision in your Constitution will be more popular, so I repudiate the charge that there is no patriotism among the people of Alabama. Gentlemen rise here and arrogate to themselves all the patriotism of the State. They admit it would do good—is it not admitted that the adoption of this provision would decrease the danger of negro rule in this State? No man can honestly say otherwise. Why not do it? Some of

us say, why we have all the wisdom and patriotism in Alabama. What are we? Nothing but the representatives of the people of Alabama and the people of Alabama are as patriotic as we are. When you tell the people of Alabama that we put this clause in your article on suffrage in order that we might carry out the pledge that we made you to lay deep and strong and permanent in the fundamental laws of this State the foundations of white supremacy, they will say "Well done good and faithful servant."

MR. SAMFORD—I occupy the anomalous position of being opposed to both the report of the committee and the substitute offered by the gentleman from Tuscaloosa. I realize the fact, and I realized the fact on yesterday when I offered an amendment leaving the fixing of a poll tax to the Legislature as has heretofore been, that as we had practically in our suffrage plan made use of the poll tax system to purify our elections that some change was necessary. The plan as suggested by the committee is wrong both in principle and in practice, and to the mind of any fair-minded man I fail to see how they could fail to look at it from a different standpoint. As an illustration, I and my brother go to the tax collector to pay our taxes, the taxes upon our property, he is two years my junior. Upon his taxes is added one dollar and fifty cents, upon my taxes the one dollar and fifty cents is left off. He asks the question, why am I required to pay one dollar and fifty cents more than my brother, we occupy the same relations to the State, we are sons of the same father, we are equally patriotic, we are attempting to do our duty as citizens—why am I required to pay one dollar and fifty cents and my brother exempt from it? The only answer you can give is, that your brother was born two years before you were. That, gentlemen of the Convention, will never be a satisfactory answer to the proposition that we are now putting before the people.

MR. ROGERS (Sumter)—I would like to ask the gentleman from Pike, why adopt any age for poll tax, why say to the man after forty-five that he should not pay and to another man that he should pay it. Answer that question.

MR. SAMFORD (Pike)—I am coming to that now. I recognize the difficulty that we are laboring under, and that is that we have adopted a poll tax system to eliminate a certain class of the vicious and illiterate from the franchise in this State. I further recognize the fact that it is absolutely essential to the furtherance of that plan, that the age limit should be raised to sixty years in order to cover the whole people, and I am in favor of raising the limit to sixty years, but I am not in favor of discriminating against the class who are now under forty-five years of age. There is no reason in it, there is no good sense in it, there is no good judgment in it. The gentleman from Tuscaloosa I feel, misrepresented the white people of this State when he says that they will resent the

raising of the age limit. I believe that the vast majority—and I place the plane of patriotism of the white people of this State upon a higher standard than does the gentleman from Tuscaloosa. Every man knows that this money when it is collected goes into the coffers of the public school fund, every poor man knows that when he pays his one dollar and a half he gets three, four, five or six fold what he put into it, he knows he gets the benefit from the taxes raised upon the property of the rich man, he knows he gets the benefit of the taxes raised from the property of the great corporations, he knows that every liberal-minded man in this State whether he be high or low, rich or poor, desires to educate his children of the poor white people of this State. I submit to the Convention, in my section, in the wire grass section, where we are cultivating the poorest lands in the State, and where we have a high class of civilization, I submit to this Convention that every white man is willing to contribute one dollar and fifty cents towards the education of the children of the State. I am opposed to discrimination in anything. We are here to eliminate, as has been said by the gentleman from Lauderdale, the ignorant and vicious voter. This committee composed of twenty-five patriotic, unselfish and sensible men have evolved a plan, the basis of which is the collection of a poll tax. Stop at forty-five years and half of their labors have been for naught. Raise it to sixty years, and I tell you, as the gentleman from Lauderdale said, when this question is put plainly and simply and without any embossing or without any frills and furbelows of oratory and talk to the plain people, in a plain manner, they will endorse your action. But if you go back with a plan half made, go back with a plan that upon its face is a dodge, its very appearance being to dodge what some members of this Convention conceive to be a pledge not to raise the tax limit, they will repudiate your actions, and will not appreciate your labors. I appeal to this Convention to meet this matter in a manly way to place the standard before them of right, if it be right that we should do this in order to eliminate and gain the great ends for which we were convened. Let us fix the age limit at sixty years, let us fix it so that every man who is a citizen of this State shall be required if he participates in our republican form of government, to contribute something towards the education of the citizens who are to follow him and take up the burdens of the State.

MR. O'NEAL—Will the gentleman allow me to interrupt him? Here is the census showing males 21 years old and over who can read and write in Greene County. There are only 807 native whites who can read and write and 1,264 negroes who can read and write. So the negroes predominate under this reading and writing clause.

MR. LOWE (Jefferson)—Will the gentleman from Lauderdale permit a question?

THE PRESIDENT—The gentleman is out of order unless the gentleman from Pike yields.

MR. LOWE (Jefferson)—Does the gentleman from Lauderdale think we are legislating here——

THE PRESIDENT PRO TEM.—The gentleman from Jefferson is out of order unless the gentleman from Pike yields.

MR. O'NEAL—We are legislating for the whole State.

THE PRESIDENT PRO TEM.—The gentleman from Lauderdale is out of order.

MR. SAMFORD (Pike)—No man in this Convention doubts that every delegate upon this floor is using his utmost judgment and his utmost patriotism to protect not only the men who are clad in purple and fine linen, but they are doing everything in their power to protect the interests of the poor man in Alabama as well. There is not a delegate upon this floor, within my knowledge who is here for a selfish motive, and it is the duty of every one of us to take hold of these questions in a patriotic manner, having the interests of the citizens in view and fearing no man, fearing nothing except to do wrong, and when we have ascertained what is right to do, and let the consequence take care of itself, and let the people take care of our acts.

MR. REESE—I have been asked by one of the most intelligent citizens I know, this question, "Is it not apparent on the part of some that some of the white counties——"

MR. SAMFORD (Pike)—I will ask the gentleman just one moment to let me read what I would submit in case I get an opportunity.

THE PRESIDENT PRO TEM.—Does the gentleman yield?

MR. REESE—Yes.

MR. SAMFORD—Under the rulings of the Chair it cannot be offered now, but in case the opportunity is offered me—

MR. REESE—I cannot yield for a speech.

MR. SAMFORD—I am not going to make a speech.

MR. REESE—But you are. (Laughter.)

THE PRESIDENT—Does the gentleman from Dallas yield?

MR. REESE—I cannot yield now, I will try to yield later. I have been asked this question: "Is it not apparent that there are gentlemen here from white counties that do not care if the Black Belt is turned over to the negroes?"

MR. LOWE (Jefferson)—I rise to a point of order—a point of inquiry: Will the gentleman indicate who has come to this Con-

vention, who has undertaken to draw the line of distinction between the white counties and the black counties?

THE PRESIDENT—The Chair rules that is not a point of order, but that it is a question for the gentleman from Dallas. Does the gentleman from Dallas yield?

MR. LOWE (Jefferson)—But, sir, we cannot interfere ordinarily, under any ordinary rule with the——

THE PRESIDENT PRO TEM.—The gentleman is out of order. The gentleman from Dallas declines to yield.

MR. REESE—My time is limited. I have been asked that question, Mr. President. My answer to that question and the answer very promptly given was that I do not believe any such thing. When I look in the faces of these men here, I cannot believe any such thing as that. We have got the same blood in our veins that they have in theirs, and we have worked together and we have prayed over these things for these many years. We have met here to watch the fruition of our desires and we have worked and worked together for this purpose, and although the great volume of the result of that work have come from the section that I represent, I say that the gentlemen who came from different sections came with all the patriotism of the people of the Black Belt. Mr. Chairman, I do not believe any such proposition as that, notwithstanding the remarks of the gentleman from Tuscaloosa. I believe the citizens of his county are more patriotic than he believes them to be. I believe that the citizens of a county that gets more out of the State Treasury in proportion to the amount put in, have more patriotism about them than to throw us onto the tender mercies of the negro in order to allow a few men to vote that are not willing to contribute $1.50 to the education of the barefooted boys of Alabama.

MR. FOSTER—I want to correct the statement of the gentleman that Tuscaloosa County gets more from the State Treasury than it pays in for schools and county purposes.

MR. REESE—That is not the statement. I did not intend to say that.

MR. FOSTER—I will state, too, that the people of Tuscaloosa are with you on this proposition.

MR. REESE—I knew it, Mr. President. I am glad to have the gentleman from Tuscaloosa confirm me in my opinion about the people of Tuscaloosa. What I meant to say was, there was no money that went into the county, because it is a county that uses for its educational and other institutions, which I think have been conducted along patriotic lines. I think that the people of Tuscaloosa will not be unwilling to disfranchise negroes at 15 cents

apiece. Mr. President, when you pay $1.50 for a poll tax, in Dallas County, I believe you disfranchise ten negroes. The proportion, I believe, of negroes which this poll tax provision will disfranchise will be ten negroes to one white man, and, Mr. President, I want to apologize to these retained counsel of the——

MR. LOWE—I think he should indicate the retained counsel to whom he refers.

THE PRESIDENT—The gentleman from Jefferson is out of order, unless the gentleman from Dallas yields.

MR. LOWE—Give us the names.

MR. REESE—I cannot be interrupted in the middle of a sentence. I want to apologize to the retained counsel of the barefooted boy that I am not trying to burglarize into his case and take away his client, I am not posing in the attitude of the attorney for the batefooted boy, but I say that this $1.50 goes to the barefooted boy, and to the boy that has got a pair of shoes. It goes for educational purposes, and, Mr. President, let us rise above these things and let us educate our people, and when we pay $1.50 we disfranchise ten negroes, and we help to educate a whole lot of white boys. Now, I believe like the gentleman from Sumter. I have great confidence in the people. I have a great deal more in the people than I have in the politicians, and I believe when we go to the people of Alabama and say we are building up your country here, give us this $1.50 for educational purposes and for the disfranchisement of a vicious and useless class, Mr. President, they will give it to you. Now, give us this relief in the Black Belt, and I believe it will relieve us of the situation and be satisfactory to our people.

MR. LONG—I will ask a question——

MR. REESE—I promised the gentleman from Pike to yield to him.

MR. LONG—If the poll tax disfranchises so many negroes, why is it yesterday you wanted the property and educational qualifications in there?

MR. REESE—I want to correct the statement of the gentleman from Lauderdale. He says there are about twenty-five hundred literate white people in Dallas County. I am satisfied he meant literate voters.

MR. O'NEAL—I mean literate voters.

MR. PITTS—The county which I have in part the honor to represent, has a population of fifty-four thousand in round numbers. Of that only ten thousand are white and forty-four thousand are negroes, and a great many of those negroes are educated

and a great many of them own property. We do not desire to disfranchise a good negro. We are on the floor of this Convention to vote against it. If he pays taxes, we think that he ought to vote. We honestly believe it, if he is a good citizen; but I want to say this, Mr. President, we do not desire and cannot turn over completely into the hands of the negro, and we believe that the white people of Alabama will aid us in preventing this terrible catastrophe. Now, I want to thank the distinguished gentleman from Lauderdale for what he has said in favor of the people of the Black Belt, and I simply desire to add to what he has said, that if they will keep the poll tax as is provided for by the report of the Committee, we will be satisfied. We of the Black Belt desire that it should be from 21 years of age to 60 years of age, but some of the delegates from the white counties suggested that it would not be treating them right, and we are here willing to give, whenever it is possible to do so we are willing to give.

MR. LOWE (Jefferson)—Will the gentleman pardon me? I would like to know how it is that the gentleman supposes that the delegates from the white counties—the gentleman says the delegates from the white counties——

MR. PITTS—I did not hear——

MR. LOWE—You say delegates from white counties—

MR. PITTS—Yes, sir; I said so.

MR. LOWE—I would like to know if the gentleman will designate upon the floor of this Convention any time when the delegates from the white counties have opposed the delegates from the Black Belt.

MR. PITTS—I don't think it is necessary, and I am not called upon to state, but I will state that some of the best delegates in this Convention from the white counties stated it would not be treating them right to insist upon having the age 21 to 60, and we yielded. We are willing to accord to them what they wanted, and we ask them in return to make some concessions to us, and they did make a concession by the report that is now presented here. As stated by the distinguished gentleman from Lauderdale, there was a conference in the Committee between the delegates from the white counties and the delegates from the black counties of this State, and this is somewhat of a compromise. Now, let me suggest this, most of the negroes in the Black Belt who own property were slaves. Now, who is it that we dread? It is the educated young negro who will not work and who spends his time in gambling and winning the earnings of those who do work. We don't think he ought to be permitted to come in and vote, and if this section is adopted as reported by the Committee, although we from the Black Belt prefer it to be from forty-five to sixty, yet we have conceded that, but I say if this is given to us "from twenty-one to

sixty," I assure you we in the Black Belt will take care of ourselves.

MR. BROWNE—I understood the gentleman from Dallas (Mr. Pettus) to state some of the Black Belt have a compromise agreement by which certain things were agreed to and one was that the Black Belt delegates agreed to retain the poll tax age at forty-five. If that is so, they ought to keep the faith and not come into the Convention and by recommitment to the Committee, raise the age from forty-five to sixty.

MR. PITTS—I did not make that statement. I said it was understood between the delegates on the Suffrage Committee that all of those who are now forty-five or will be forty-five in January, 1903.

MR. LOWE—Will the gentleman yield a moment? Does the gentleman from Talladega intimate that this Convention has agreed to support a compromise made by two contending factions in Committee?

MR. BROWNE—I did not so state.

MR. LOWE (Jefferson)—What did the gentleman state?

MR. BROWNE—I stated if they had agreed to certain things——

MR. LOWNE—That was my understanding of the statement.

MR. BROWNE—That if they had agreed to certain things before the Committee, they ought to stand by the agreement.

MR. LOWE—Who should stand by the agreement?

MR. BROWNE — The delegates from the Black Belt that made the agreement. Now, Mr. President, I decline to be further interrupted.

MR. LOWE—Yes, and I don't blame the gentleman from declining to be interrupted.

THE PRESIDENT PRO TEM.—The gentleman is out of order.

MR. BROWNE—Mr. President, there are delegates on this floor representing counties where they can well afford to agree to support a measure looking to raising the age of paying poll tax to sixty, because they have very few poor white men living in those counties, but in North Alabama and a great many of the counties, in most of the North Alabama counties that have hills in them, we have a very poor class of white people. Now, you propose to raise the age limit from forty-five to sixty. You cannot change the effect of that so as to make it otherwise than this. You go

back to those tens of thousands of poor white people in North Alabama and tell them that while in one sense we have kept the faith and not raised your taxes, we have provided that we are going to charge you who are forty-five years of age, twenty-two dollars and fifty cents apiece for the right to vote between now and the time you become sixty years of age.

MR. WALKER—Under the report made by the Committee, those who are now forty-five years of age and those who will be forty-five years of age by the first of January, 1903, will not have to.

MR. BROWNE—Then I will have to fall a notch and come down to those who will not be 45 years of age on the first of January, 1903.

MR. LOWE (Jefferson)—Will the gentleman yield?

MR. BROWNE—No, sir. That is the most vicious piece of legislation that has ever been undertaken to be passed through this Convention. Why do you in the name of Heaven, make that exception in favor of those who are so fortunate or unfortunate as to be on the verge of forty-five years now. If it is right, why not include everybody? Why offer to those who are now forty-four years this exemption, when you do not extend it to those who are only forty-two. As I understand it the amendment proposed is, "provided that those male inhabitants of the State who shall reach the age of forty-five years on or before the first day of January, 1903, shall not thereafter be required to pay poll tax." What is that exception?

MR. O'NEAL—Are you not in favor of it?

MR. BROWN—No, sir, I am not in favor of it. I am in favor of the amendment proposed by the gentleman from Pike so as to leave this matter in the hands of the legislature and it seems to me that is all the gentleman from the black belt counties ought to ask of us, that is if the result of this suffrage plan without that clause is not such as to satisfy them. If it is not sufficient to practically disfranchise all of the negroes in the black belt, or a sufficient number to insure white supremacy, then let the legislature come in and raise the poll tax from forty-five years to sixty, without our doing it, when we do not know that it is necessary.

MR. LOWE—Will the gentleman yield for a question? I want to know if the gentleman from Talladega says he is going to leave this matter to legislature and not to the Convention?

THE PRESIDENT—The gentleman is not entitled to the floor and cannot answer the question.

MR. BROWNE—I am willing to answer the question.

THE PRESIDENT—The gentleman from Mobile has the floor, the gentleman from Talladega is out of order.

MR. SMITH (Mobile)—In all this discussion the State of Alabama has been constantly divided into two classes, the black belt and the hill counties, usually spoken of as the hill counties and sometimes as the white counties.

There has been no consideration or no thought of any other section whatever, except the hill counties and the black belt. The reason of that, Mr. President, is perfectly manifest, and that is the hill counties are, some of them, counties in which there are black belts, and some of them counties in which the negroes hold the balance of power, so that active politics has become an evil and a necessary one in those counties. The black belt, as we know, has a large majority of negroes and that has been an evil. That portion of the State to which I belong is neither a hill county with negroes holding the balance of power, nor a black belt county. The white man there stands in undisputed control of the elective franchise and can control it at all times. The negro is allowed to vote. His vote is counted but it accomplishes nothing. I take it our position is the one that the balance of the State is now seeking to obtain so far as the suffrage question is concerned. Now it seems to me, therefore, Mr. President, the experience of the black belt, as well as the experience of the hill counties situated as they have been, possibly will not be the experience of those sections when they have reformed the ballot, and have put themselves in the same position that my county has so long occupied and it seems to me, therefore, that some of the deductions and conclusions that they have drawn from past experience are erroneous. When this pressure is removed from them men will not act as those who are under this pressure do but they will act as men who have not been under this pressure have acted. For that reason it seems to me, based upon the experience of my section, it is an error to make this poll tax entirely voluntary. As I said before the vote of my section has not amounted to anything. I has been nothing but eight or nine thousand white men. It has not been necessary to carry an election. Any time it was necessary the black belt could put in ten, fifteen, twenty or thirty thousand negro votes, and dispense with the necessity of using that nine or ten thousand white men. But the time is now coming and you are preparing it here when there will be nothing counted but the votes of white men, and when you will want and need the vote of the white man as badly as you want the silence of the negro, and it seems to me that any measure you take here to encourage the white man to sit by and not take part in politics is an error. Now, Mr. President, when you take a man who has no interest in politics, when you take a man that does not want any office, when the life of politics in his county does not depend on his registering and voting he will not

do, in order to save his franchise, what a man will now do in the black belt or what a man will now do in the hill counties. Now my experience is, that men who have no personal interest in politics, and in a county where it is not absolutely necessary that a man should take part in politics, that the very best class of voters, the very best element of our people, will not even go to the polls unless they are brought there in carriages. Now you may say that any man who will not pay a dollar and a half to educate his children is not worth voting.——

MR. ROGERS (Sumter)—Did it ever occur to you that the reason for that is that all the class that now vote and are controlled by politicians will be cut out under the requirement to pay a dollar and a half, and the best man has not time to fool with that sort of cattle. The reason the best men, and good business men, take so little interest in politics is because it is controlled and manipulated by the politicians of the State, and the business man has not time to mix up with them.

MR. SMITH—It did not occur to me because it is not that way down my way. Whenever the business man comes out and takes an interest in my county, it goes his way as certainly as the sun rises in the morning, and it only goes against his interest when there is nothing that touches the pocket or interest of the business element, and when there is nothing that touches the pocket or interest of the business element, he does not go unless he is pursuaded to go, and although that has not been the condition in the hill or black belt counties I believe when negro domination and influence is removed it will be the same condition to a large extent. Now, Mr. President, if you make the payment of a poll tax voluntary and put upon it no other condition than he shall vote, I believe a large majority of the best element of the white people in this State will sit by and not take part, and that the politics of this State will fall into the hands of rings and cliques who will operate and run it, pay their poll tax and vote, not for the benefit of the State, but for offices for themselves and their followers. I believe that such a condition as that would be almost as bad, though not quite, as the politics that are influenced and dominated on account of the negro. Now Mr. President, it seems to me that the same purpose can be accomplished and yet make this tax enforcible under a provision that no man shall vote unless he pays his poll tax before February 1st, and there shall be no process for the collection of it.

MR. LOWE—Will the gentleman yield for a question?

MR. SMITH—I prefer not. Mr. President, if it is not paid by February 1st the right to vote is taken from him. Now I believe in making it non-enforcible down to April, after the first day of February, but on the first day of April and thereafter, I believe in making it enforcible by ordinary process. Now the effect of

that as I take it, will be this, we know the disposition of the negro, and we know the disposition of the vicious element that only uses his vote as a means of getting money to drink or gamble with. That man is not—

MR. ROGERS—You stated a while ago that the voluntary payment of the poll tax, that the payment of poll tax puts politics in the hands of politicians. Now you say it should not be left voluntary, but should be enforced by the State. Now explain, please your position in regard to that matter.

MR. SMITH (Mobile)—I cannot explain because I have other matters to explain that will take the time. If the gentleman will think and not talk he will find out.

I was going to say that the negro and the vicious element will not pay two months ahead of time a dollar and a half in order to exercise this privilege, but if the business man knows he is liable for tax, although he will not give a dollar and a half to vote or exercise the franchise, he will put it on the list of liabilities like he does everything else and tell his clerk to pay it when it is due, and will not wait until the first of February, but will pay it between October and February, along with the balance of his bills, and he will, as a matter of business, qualify himself to vote, and there will be no incentive on the day of election for him to refuse to vote on account of the extra burden; whereas, when the day of election comes, and purchases come around (and nobody will buy a tramp or a negro ahead of time), or when the politician comes around two weeks before election and wants to buy, lo and behold! the first day of February has passed and he has no vote to sell. I am, therefore, opposed to this system that makes it entirely voluntary, and if I get the opportunity, I will offer an amendment, making it compulsory after the first day of April.

MR. SANFORD (Montgomery)—He will not be allowed to vote.

MR. SMITH—No, sir; not if he does not pay before the first of February.

MR. STEWART—I am in favor of the substitute offered, and favoring that substitute, I represent the sentiments of the people whom I have the honor to represent in this Convention. The statistics of the United States show that there is about 33 per cent of the negro population that are illiterate. The whites and negroes in our county stand in proportion of about five to one—about 5,000 negro voters to about 1,200 whites. Deduct a third from that for illiterates, and it leaves about 3,000 negro voters, in round numbers, who are qualified under the intellectual part of this Article; but now take off the bridle and put no control over them in the way of poll tax from 45 to 60, and, Mr. President, in five years

after we have organized this system in 1903, the negro, if we permit them to control us, will be absolutely in control of our county, and of our county affairs. There will be a clear-cut majority. Now, the only protection we can have is to allow the poll tax from 45 to 50 to accumulate on them after 1903, and in that way cut off to some extent the number of people who will qualify as voters under the registration after 1903. Now, up to 1903, under the law as we have adopted, it, or the Article as we have adopted it, the white people of Perry County and of all that Black Belt country, will be absolutely in control and dominate the counties, so far as the politics of it is concerned. We will have absolute control of it, but if we are cut down to 45 years of age, and the negro after that time is not to pay poll tax, you will find and every one of us will find, that we will wake up some election morning and find that we are under their domination and under their control, and the county officers will be in the hand of the negro and not in the hand of the white man. It is impossible to tell anything about the age of a negro, after he gets to be 35. The trouble is, these negroes have been reared in our counties; their fathers, who were slaves, were reared there, and a large number of those who are there will be able to prove by their old masters their age, will show clearly to any registration board that they are over 45, yet under 60, and we ask that this protection of the rights and privileges of the white man of the country. We do not ask anything except your protection. We ask the white counties and the white people, and it seems to me if they desire to redeem the State from the rule of the negro, that they should hold out a helping hand to the black belt and assist us. In addition to that, if you enforce the collection of this poll tax by ordinary systems, that are used in the country, or under the State laws as they now stand, as suggested by the gentleman from Mobile, what will be our condition? On the first day of January of each year, when the contract is being made with the farm laborer or tenant, the man who advances to the tenant will pay that poll tax, this very tax—the man making the contract with the negro will pay his poll tax, in connection with any other taxes he may have, for the purpose of procuring his labor; and, the truth of the business is, these poll taxes will be kept paid just as they are paid today. The farmer, the land owner, will pay the taxes for his own protection. The land owner will pay the taxes to keep the little property he may have—the negro may have, around him—from being taken by the tax collector and making him, therefore, dissatisfied. We don't want this tax to be other than voluntary, and it will be almost a crime against nature to impose upon us any such system that will enforce the collection of this tax. Leave it out of this Article entirely, if you are going to enforce the collection. For that reason, I favor the substitute that has been offered.

MR. BULGER—I like the report of the Committee for two reasons; one is because it has a tendency to disfranchise the darky in the Black Belt, and it has a tendency to increase the school fund in the white counties. If I understand, the gentlemen who speak for the Black Belt and live in the Black Belt, it will have the effect of disfranchising and eliminating a great many negroes from the elective franchise. I am sure, sir, if it is adopted, it will have the effect to add many dollars to the school fund of the white children in the white counties. Now, the most popular law on the statute books in this State is the law that provides that the poll tax of the two races shall be kept separate and shall be kept in counties where it is paid. Now, the gentleman from Tuscaloosa is mistaken, I think, as to what the people of the white counties will think of being required to pay poll tax from 45 to 60. The most willing contribution made in this country by the white people of Alabama is the poll tax they pay for the support of the public schools, that they know goes to educate the white children, and which they know does not go to educate the negro children.

MR. SAMFORD (Pike)—Would not the man who is already 45 years of age be just as willing to pay it as the one who became 45 years of age later?

MR. O'NEAL—No, not if he is exempt now.

MR. BULGER—I do not think so, for this season——

MR. SAMFORD—Then if he would not be just as willing, I will ask you if it would not be fair for him to do it?

MR. BULGER—Except for one thing; where a man has been paying until 45 and by the Constitution and law of this State he has become exempt——

MR. LONG—Will the gentleman yield a minute?

MR. BULGER—I would not yield to anybody, except my friend from Walker.

MR. LONG—I am grateful for the privilege. I ask if the gentleman is not over 45, and is, therefore, not objecting?

MR. BULGER—No, sir; I am not over 30. (Laughter). That is an unfair question to ask a gentleman like me.

MR. FITTS—Situated as you are.

MR. BULGER—Situated as I am. (Laughter). I was going on to say in answer to my friend from Pike, that where a man, by law, has been paying the tax until he is 45 and when, by law, he has been exempt from that payment, he, in my humble judgment, would not pay it as willingly as a man who has yet to become 45. The poll tax paid in this State by white people according to my observation and experience, is very willingly paid.

Grandfathers who are over 45 and up to 60, feel just as much interested in education of their grandchildren as they do in the education of their own children, and, in my judgment, there will be no objection by these gentlemen to paying these taxes until they are 60 years of age, when they know especially under the law that the white children get the whole benefit of the tax for school purposes.

Now, Mr. President, it seems to me that this is the only section of this Constitution that would be absolutely satisfactory both to the hill counties and to the Black Belt. What we would like to do in this country more than any other two things, would be to disfranchise the darkeys and to educate the while children. If we can do that, just let us alone and we will continue to have the greatest State in the American Union.

MR. LONG (Walker)—I would be the last man on the floor of this Convention to advocate anything detrimental to the Black Belt. I love the people of the Black Belt, and it was to a Black Belt girl that I lost my heart, who today I have the honor to call my wife, and that is one of the losses that I have made in the numerous games of life that I have never regretted.

Mr. President, I cannot see why they should bring up an argument to increase the poll tax age from forty-five to sixty. Why, in 1903—up to 1903, out of four propositions that the registers of the black belt can register every man, woman and child, dog and varmint if they see fit and declare everybody else not registered. They can register every man, woman and child, black and white, or refuse every one, black and white, and under this soldier clause, descendants clause, the understanding clause and the good character clause—

MR. O'NEAL—Will the gentleman yield?

MR. LONG—I will not. Certainly under that, that is guarantee enough. I do not mean to intimate upon the floor that the black belt will be dishonest but they would take care of themselves, and they will register the good people and leave off the vicious, and that is what they should do, and that would be a protection until 1903, after that from the age of twenty-one to forty-five he will have to pay his poll tax and all who are acquainted with the negro knows that it is hard to tell the difference between a negro forty-five years old and one sixty years old. The registers can take the benefit of the doubt and say he is forty-five. The negro hardly ever has a record of the date of place of birth. There is no danger from that, and you speak about a compromise made by white delegates upon this floor. I say I have never heard of such a compromise. I am not in partnership with any compromise. I am in favor of doing anything that is right, but I tell you it is not right to raise the age for paying poll tax from forty-five to

sixty years and I tell you the people of the white counties will repudiate it, and you will lose this Constitution, at the lowest calculation, in my opinion, by at least twenty to thirty thousand votes, to be conservative. My people are as patriotic as any people, but when you touch their pocket book and you touch a principle that has existed ever since we had an Alabama, you touch the hearts of men that are nearly reach that age. It is well enough to talk about charity among men who are past forty-five, and say he is excepted, but you do not except the others. That is charity to nobody. If you are in favor of charity, accept the amendment of the gentleman from Pike. It is a thousand times better. It is not class legislation. If you want to raise it from forty-five to sixty, come out like men and say so, don't excuse a little scallawag because born twelve months prior to me. You have no right to do it. You have a right to state the age for poll tax, but you have no right to exempt certain classes, make certain classes pay after the age of those who are excused from paying. You have no right to say you shall not pay because you are forty-five years of age, but you, because you are forty-four and a half years shall pay for fifteen years longer. Let us look at this thing from a sensible standpoint. If I thought for one moment that the black belt was in danger, I would vote a ten dollar poll tax; I would vote for twenty dollars poll tax. I would vote for fifty dollars poll tax, but that is not the question. The black belt can take care of itself. We are willing to give it every opportunity to do so. We have done that and that is one of the main objects for calling this Constitutional Convention. You can call it a voluntary tax. It has been stated upon this floor that it is not a tax, because it is voluntary. What is the result; the forfeiture of the right of franchise. It is one of the worst sort of taxes. Why an ad valorem tax in one sense is a voluntary tax. What does it do? Forfeit your right of property. Where is a man on this floor that would not rather lose his property than his right to suffrage. So you see it is the very worst form of taxation, and the people in Alabama in my judgment are not expecting anything of the kind. On yesterday I had the honor of offering an amendment which in the wisdom was overwhelmingly voted down, that required a poll tax after 1903 and went on so far as to say that those who refused to register under the temporary plan could not register under the permanent plan, and yet the delegates by a vote of nearly three to one voted it down; yet we are told here today by the very men who voted against it that poll tax will disfranchise ten negroes to one white man. In other words fifteen cents contribution would disfranchise one negro. If that is the case let's raise a few hundred or a few thousand dollars and disfranchise every one of them. Fifteen cents does not disfranchise the negro; neither does a dollar and a half disfranchise them. Because the records in the black belt show that the negroes in the black belt pay nearly three times the poll tax the white people in the black belt pay.

MR. ROGERS (Sumter)—Will the gentleman allow me to ask him a question?

THE PRESIDENT PRO TEM.—Will the gentleman yield?

MR. LONG—I decline to yield. I admit that this is because many of the white people in the black belt pay the taxes of the negroes, the poll tax included. They can continue to do that or refuse to do it, as they see fit and proper. I mention that to show you that it is not a question of the supremacy of the white people in the black belt. The white race will take care of itself, and when the delegates of this Convention are asked to come up here and raise the limit up to $1.50 for all those who become 45 years of age after the ratification of this Convention, it is the worst form of class legislation, and the most vicious measure in my honest judgment that has ever been proposed here. We, as Democrats, have always opposed class legislation, and I want to see any man get up here and say that this is not class legislation. You have a right to name your limit. I am willing, for one, and introduced an ordinance in this Convention, which the distinguished Committee on Suffrage and Elections saw fit to ignore, to make the poll tax apply to every man that had the right to vote in the State of Alabama, irrespective of his age. I am willing now to vote for the amendment of the gentleman from Pike, but I tell you I am not willing to vote for class legislation here that will allow men under 45 years of age to be discriminated against. I can see no good reason why after all of these clauses have been put in here that we should be asked to raise the age limit up to which a man should pay poll taxes. There cannot be any good reason given, and I tell you that it is a violation of the Democratic platform, as said by the distinguished gentleman from Tuscaloosa (Mr. Fitts). I claim to know as much about the wishes of the people as many others, and I tell you that the farmers' sons in this State look at this $1.50 a year as a tax, and one that they are looking forward to the time when they will reach the age when they will be exempted from its payment, and road duty is the most obnoxious thing in the world to them. I have seen numbers of men whose wages have been garnisheed time after time on a forfeiture for costs because they did not work the roads.

MR. HOOD—As a delegate from the white section of Alabama, I wish to repudiate the idea that the white people of Alabama in my section are less patriotic than the white people of any other portion of the State. As a delegate from the hill counties of this State, I also wish to deny the proposition that the white people of those counties are poorer than those of any other counties in this State, and that they are not able to pay the pitiful sum of $1.50 annually to swell the school fund for the public schools of this State, especially, Mr. President when this $1.50 contributed

by the people of those white counties is retained in their own counties to build up their common schools.

MR. LONG (Walker)—I would like to ask the gentleman a question. You stated that the white people in the white counties were just as well off as the white people in the black belt?

MR. HOOD—They are not all paupers, and the gentleman well knows it. He comes from a county in this state of but a little more than twenty-five thousand people, the assessed valuation of whose property is over six million dollars. (Applause.) They are not all paupers, Mr. President, and neither are they all fools. (Applause.)

Now, in my judgment, this poll tax qualification is the most important provision of this entire article. Under the scheme reported by this committee, on the 1st day of January, 1903, this magnificent temporary plan expires, and then we have a property and educational qualification stated in the alternative. In other words, every person offering to vote or register after that date, who will be able to read and write, cannot be disqualified. We are told that in the black belt, and that in many counties in this State, there is a large percentage of those young negroes who are coming of age that will be able to read and write, and therefore, will be qualified under the provisions of this article.

The only safety valve, Mr. President, that is contained in this article after 1903, for a large proportion of the negroes in this State, is this poll tax of $1.50. The gentleman from Walker suggests that you cannot tell how old a negro may be who is in the neighborhood of 45 years old; that you cannot tell whether he is 30, or 40, or 45 or 55 years of age. Ah, Mr. President, that is but an additional reason why this age limit should be increased to the age of 60.

Again, it is suggested that it is class legislation to say to those men who have already attained the age of 45, that we will not again impose this burden upon you. In reply to that, I will ask the gentleman the question: Can he conceive of any scheme to restrict the suffrage in this State that is not class legislation? But there is a good reason for not including those men who are exempt. That is right to them. This exemption is a right that has already accrued, and this Committee simply proposes not to take away from them that right. That, Mr. President, is not class legislation.

Again, it is urged by the gentleman from Mobile——

MR. SAMFORD (Pike)—I would like to ask the gentleman a question.

MR. HOOD—Certainly.

MR. SAMFORD—Isn't it an equal right under the present law with every citizen of this State, that, when he gets to be 45 years old, he will be exempt from the payment of poll tax?

MR. HOOD — It is under the present Constitution, but we propose not to give that right under the new Constitution.

MR. SAMFORD—Will the gentleman answer another question?

MR. HOOD—I decline to yield further.

It is urged by the distinguished gentleman from Mobile that the provision as contained in the report of this Committee will disfranchise many of the white people of Alabama, or, in other words, that many of the business men of the city of Mobile, and other cities, will avail themselves of the fact that the collection of this tax is not compulsory, and will therefore decline to pay it, and thereby disfranchise themselves. Mr. President, it may be true that the citizens of Mobile, and of the other cities and towns of the State, in the ordinary elections, in which they have no great interest, do not usually vote, and it may be true, and is to some extent, that very frequently you have to send for that class of people in carriage to get them to vote, but when men of that class are required to pay a poll tax of $1.50 several months in advance of the election, sometime before they know what issues will be involved, sometime before they know whether friends will be candidates, are they, for the paltry sum of $1.50, going to refuse to register, and thereby disqualify themselves to vote?

Again, Mr. President, the Supreme Court of the United States, in the Williams case, speaking of the legality of the Mississippi law, referred to the fact that the poll tax is made a qualification there, and emphasis is laid upon the fact that the collection of that poll tax is not compulsory. Is that not significant coming from the Supreme Court of the United States?

MR. SMITH—May I ask the gentleman if it has not reduced the vote of the white people in Mississippi very largely?

MR. HOOD—Probably it has. I could not say. It has certainly reduced the negro vote in a greater proportion—90 per cent., as suggested by some gentleman.

Now, the main purpose of this Committee is dispensing with the compulsory collection of the poll tax was to allow the poll tax to accumulate and pile up on this very class of voters that we want to get rid of—the vicious voter in Alabama. We want that poll tax to pile up so high that he will never be able to vote again. If you provide a compulsory way of collecting that poll tax, you destroy the objects and purposes of the Committee in reporting the provision as it is reported.

Now, believing the Convention is ready to vote upon this proposition, I move to lay the substitute of the gentleman from Tuscaloosa on the table.

MR. SOLLIE (Dale)—I hope the gentleman will withdraw that motion a moment. (Expressions of dissent.)

MR. HOOD—I decline to do so.

MR. FITTS—I call for the ayes and noes.

The call was sustained.

THE PRESIDENT PRO TEM—The question is upon the motion to table the substitute offered by the gentleman from Tuscaloosa. Those favoring the motion to table will vote aye and those opposed no, when their names are called.

Upon the call of the roll the vote resulted as follows:

AYES.

Messrs. President,	Hood,	Palmer,
Banks,	Howze,	Parker (Cullman),
Bulger,	Jackson,	Pillans,
Burnett,	Jenkins,	Pitts,
Burns,	Jones, of Wilcox,	Reese,
Carmichael, of Coffee,	Kirkland,	Rogers (Lowndes),
Carnathon,	Knight,	Rogers (Sumter),
Chapman,	Kyle,	Samford,
Cobb,	Lomax,	Selheimer,
Coleman, of Walker,	Macdonald,	Smith (Mobile),
Craig,	McMillan (Baldwin),	Spragins,
Cunningham,	McMillan (Wilcox),	Stewart,
Davis, of DeKalb,	Malone,	Tayloe,
Dent,	Maxwell,	Vaughan,
Eley,	Merrill,	Waddell,
Foster,	Miller (Wilcox),	Walker,
Glover,	Morrisette,	Watts,
Graham, of Talladega,	Murphree,	Weatherly,
Grant,	NeSmith,	White,
Greer, of Perry,	Norman,	Williams (Barbour),
Harrison,	Norwood,	Winn,
Heflin, of Chambers,	Oates,	
Hinson,	O'Neal (Lauderdale),	

Total—67.

NOES.

Almon,	Beavers,	Brooks,
Altman,	Beddow,	Browne,
Ashcraft,	Bethune,	Byars,
Barefield,	Blackwell,	Cardon,
Bartlett,	Boone,	Davis, of Etowah,

Duke,	Ledbetter,	Robinson,
Fitts,	Leigh,	Sanders,
Fletcher,	Long (Butler),	Sanford,
Foshee,	Long (Walker),	Sloan,
Freeman,	Lowe (Jefferson),	Smith, Mac. A.,
Graham, of Montgomery,	Lowe (Lawrence),	Smith, Morgan M.,
Haley,	Martin,	Sollie,
Handley,	Miller (Marengo),	Sorrell,
Heflin, of Randolph,	Moody,	Spears,
Henderson,	O'Rear,	Thompson,
Hodges,	Parker (Elmore),	Weakley,
Howell,	Pearce,	Whiteside,
Inge,	Pettus,	Williams (Marengo),
Jones, of Bibb,	Phillips,	Wilson (Clarke),
Kirk,	Reynolds (Chilton),	Wilson (Wash'gton),

Total—60.

ABSENT OR NOT VOTING.

Case,	Jones, of Hale,	Renfro,
Cornwall,	Jones, of Montgomery,	Reynolds (Henry),
Espy,	King,	Searcy,
Ferguson,	Locklin,	Sentell,
Gilmore,	O'Neill (Jefferson),	Studdard,
Grayson,	Opp,	Willett,
Greer, of Calhoun,	Proctor,	

PAIRS.

AYES.	NOES.
Carmichael, of Colbert,	Williams (Elmore),
Eyster,	Cofer,
Coleman, of Greene,	Mulkey,
deGraffenreid,	Porter.

MR. SMITH (Mobile)—I desire to offer an amendment to the substitute.

The amendment was read as follows:

Amendment to substitute for Section 18 of the report of the Committee on Suffrage and Elections: "Amend by striking from the fifth line of Section 18 as printed, the words 'but no legal process nor any' and inserting before the word 'fee' the word 'no' and by striking out the word 'thereof' in the sixth line of the Section and adding where the word 'thereof' was, the words 'before any poll tax becomes delinquent nor shall there be any process for its collection until April 1, thereafter.'"

MR. SMITH (Mobile)—I do not desire to make any further discussion in the matter than I have already made. The amend-

ment I have offered seeks to accomplish the purpose that I advocated in my speech a few moments ago, and it makes the Section read in this way, so far as relates to this question of poll tax: Such poll tax shall become due and payable on the 4th day of October in each year and become delinquent on the 1st day of the next succeeding February. No fee or commission shall be allowed for the collection of any poll tax before it becomes delinquent nor shall there be any process for its collection until April 1st, thereafter.

It does not touch the other proposition at all. It simply puts it in position where a man will have to pay his poll tax before February in order to vote, and if he does not pay it before February, then after the next April he can be made to pay it. At that time, as I said before, if he has not paid his poll tax voluntarily he will also be disqualified to vote, and the enforcement of the collection of the poll tax will not restore the right to vote but only add that much to the school fund, without giving any additional right of franchise.

MR. WILLIAMS (Marengo)—Under the law as it stands now, the members of military companies are exempt from paying a poll tax. What effect will this provision have on them?

MR. SMITH—I have not really considered that question and can't answer it. I have never belonged to the military, and I haven't bothered about it much one way or the other.

MR. WILLIAMS—I think that is a proposition that should be discussed by this Convention.

MR. SMITH—I think anybody ought to discuss any proposition they see fit and I am not trying to cut discussion. It is an amendment offered by the Committee, and I do not desire to discuss it further.

MR. SOLLIE (Dale)—Gentlemen, I shall not attempt to detain you today in a lengthy speech. I hope I shall get through before the ten minutes have expired.

THE PRESIDENT PRO TEM—I will call the attention of the gentleman from Dale to the fact that the pending question is the amendment offered by the gentleman from Mobile, relative to collecting taxes by legal process.

MR. SOLLIE—Yes, sir; and as I understand it an amendment always brings up a discussion on the law which it purports to amend, and brings the two under review of necessity; because the law, as amended, will be the original law so much changed.

Much has been said in discussion touching this poll tax question, as to the wishes of the hill counties and of the people of the black belt. The hill counties of Alabama and the black belt do

not make up the entire State. We have lying across the southern an dsoutheastern portion of the State a tier of great counties known as the "wire grass." They may be the least populous. I know not as to that. They may be the smallest in territory. I know not as to that. They are regarded as the rural district of the State to some extent. I concede that, and yet I say to you, gentlemen of the Convention, that they are not a section whose wishes may upon any occasion when the State of Alabama is concerned, or when its will is to be consulted be entirely overlooked or neglected. The wire grass has the proud honor of having filled your Governor's chair, of having led your delegation in Congress. It has the proud honor to have borne its part in all the political strifes and contests of the State; and its wishes and its desires may well be consulted. In my judgment, the whole of this attempt to raise the age of paying the poll tax from forty-five to sixty years, when sent abroad to the wire grass country for its ratification, will find an unfriendly reception. When we think of it it is not easy for the poor man who has passed the meridian of his life and who has already worked as much as one man should work, and already begins to feel that the shades of the evening are gathering about—

MR. O'NEAL—I rise to make a parliamentary inquiry. Is it in order to discuss the original section as reported or the substitute reported by the Committee while the amendment is pending?

THE PRESIDENT—The question under discussion in the amendment offered by the gentleman from Mobile. The Chair holds the point of order well taken, and will confine the gentleman to the discussion of the substitute.

MR. SOLLIE—Then speaking to this amendment and it alone: I cannot see where there comes any relief to the voter merely by making it compulsory. It looks to me that whereas he was at first confronted by two. The proposition, Mr. President, as it comes originally, is to say to the voter you must pay after you have passed the age of forty-five a poll tax of $1.50 before you can vote. The point has been made that this is a hardship upon him, and has been contended for by some of the delegates on the floor of this Convention. Now we seek to amend that by saying: "Not only must you forfeit your right to vote if you fail to pay this tax by a given time, but even after that is done, still you must pay the tax."

That which seemed to me a hardship, unjust and impolitic and seemed to threaten the document we are expected to send from this Convention, is made more unjust, a greater hardship and is gathering unto the Constitution more of unpopularity, and I think that the amendment should not be adopted.

MR. REESE—Mr. President, the amendment of the gentleman from Mobile leaves this proposition in the shape of the play of Hamlet with the character of Hamlet left out. We are here for

the purpose of purifying the suffrage in this State. We are endeavoring to exclude from the suffrage a large class that does not add to the purity and safety of our government. All sorts of theories are urged upon this floor. In answer to the theories that are presented here, I state a fact, a condition, not a theory. The same proposition presented here in the report of the Committee has been successfully tried in the neighboring State of Mississippi. A few weeks before the assembling of this Convention, I had occasion to be in the State of Mississippi on business. I made it my business to have a long talk with Judge Calhoun who was President of that able body—one of the ablest bodies that have ever assembled in the South, present company excepted. And, Mr. President, I discussed this matter with other distinguished Mississippian who had participated in that Convention and I said to them: "Gentlemen, you took part in that Convention, you discussed these theories which I have read and which are here in this book. How was it? I want to know, how it practically turned out? what things in this Constitution that you have made are the things that have given you relief?" And from Judge Calhoun down to the last delegate that I spoke to, told me it was this provision regulating the payment of the poll tax at a particular time and the fact that no legal process could be issued for the collection of it; the fact that it was a voluntary one. They said that question was discussed in the Convention as to whether the legal process proposition, which the Committee has put here, should be put in there, and it was decided that if the voter knew that, even though he did not pay it before the first of February, yet if, after the first of February, the government officers had the right to put in machinery to take it from him any way, he would pay it, because if he had to die for a lamb, he might as well die for a sheep and pay it before the first of February without any extra cost. Is it a fact that the people when they know that the legal machinery is going to be put in effect, and when the tax collectors are to get 50 cents and the tax assessors 50 cents, and the constables for serving a garnishment is going to get paid and the justice of the peace for issuing the garnishment is going to get paid or is going to levy on the negro's chickens or his cow—is it a fact that they are not going up there to pay the dollar and a half before the first day of February, and enfranchise themselves? I, therefore, move the previous question on the section and the pending amendment, and, Mr. President, when the previous question is ordered, I shall move to table the substitute of the gentleman from Mobile.

MR. SAMFORD (Pike)—Let me say to the gentleman from Dallas that there are some of us who want to get an amendment in there, and I appeal to him to withdraw his motion.

MR. REESE—I am the last man on the floor to gag anybody, but I move to table the amendment of the gentleman from Mobile.

MR. BURNS—I shall ask my colleague from Dallas to desist

a few moments, and let the motion for the previous question come from the committee.

THE PRESIDENT PRO TEM—The question is upon the adoption of the motion of the gentleman from Dallas to table the amendment offered by the gentleman from Mobile.

Upon a vote being taken, the motion to table prevailed.

MR. BROWNE—I desire to offer an amendment to the amendment reported by the Committee.

The amendment was read as follows:

"Amend Committee's substitute as follows: Strike out the words 'over the age of 21 years and under the age of 60 years, who would not now be exempt by law; provided, that those male inhabitants of the State who shall reach the age of 45 years on or before the first day of January, 1903, shall not thereafter be required to pay a poll tax,' and insert in lieu thereof 'between the ages prescribed by law, and who would not now be exempted by law.'"

MR. BROWNE—The effect of that amendment would be simply to leave it to the Legislature, if in future it might become necessary to raise the limit from the existing age of forty-five years to sixty years. We contend that it is not necessary, even to insure the supremacy of the white people in the Black Belt, to raise the age to sixty. We may be right or we may be wrong. If we are wrong and under the plan reported by the Committee too many colored men register, the next Legislature could raise the limit from 45 to 60 years.

It does away with class legislation. It does away with allowing men who are 45 years of age on January 1st, 1903, the privilege of being exempt from paying the poll tax. It does away with that pernicious class legislation which is reported by the Committee, allowing certain persons over 45 years of age to be exempt and yet have the right to vote, and prescribing that others shall not be allowed to vote unless than pay a poll tax, and at the same time it gives the Black Belt all the protection it requires. If the colored people register under the property qualification and under the educational qualification, the next Legislature can then raise the limit to 60 years, if it be necessary, and take away from those persons the right to vote without paying the poll tax. It simply changes it from over the age of 21 and under the age of 60, so that it will be between. The ages prescribed by law are now over 21 and under 45. They will remain so until changed by the Legislature, and the Legislature can change it, if it be necessary, and it is unwise for this Convention to change it when it is not known to be necessary. I am as certain as I could be of anything, that I do not have a positive knowledge of that that amendment will have

the effect of making at least 20,000 white voters in North Alabama vote against the ratification of this Constitution. When a man of my age goes upon the stump and tells those hill people that it is patriotic for you to come up and pay a dollar and a half extra poll tax which, under the present law, you would not be required to pay for the next fifteen years or while you are between the ages of 45 and 60 years, they will ask me: "Mr. Browne, how old are you?" and when I tell them that I am 46 years of age, they will ask me "if it was patriotic to put it on us to pay this tax during these years, why in the name of heaven did you except yourself; why didn't you fix it so you would also have to pay?" I move the previous questions. (Expressions of dissent).

MR. O'NEAL—I want to discuss his amendment. Will the gentleman not withdraw his motion for a minute?

MR. WADDELL—I move we adjourn.

The Convention thereupon adjourned until 3:30 o'clock.

AFTERNOON SESSION

The Convention met pursuant to adjournment, there being 129 delegates present upon the call of the roll.

Leaves of absence were granted as follows: To Mr. Howze for tomorrow and Monday, to Mr. Long of Butler, for tomorrow; to Mr. Bulger for this evening and tomorrow, to Mr. Vaughan for Saturday, to Mr. Martin of Calhoun for tomorrow, to Mr. Burnett for Saturday and Monday.

THE PRESIDENT—The special order for this afternoon is the consideration of the report of the Committee on Suffrage and Election. The Convention had under consideration Section 18, substitute of the Committee, and he subsitute to the substitute offered by the gentleman from Talladega.

MR. GRAHAM (Talladega)—I ask for the reading of the amendment to the substitute offered, because it is not in print and I would like to hear it.

The Secretary read the amendment as follows:

"Strike out the words over the age of 21 years and under the age of 60 years who would not now be exempt by law; provided, that these male inhabitants of the State who shall reach the age of 45 years on or before the first day of January, 1903, shall not thereafter be required to pay poll tax, and insert in lieu thereof, 'between the ages prescribed by law and who would not now be exempt by law.'"

MR. GRAHAM (Talladega)—As I understand the purpose of those who advocated the amendment this forenoon, it was that it

would leave it where the Legislature should remedy it in future years. If I understood the reading of that correctly it is between the ages now prescribed by law——

MR. BROWNE—Not "now," but prescribed by law.

MR. GRAHAM—That is very indefinite, and what I thought I would bring out by having it read. As prescribed by law now it means between 21 and 45 years, and would cut off any extension hereafter by the Legislature. I expect to advocate this briefly from two standpoints. One has already been urged very strongly by the section that would be most interested in it, that it is necessary to cut off the negro vote after he becomes 45 years of age. If this amendment should prevail then the negro would be encouraged to lie up in idleness until 45 years of age, and then come out as a voter for life without paying any tax on property or any poll tax, and I submit that this would be a very dangerous state of affairs. The next proposition that I want to urge is that it is the opinion of most of the members of this Convention that the poll tax will be materially cut down under this new election law, and for that reason it will be necessary for us to collect all the poll tax possible, in order to supplement the school fund. A great deal has been said here about what the people will do in this event, and in that event, and without being personal to any delegate upon this floor I want to express my opinion, and I believe it to be the opinion of the majority here, that this Convention is getting heartily tired of the man who talks of the thousands majority that will go this way or that way because a certain amendment may prevail. (Applause.) I was born and reared, I am proud to say, in that section of the State that has been talked about. I have lived among those people, I love them and I love their association still, and I do not know a single one of them that has a ring in his nose, a sack over his head or lines about his hoofs. The people in that section of the State are independent, and interested in the subject of schools, and I will point you to the fact that there is scarcely a white county in all that section that has not chartered a private college. How do they get their support? By taxation? Not at all, but by the voluntary contribution of white men who are in favor of the education of white children. I have handled every dollar of poll tax in a large county in this State for the last twelve years, and I have never heard any citizen complain at the payment of the poll tax, except negro laborers whose wages were garnished for the purpose of collecting their poll tax. Gentlemen, if the declaration of every delegate here who has made one in regard to the vote in certain sections being affected by the passage or non-passage of certain amendments and ordinances, should become true, there would not be a single delegate left to vote for the Constitution after we adopt it—not a one. I say I am getting tired of that argument in this Convention, "You must vote for this, or must not vote for it, because I know so many votes that won't go for

the Constitution if you do not do this or do that." All I want is to appeal to your common sense on matters of principle, and if the people of Alabama do not want the Constitution that we adopt when it is adopted as a matter of principle, let them reject it—and stop pandering to supposed prejudices in order to put something in here. Now they say why discriminate between 45 years of age and over that? I will answer that. If a man is already 45 years of age, he has acquired this exemption as a right under the law, but if he has not reached 45 years, it is no right of his and he cannot anticipate it as a right. Did the people who sent us down here expect that we should send the old Constitution back to them unchanged? Did they? If we do make this change and bring in those who are not 45 years of age, I submit that the people cannot complain that any burden has been put upon them. I state it as my opinion, and without reference to what the vote will be, that the people will not object if the money is used on the public schools, and I base that opinion upon my experience in handling the poll tax in one of the largest counties in the State of Alabama. Gentlemen, answer two propositions. First, do you favor a poll tax for public schools after 45 years of age? If you are in favor of extending the schools, vote for it. If you are in favor of shielding the Black Belt from the negro vote after he is 45, then vote for the Committee's substitute. The man who has already passed 45 years possibly has his children provided for, and he will not complain that he is given the privilege and opportunity of contributing a small amount each year for the education of his grandchildren or of the children of his neighbors who are coming on after him. I ask you to vote against the amendment proposed by the gentlemen from Talladega (Mr. Browne) and support the substitute. That substitute is not in here without concessions. I make concessions in the Committee, every man made concessions in order to get this, and I ask the delegates of the Convention to meet the Committee on half-way ground and make some concession because there is no principle involved here. The statement about its being a most vicious thing—you hear that about most anything—"it is vicious and I oppose it"—and that is the extent of the argument. I say you not to lose sight of these things. Get rid of the negro after 45 years of age, help the white counties with a poll tax fund for public schools. These are two principles that rise above everything else, and, on behalf of the Committee which has made concessions, and trying to do the best thing possible under the circumstances, I ask the delegates to support this substitute which is fair and right to all sections of the State of Alabama.

MR. SAMFORD (Pike)—I would ask the Convention and the Committee to lose sight of the fact that the Committee is on trial, and let us discuss this matter as if it were a simple suggestion from the Committee, and that the Committee was willing to abide by the action of the Convention. In the first place, the gen-

tleman who has just preceded me seems to think that the words in this substitute would limit the age for the payment of poll taxes to the present time of 45 years, when, as a matter of fact, the substitute is so framed as to permit the General Assembly, at any time it sees fit, to raise the age limit, not only to 60 years, but to 160 years if it sees proper. This amendment, as offered by the gentleman from Talladega (Mr. Browne), is in effect the same amendment that I offered to this section upon yesterday, and I had in mind this line of thought at the time I offered it. It is claimed by the gentlemen from the Black Belt, for whom I have the highest regard, for whom I have a feeling akin to affection; it is claimed by the representatives from that section of the State, that the requirement of a payment of a poll tax is necessary to eliminate the ignorant and vicious voter from their politics. It is also claimed, and I recognize it as a fact, that it will largely assist us in the white counties, to do identically the same thing. But delegates will consider the proposition that the scheme purposes, that from and after the first day of January, 1903, all poll taxes must be paid in order to entitle a man to a franchise, and men coming of the age of 45 years will not be entitled to cast the ballot unless they have kept up the payment of their poll tax before they arrive at that age. It may be that our suffrage clause is all we expect it to be with the age limit as it is. It may be that we will not desire to change a single solitary letter in it in future years; it may be that the poll tax clause may be all that it is intended to be; if that is a fact, nobody cares to raise the age limit for the payment of the poll tax. If, upon the other hand, it should fail to be effective, if, upon the other hand, the age limit of 45 years fails to give the Black Belt counties, and the white counties with the vicious vote, the desired result, they may then appeal to the Legislature of the State for the relief they seek, and I have no doubt that when that proposition is made clear to the representatives of the people of this State, that they will place the limit at any age that is necessary to meet the exigencies of the occasion. The substitute is infinitely better than the amendment offered by the Committee. No brave man ever goes into a battle dodging from side to side and jumping from tussock to tussock, and expect to win out in the battle, and yet with this amendment that this Committee offers to place in the fundamental law of this land, we go before the people of the State, admitting that we are trying to dodge something in order to get it in. If we are to raise the age limit at all, and I see no reason for excepting any man from the payment of a poll tax and making it apply to another; if we are to raise the age limit at all, then raise it equally, and let us say to the people and to our constituents when we go home and present the question to them, this was a great movement, a great educational movement, a movement that we thought was right, and let the results take care of themselves. I heartily agree with the gentleman from

Talladega, that I have no patience with the sentiment of this man getting up and saying that this will lop off 20,000 votes, and the other proposition will lop off 20,000 votes, and, using that as an argument for or against any proposition. The question ought always to be, and the only question that ought to be considered by this Convention is, what is right in the premises; what is best according to our best judgment for the people of this State; what is the very best Article we can put in the Constitution? And when we have arrived at that conclusion, let us do it, and if the Convention fails of ratification, we have got just as good a Constitution as any man who votes against it. But, as I said before, there may be no necessity for this raise in the age; it may be that the accumulated poll tax of the young man before he arrives at the age of 45 years, or the poll tax limit, will have completely debarred him from participating in politics, and then a further raise will never be necessary. So far as I am concerned I know that all taxes are onerous; that no tax is paid because a man wants to pay it. My people are as patriotic, rather, I should say, the people whom I have the honor to represent, are as patriotic as any people in this State, and no more; we are all of the same blood; we have all had practically the same teaching; we all have the same religion; we all or a great majority of the people of my section, are Democrats from principle, and they are all now practically in favor of public education. I believe that they will as willingly pay a poll tax for the education of the children of the county as any people in the State of Alabama; they will do it as willingly, and no more willingly, than the people in the balance of the State, but if it is not necessary, then do not let us do it. If it is not necessary for us to encumber the instrument with that clause then do not let us do it; but if it is necessary, then, in the name of common justice and of common right, do not go and put a clause in there that will have the effect of making it appear that we are acting from policy and not from principle, when we adopted the instrument.

MR. O'NEAL—We are not acting from policy, but we are acting from principle. That is the reason I oppose the amendment offered by the gentleman from Talladega. I am surprised, Mr. President, that the amendment should come from the distinguished Chairman of the Committee on Finance. He was the gentleman who advocated a reduction of State taxation, and when his attention was called to the fact that he had not anticipated the reductions in revenue which might occur in the future, he answered that in his calculations he had prepared for every emergency that might arise, and a few days afterwards the report of the Committee on Suffrage was made which necessarily involved a reduction of the poll tax in this State at least fifty thousand dollars. Now when we say to him we propose to raise the age limit, by which to increase the poll tax in this State and thereby prevent the necessity of supplementing the deficiency in the coun-

ties by an appropriation of the general revenues he opposes it. It seems to me that his position is utterly inconsistent. Ah, but the gentlemen say that this poll tax will affect the young men of Alabama who are coming of age. Have we not said to the young men of Alabama that after 1903 you must be able to read and write or own $300 worth of property before you can vote. If we say you cannot vote unless you are educated how, then, can you consistently oppose a measure which increases the school fund by which those young men can be prepared to exercise the elective franchise. Ah, but the gentlemen say that the poll tax should be left to the legislature. Mr. President, what is the law on that subject today. The present law of Alabama is this: The General Assembly will levy a poll tax not to exceed one dollar and fifty cents on each poll which shall be applied exclusively in aid of the public schools. What, then, is the power of the legislature under the present Constitution? The power of the legislature under the present Constitution is as to a poll tax is clearly defined, the legislature is commanded by the fundamental law of the State to levy a tax of one dollar and fifty cents on every poll without any limitation as to age, and I say, Mr. President, that the present law in the code of Alabama by which the poll tax is limited to those between the age of twenty-one and forty-five is unconstitutional or to say the least of doubtful constitutionality.

MR. OATES—I would like to ask the gentleman a question? I would ask my friend what becomes of the Constitution, don't the legislature disregard it when they limit it to forty-five years?

MR. O'NEAL—Certainly they do, because here is a plain mandate of the Constitution which says this tax must be on each poll. What does a poll mean? A poll means head—a tax on each voter, not on polls between certain ages, and therefore I say that when the legislature of Alabama undertook to limit this poll between certain ages it violated the fundamental law of the State. Now what does the gentleman ask us to do? He asks us to say to the legislature of Alabama, we fix the amount at one dollar and fifty cents, but you can fix it on any age you see proper. It says a poll tax of $1.50 as may be prescribed by law. In other words it says to the legislature, you can if you want to dictate to the people of Alabama, at what age a voter must pay a poll tax, you can say all people between 21 years and 25 years of age shall pay poll tax, or between 21 years and 30 years. I will ask the distinguished gentleman is he so absolutely sure that this State will never again have a Republican or Populist legislature? Are you so sure of it? Suppose you should have a legislature composed of such men as the distinguished gentleman from St. Clair who advocates the fifteenth amendment as the brightest jewel in the crown of the Constitution, and it would say we will fix the age limit at 30 years. What becomes of your plan of suffrage? Instead of putting your fundamental law upon a rock you place it at the

mercy of the legislature which may be as capricious and shifting as the sands under your feet, yet the distinguished Chairman of the Committee on Taxation gravely asks this Convention to leave it to the legislature, to fix the age limit as they may determine, but if that legislature is opposed to your policies, if it is antagonistic to the theories and principles of the Democratic party, if that legislature favors universal manhood suffrage, it could pass a law fixing the limit on the poll tax between 21 years and 22 years, and then in what a beautiful position would be the great Constitutional Convention of Alabama that followed the lead of the distinguished Chairman of the Finance Committee. Now, Mr. President, the gentleman says that it is class legislation. Why, everything in a certain sense is class legislation. Two young men go to the polls, one of them can read and write and he is told he can vote, the other cannot read and write and he cannot vote, you make a distinction between those who can and those who can't. You say to one man, have you $300 worth of property, and his answer is, No, sir; and another man's answer is, Yes, sir; and you have a class distinction again. One man cannot read nor write, but he has $300 worth of property and he can vote, isn't that a class distinction to a certain extent. You say a man is subject to military duty until he reaches a certain age. Every thing is class legislation in the sense used by the gentleman. If you act on that proposition and are governed by that argument you ought to strike out everything in the Suffrage Article, you should say there shall be no educational or property qualification, you ought to say good character should not be a test because it would create two classes one of good and one of bad character in Alabama. That argument is unworthy of a place in a great Constitutional Convention engaged in framing the fundamental law which will preserve the ballot in the hands of the virtuous and intelligent and take it out of the hands of the vicious and incompetent. The courts only denounce that class legislation which favors some and discriminates against others similarly situated.

MR. TAYLOE—I have listened to the able arguments of the gentlemen who have preceded me. I have steadily voted with the Committee on all propositions that they have advocated, and have thought that their work was a very complete one. I realize the fact that the work of the Committee has been very thoroughly and ably done, but I believe the relief sought by my section of the country depends largely upon the poll tax, and that it is the one remedy that would make it complete. On the other proposition I was very well satisfied it would reach a large number of the class we wanted to exclude, and I have taken those parts of it on faith, because I was waiting for the final refuge of the poll tax, and I would have been willing but for the position of my friends in North Alabama, to have voted even for an increase of the poll tax beyond one dollar and fifty cents, because I realized that was our

protection if we were to have any protection at all. Now when we come nearly to the close of it the point is called fully to my attention that it is the vote of the negro between forty-five and sixty years of age that we would have to particularly guard against and the further fact that very few years elapse between the time when a negro is twenty-one and the same negro is forty-five years old. Now under the proposition that the gentleman from Talladega offers to us, we would have to go to the Legislature for relief sought instead of having it plainly written in the Constitution as the committee desire it. If we cannot get relief here how can we get it from the Legislature? The same objection on the stump would apply to the proposition of the gentleman from Talladega as would apply to the proposition of the committee, and that is the reason we should support this amendment of the committee as it stands.

MR. OATES—As I understand the argument of the delegate from Perry he is in favor of raising the limit to sixty years.

MR. TAYLOE—From forty-five to sixty years.

MR. OATES—Making it from twenty-one to sixty years of age, straight out, subject to poll tax from twenty-one to sixty years?

MR. TAYLOE—Yes.

MR. OATES—I am in accord with that idea.

MR. TAYLOE—That is the proposition that I argue from twenty-one to sixty-years. In all of those years from 1874 to this day the black belt has had to do things that it did not want to do, and what it did was in obedience to the dictates of the white people of Alabama all of whom wanted relief and all of whom looked for big majority to the black belt the same as was done in Mississippi and other Southern States. This movement to reform the ballot in Alabama is in the heart of those politicians who have carried the State for years in dangerous emergencies and they ask for that relief. I tell you that they are satisfied with the work that has been done, what North Alabama has done for her citizens, but for us this is the one measure of relief that we want. I am sorry to hear so often this talk of North and South Alabama, the white and black belt. That is the position that Barbour county occupied as one of the three great divisions of the State. We should rememember that we are white people and come here to perpetuate white supremacy, and that the purpose for which we have come here is to eliminate the negro vote as far as possible, and we ask you now to come to our assistance and give us the only thing that we deem efficient to eliminate it, and when we eliminate it we can have fair elections, and as far as I am concerned I do not care what counties win, or where the power lies, so that power lies with the Anglo-Saxon race, and I hope it will lie with

them forever and that you will help them in this matter and carry it on to its legitimate conclusion.

MR. DUKE—I have followed faithfully the lead of this committee that has been so highly complimented by the speakers who have taken their seats. I think that their report is as fine a document as could have been gotten up by any set of men. I believe that it is our duty to adhere to the report of the committee unless we are satisfied that the committee is wrong. I am still in favor of adhering to the report of that committee made deliberately after being in session for something over thirty days, but I am not in favor of that committee when a little disturbance comes up over the question on the evening before, meeting at night and changing their report and bringing it in to us and say adhere to the report of the committee. I prefer, and would have preferred had it not been voted down, to adhere to the report of that committee that was made deliberately after they had studied the question for so long. Mr. President, I am not willing to take the report of a committee made in twenty-four hours, in preference to one made after deliberation for thirty or forty days. I appeal from Phillip drunk to Phillip sober. Now, Mr. President, the report of that committee as originally made was substituted by way of amendment to the report of the committee as last made, but it was voted down. Then the next best thing to it I consider is the amendment offered by the gentleman from Talladega. A great deal is said here about the black belt. I would not say anything to disparage that great section of our country which has been our shelter in the time of storm. I believe in upholding them, but Mr. President, I am not in favor of doing an injustice to the white people of this country in order that the black belt may be protected, or any other portion of this State. Now what do we do here. We say that a man who is forty-five years of age now or at the date, 1903, that he may register and never pay any more poll tax, but his brother who is only forty-four years of age at that day must go on and pay poll tax for fifteen years longer. I ask the gentlemen of the Convention is that fair, is that right? When you go back home to your constituents, when you go back home advocating fairness in elections, won't they come back at you and say that you have not done fair by the young men of this country when you adopted that provision in your Constitution. The gentleman from Talladega says that he is tired of threats about this Constitution will not be adopted and so forth. He will get more tired of threats than that, Mr. President, when he goes back to the white counties of this State and says to them that we have not only not reduced the taxes but we have increased them, and increased them on that class of men that are the very hope of the country. Now the gentlemen referred this morning to the man that was looking forward to the time when he could quit paying his poll tax. Gentlemen you may smile at it as much as you please, there are men

all over this country looking forward to the time when they reach forty-five years of age and can quit working the road and paying poll tax. Some one has said that a man unwilling to pay $1.50 is not entitled to vote. Gentlemen of the Convention, every one in this country is not well off. There are a great many poor people in this country who do not have $1.50 that they can pay, there are a great many people all over the white counties that have not $1.50 at the end of the year, but come out in debt. There are white men in this country who rather than pay $1.50 would surrender their vote, you may say as much as you please and say that they are not patriotic, but I say they are.

MR. OATES—May I ask the gentleman a question.

MR. DUKE—My time is nearly up, I will answer you when I get through. They say you do not expect to send the Constitution back unchanged. No, my friend from Talladega, it won't be sent back unchanged, for if there ever was an instrument in this world torn all to pieces, this old Constitution of 1875 has been torn. No, we won't send it back unchanged, but we want to put into it, we want to put in changes that will meet the approbation of all the white people of this country. Now, the gentleman from Lauderdale in his excitement and eloquence says that if we adopt this amendment that it will reduce the taxes of the colored people $50,000, and yet, Mr. President, from the report of the Department of Education I find that if it produced all it would not produce that much because they did not pay but $40,000 taxes, that was the amount for the entire race, and yet the gentleman says we will lose $50,000 if we adopt that.

The gentleman from Perry says it is so short a time in which a negro can get to be 45 years old after he is 21 years old. Gentlemen, from what I have heard of the Black Belt, and I do not say this disparagingly, from what I have heard of the Black Belt and its methods, the negro is welcome to every year he gains from 21 to 45. Mr. Chairman, I now move the previous question on this amendment and the Section.

THE PRESIDENT PRO TEM.—The question is shall the main question be now put?

MR. BURNS—I hope the gentleman will withdraw that. I wish to ask the gentleman from Chambers a few questions.

THE PRESIDENT PRO TEM.—The time of the gentleman from Chambers has expired.

MR. BURNS—A point of order. If the gentleman's time had expired, it expired before he took his seat two minutes.

THE PRESIDENT PRO TEM.—The Chair declared the gentleman's time had expired when the Chair rapped him down, and immediately moved for the previous question.

MR. BURNS—When the Chairman rapped he had not time to make a motion.

THE PRESIDENT PRO TEM.—The gentleman from Dallas is out of order and will be seated, unless the gentleman from Chambers will withdraw the motion for the previous question.

MR. BURNS—I will ask the gentleman from Chambers if he did not make the motion after he was rapped down?

THE PRESIDENT PRO TEM.—The Chair holds that he made it in time. Does the gentleman from Chambers withdraw it?

MR. DUKE—I am willing to withdraw it and will attempt to answer the questions.

MR. BURNS—I shall never believe that the gentleman from Chambers would attempt to gag anybody, much less his friend from the Black Belt.

MR. DUKE—I am perfectly willing to answer the question.

THE PRESIDENT PRO TEM.—The gentleman will please ask the question.

MR. BURNS—You say after you rapped him down he had a right——

THE PRESIDENT PRO TEM.—I will state to the gentleman from Dallas if he will be quiet long enough, the gentleman from Chambers has already withdrawn his motion, and he can answer now.

MR. DUKE—Yes, I will, with the understanding that I can renew it. I have the floor I believe. Will you renew the motion?

MR. BURNS—I will renew the motion when I get through. Mr. President, I had made up my mind on account of physical disabilities, as much as anything else, not to attempt to bore this Convention on any subject, because I knew the men that constituted this Convention, I knew the old men and the young men, and I have been perfectly satisfied to let them frame the organic law of this State, knowing from the manner in which the committees have been appointed, that they would do justice to all sections of the State. I recognize no section and no factions in the Democratic Party, from the standpoint of a member of this Constitutional Convention. I ask no man if he be a Populite, a Republican, voted for Kolb, whether he voted for Kolb or voted for Jones, whether he went wild with Bryan or crazy with Palmer and Buckner. (Laughter.) I was willing to come here and clasp hands across the bloody chasm, North and South, East and West. I came here epluribus unum. (Laughter.) I was sent here from the grand old county of Dallas, not exactly a fit representative,

but one of the few in that county that might possibly represent the best elements and the best interests of that county, and I would rather stand here today and represent Dallas County than to be a delegate from the State at large, or from any district in this State. (Applause.) Now my friend from Chambers said something in regard to the Committee's report. Is the report of that Committee wrong? Mr. President, is there any delegate upon this floor that can rise up, place his hand upon his heart and say to this Convention that that Committee did not do exactly what they thought was right and was for the best interest of the entire State. Is that report wrong? Of course they have changed, wise men change—fools never. (Applause.) Yes, they changed. They came in closer touch with the men who constitute this Convention, they called them to them, laid their hands up them and said, gentlemen, what is best, and what shall we do, and when their hearts warmed to each other, when they recognized the fact that all were working together to one great end, the benefit of their common country, they said perhaps with all these ordinances, with all these suggestions, with all these speeches, with all this panorama that we have witnessed, perhaps we have not gone quite far enough, and said we will make it sixty years instead of forty-five years.

MR. SAMFORD (Pike)—They exempted part of them over forty-five years.

MR. BURNS — They did exempt them. My distinguished young friend over here, whom I recognize as one of the ablest men in this Convention, says that they have not done right by the young men. I do not believe there is a man in the county where Mr. Heflin and Mr. Duke come from and that gallant one-armed soldier comes from, would rise up in the sight of even a blind tiger still, and say that a young man in that county would do wrong. (Laughter.) I believe that young man slanders his own county. I believe that the men who associate with such men as these young men from that county, will never get together, or go off singly and mutter to themselves and say "They have done us wrong." No man who is a Democrat, no man who is fit to cast a ballot in this proud State of Alabama, and care for the women and children to come, no man who should be called a Democrat, true and tried, is fit to be a qualified elector in this State, who says "They have done wrong." Down in my county nobody will ever say "They done me wrong" except some mixed breed bastard yellow buck, or somebody who comes within that line of disqualification. By the way, the Committee left out some of the best lines, and I have got a little fuss with the Committee myself.

MR. BROWNE—The Committee is not always right, then?

MR. HEFLIN (Chambers) — Will the gentleman yield a moment. I wish to make a motion. This is the first time the dis-

tinguished gentleman from Dallas has addressed the Convention, and I move to extend his time.

The extension of time was accorded.

MR. BURNS—I said that I had a crow to pick with the Committee, and as I see nobody present that I might offend, I wish to say, everything I say is in the Bible, or in the Statutes of Alabama. I want the Committee to report favorably, and this Convention to adopt a provision that no person shall vote who has been guilty of lying in wait, or of an attempt to commit murder, or of an attempt to commit rape, or of an attempt to commit arson, or of an attempt to commit burglary, or who has abandoned his wife or children—I want you to mark this, because I want to offer it as a separate ordinance—or who is a bastard whose disabilities have not been relieved or removed by court of competent jurisdiction or the Governor. I say I have a crow to pick with the Committee, but I will pass on. Let us see what the black belt has to say to you. I demand nothing from you so far as our portion of the Black Belt is concerned. We are no better than you. You that have come here to represent the entire State, if you do not come here to represent the Black Belt as well as the White Belt, the hills as well as the wire grass, and the boys away up in the Tennessee Valley; if you do not come here to represent them all—the bareheaded girls and the shirttail boys (yells)—and every one else, you have not come for the purpose of doing your duty. I hail from a different section of country, and I am here to do justice to the mountains, the hills, the valleys and the dells—North and South Alabama, and every section of this noble State. (Applause). I might, however, say to you that of all the agricultural schools, the Black Belt has not one. Where is the agricultural school in the First District? Down in Clarke County at Jackson —no Black Belt there. Where is the agricultural school in the Second District? Down at Evergreen — no Black Belt there. Where is the agricultural school in the Third District? Down where the old one-armed hero used to live, at Abbeville—no Black Belt there. Where is the agricultural school in the Fourth District? Away up in Sylacauga, where my friend Browne comes from—no Black Belt there. Where is the agricultural school in the Fifth District? Over in Wetumpka, right across where they keep penitentiaries and lynch a fellow once in a white—no Black Belt there. They have a fine county, and a fine town and the best of people in the world; but there is no Black Belt there. Where is the Sixth? Away up where my friend Mr. Pierce came from, and that ought to be a good place, taking him as a sample of the people that live there—but there is no Black Belt there. Where is the Seventh? At Albertville—there is no Black Belt there. Where is the Eighth—Away up yonder where Saunders and Pettus came from, and you know by their looks there are no Black Belt there—(laughter),—and if you believe there are Black Belt-

ers up there, you just ask Judge McClellan and Walkers and others. They say there is no Black Belt there because the Kolb crowd reigned there. Where is the mighty Ninth—that is where Jefferson County can be found, and where is that situated? At Blountsville—away up yonder, my God Almighty, in a county that sends a Republican here at this Convention. (Applause). Gentlemen get up on this floor and talk about what they will do for the Black Belt. Has the Black Belt any agricultural schools? Where is the University of Alabama? That is too old to talk about; but it is not in the Black Belt. Where is the Deaf and Dumb Asylum? Away up yonder where my friend Browne came from; and from a speech here today, you know that is not in the Black Belt. Now, what does the Black Belt ask in this Convention? Some speakers may ask a great deal. I, as one of their representatives, do not demand anything except justice and right, to be treated as we ought to be treated. Look upon our past; view us in the present and resolve in your mind that you will treat us just as we deserve; and that is all I ask. I don't agree with my friend from Perry (Judge Stewart), who says that in a few years the buck negroes will come in vast numbers, five or ten thousand, and control the Black Belt. No, no. Even after the time that the bells that now invite our sons and daughters to institutions of learning, and to the worship of Almighty God, shall be rung as a midnight incendiary alarm, even after that when blood has reddened the Alabama River, and the Warrior River, and all the streams—even then some white man, some white men, will rise up and say, by the Living God it is still our country, and we are still for white supremacy.

MR. DUKE—I now renew my motion for the previous question upon the substitute and the amendment thereto.

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

MR. WILLIAMS (Elmore)—I ask to have the substitute read.

MR. WHITE—I move to lay the amendment of the gentleman from Talladega on the table.

MR. BROWNE—On that I call for the ayes and noes.

The call was sustained.

The Secretary read the substitute and the amendment.

THE PRESIDENT PRO TEM.—The motion is to lay the amendment of the gentleman from Talladega on the table. The ayes and noes have been called for.

The roll call resulted as follows:

AYES

Messrs. President,	Grant,	Oates,
Almon,	Greer, of Perry,	O'Neal, of Lauderdale,
Altman,	Harrison,	Opp,
Banks,	Hinson,	Parker, of Cullman,
Boone,	Hood,	Pillans,
Burnett,	Howze,	Pitts,
Burns,	Jenkins,	Reese,
Carmichael, of Colbert,	Jones, of Hale,	Rogers, of Lowndes,
Carnathon,	Jones, of Montgomery,	Rogers, of Sumter,
Chapman,	Jones, of Wilcox,	Sanford,
Coleman, of Walker,	Kyle,	Selheimer,
Craig,	Lomax,	Smith, of Mobile,
Cunningham,	Macdonald,	Spragins,
Davis, of Kent,	McMillan, of Wilcox,	Stewart,
Dent,	Malone,	Tayloe,
Eley,	Maxwell,	Vaughan,
Ferguson,	Merrill,	Waddell,
Fletcher,	Miller, of Wilcox,	Walker,
Foster,	NeSmith,	Watts,
Glover,	Norman,	Weatherly,
Graham, of Talladega,	Norwood,	White,

TOTAL—63

NOES

Ashcraft,	Heflin, of Randolph,	Palmer,
Barefield,	Henderson,	Parker, of Elmore,
Beavers,	Hodger,	Pearce,
Beddow,	Howell,	Pettus,
Blackwell,	Inge,	Phillips,
Brooks,	Jackson,	Robinson,
Browne,	Jones, of Bibb,	Samford,
Byars,	Kirk,	Sanders,
Cardon,	Knight,	Smith, Mac A.,
Carmichael, of Coffee,	Ledbetter,	Smith, Morgan M.,
Cobb,	Leigh,	Spears,
Cornwall,	Long, of Walker,	Thompson,
Davis, of Etowah,	Lowe, of Jefferson,	Weakley,
Duke,	Lowe, of Lawrence,	Whiteside,
Freeman,	McMillan (Baldwin),	Williams, of Barbour,
Fitts,	Martin,	Williams, of Marengo,
Graham, of Montgomery,	Miller, of Marengo,	Williams, of Elmore,
Haley,	Moody,	Wilson, of Clarke,
Handley,	**Murphree,**	Winn,
Heflin, of Chambers,	O'Rear,	

TOTAL—59

ABSENT OR NOT VOTING

Bartlett,	King,	Reynolds, of Chilton,
Bethune,	Kirkland,	Reynolds (Henry),
Bulger,	Locklin,	Searcy,
Case,	Long, of Butler,	Sentell,
Coleman, of Greene,	Morrissette,	Sollie,
Espy,	Mulkey,	Sorrell,
Foshee,	O'Neill (Jefferson),	Studdard,
Gilmore,	Proctor,	Willet,
Grayson,	Renfro,	Wilson, of Washington

PAIRS

AYES	NOES
Eyster,	Cofer,
deGraffenreid,	Porter,
Greer, of Calhoun,	Sloan.

So the amendment was laid on the table.

THE PRESIDENT—The previous question has been ordered upon the amendment and upon the substitute.

MR. SAMFORD—I rise for the purpose of making a motion to reconsider the vote whereby the previous question was ordered, so that I may introduce an amendment to the section which will strike out the exemption in favor of a certain class of citizens. I make that motion, and upon that I call for the ayes and noes.

MR. O'NEAL—I move to lay the motion of the gentleman from Pike on the table.

MR. SAMFORD—And upon that I call for the ayes and noes.

MR. PETTUS—A motion to reconsider a vote for the previous question is not in order under Rule 27.

THE PRESIDENT—When a vote has been passed except on the previous question, etc., "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."

MR. SAMFORD—That rule makes it obligatory. A motion to reconsider would always be in order to be considered at that time. The only effect of the rule is to make certain motions for reconsideration lie over a day. Other motions to reconsider are considered at once. That is the only effect of that rule. Any question that has been passed upon by the House, unless there is a rule to the contrary may be reconsidered by the majority of the House, that has always been the rule in parliamentary bodies

and in order to make exception to it you have to bring in another rule and that has been done in this case.

MR. HOOD—I rise to a point of order. The gentleman did not vote with the majority.

MR. SAMFORD—I did vote with the majority on the previous question.

THE PRESIDENT—The point of order is not well taken. The Chair does not so understand the reading of the rule and the Chair holds the motion to reconsider the vote by which the previous question was order is out of order at this time. That is the Chair's construction. If the Chair is in error, he is in error.

MR. SAMFORD—I ask the Chair to read the rules to the House.

THE PRESIDENT—I have just read rule 27. Does the gentleman acquiesce in the decision of the Chair. If not, the Convention is here.

MR. SAMFORD—I never appeal from the decision of the Chair unless I feel outraged, and in this instance it is not an outrage to me.

THE PRESIDENT—The Chair is placing his construction upon the English language as it here reads.

MR. SAMFORD—I rise to a point of parliamentary inquiry. I will ask if the Chair holds that a motion to reconsider a vote by which the previous question was ordered cannot be made.

THE PRESIDENT PRO TEM.—It says here except on the previous question or on motion to lay on the table.

MR. SAMFORD—I just asked the Chair if he holds that a motion to reconsider a vote by which the previous question was ordered cannot be made?

THE PRESIDENT PRO TEM.—The Chair does not feel called upon to decide that point of order because it is not before the House. The gentleman is out of order.

MR. DUKE—I ask the President to read the last sentence of rule 27 and see if the Chair will not see fit to reverse its ruling. It reads as follows: "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."

THE PRESIDENT PRO TEM.—The Chair is still of the opinion that a motion to reconsider the vote by which the previous question was ordered is not in order at this time.

MR. KNOX—It seems to me, Mr. President, that the ruling of the Chair is correct. It is contrary to the general parliamentary law as laid down in Reed's Rules and several other works a motion to reconsider a vote whereby the previous question was ordered would be proper, but under our rules the Committee on Rules has for some reason, I do not remember what influenced them, has withheld that right and say that when a vote has passed except on the previous question or a motion to lay on the table or 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 any subsequent day.

THE PRESIDENT PRO TEM.—The Chair is firmly convinced of the correctness of his ruling under this rule.

MR. SAMFORD—I move to suspend the rules of this Convention in order that I make a motion to reconsider the vote whereby the previous question was ordered and upon that I call for the ayes and noes.

The call was sustained.

AYES

Almon,	Handley,	Oates,
Ashcraft,	Harrison,	Opp,
Barefield,	Heflin, of Chambers,	O'Neal (Lauderdale),
Bartlett,	Heflin, of Randolph,	O'Rear,
Beavers,	Henderson,	Palmer,
Beddow,	Hinson,	Parker (Cullman),
Bethune,	Hodges,	Parker (Elmore),
Blackwell,	Hood,	Pearce,
Boone,	Howell,	Phillips,
Brooks,	Inge,	Reese,
Browne,	Jackson,	Rogers (Lowndes),
Byars,	Jenkins,	Samford,
Carmichael, of Coffee,	Jones, of Bibb,	Sanders,
Cobb,	Jones, of Montgomery,	Sanford,
Coleman, of Walker,	Kirk,	Selheimer,
Cornwall,	Knight,	Sorrell,
Craig,	Leigh,	Spragins,
Cunningham,	Lomax,	Thompson,
Davis, of DeKalb,	Long, of Walker,	Weakley,
Dent,	Lowe, of Jefferson,	Weatherly,
Duke,	Macdonald,	White,
Fitts,	McMillan, of Baldwin,	Whiteside,
Fletcher,	Maxwell,	Williams (Marengo),
Foster,	Miller (Marengo),	Williams (Elmore),
Freeman,	Moody,	Wilson (Clarke),
Graham, of Montgomery,	Murphree,	Winn,
Greer, of Perry,	NeSmith,	
Haley,	Norwood,	

TOTAL—82

NOES

Messrs. President,	Howze,	Robinson,
Banks,	Jones, of Wilcox.	Rogers (Sumter),
Burnett,	Kyle,	Sloan,
Burns,	Ledbetter,	Smith, Mac. A.,
Carmichael, of Colbert,	Lowe, of Lawrence,	Smith, Morgan M.,
Carnathon,	McMillan (Wilcox).	Stewart,
Davis, of Etowah,	Martin,	Tayloe,
Eley,	Merrill,	Vaughan,
Ferguson,	Miller (Wilcox),	Waddell,
Gilmore,	Norman,	Walker,
Glover,	Pettus,	Williams (Barbour).
Graham, of Talladega,	Pillans,	
Grant,	Pitts,	

TOTAL—36

ABSENT OR NOT VOTING

Altman,	King,	Reynolds, of Henry,
Bulger,	Kirkland,	Searcy,
Cardon,	Locklin,	Sentell,
Case,	Long, of Butler,	Smith (Mobile),
Chapman,	Malone,	Sollie,
Coleman, of Greene,	Morrisette,	Spears,
Espy,	O'Neill, of Jefferson,	Stoddard,
Foshee,	Mulkey,	Watts,
Grayson,	Proctor,	Willet,
Greer, of Calhoun,	Renfro,	Wilson (Washington),
Jones, of Hale,	Reynolds (Chilton),	

PAIRS

AYES	NOES
Eyster,	Cofer,
deGraffenreid,	Porter,

During the roll call Mr. Samford asked unanimous consent at this time to offer an amendment and to have it passed upon.

MR. HOWZE—I object.

The rules were suspended.

MR. SAMFORD—Now I move that the vote by which the previous question was ordered be reconsidered.

MR. REESE—I would like to ask the gentleman for what purpose, and if that is the only purpose?

MR. SAMFORD—It is the only purpose.

MR. O'NEAL—Will you move the previous question on the amendment?

MR. SAMFORD—I will.

The motion to reconsider prevailed.

MR. SAMFORD—I offer this as a substitute for the amendment offered by the Committee, and upon that I move the previous question.

The Secretary read the substitute as follows:

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 21 years, and under the age of 60 years, who would not now be exempt by law, except on account of age. 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, and all monies collected under this section shall be applied to the public schools in the county in which the same is collected.

MR. SAMFORD—Mr. President, the only difference between the substitute I offer and the report of the committee is that it makes no exemptions in favor of any one class of citizens above the age of forty-five years to sixty. I think the question is thoroughly understood.

MR. COBB—Will the gentleman allow a question. Are not all citizens who are now over forty-five years exempt by law? Would they come under that provision of your substitute?

MR. SAMFORD—I think not.

MR. COBB—Why not?

MR. SAMFORD—Why, it says exempt by law. That does not apply.

MR. COBB — I am with you but want that understood, whether you are reaching the object you intend?

MR. SAMFORD—I intend to reach that object. It says the poll tax mentioned in this article shall be one dollar and a half upon each male inhabitant of the State over twenty-one years of age and under the age of sixty years, who would not now be exempt by law.

MR. COBB—Now exempt by law. All men over forty-five and under sixty, are they not exempt by law?

MR. SAMFORD—My understanding of it is that that clause was put there for the purpose of applying to certain Confederate soldiers, military companies and certain other persons who are

already exempt by the statute law of this State, whether over forty-five years or not.

MR. COBB—Hadn't you better put in who are not now exempt by law, except from age." The way you have it there leaves room for a construction.

MR. SAMFORD—I will ask unanimous consent to add "except on account of age" after the word "law" in the third line.

MR. GRANT—I object.

MR. SAMFORD—Then I let it go like it is. I said that there are certain exemptions made by law, age is not one of them. I do not think it has that effect and upon this amendment and the section I move the previous question.

MR. WEATHERLY—Will the gentleman allow a question? When the committee put in that phrase "not now exempt by law" I believe that is the language.

MR. SAMFORD—Yes, sir.

MR. WEATHERLY—The statute fixed the age at forty-five, so there was no exemption, so that exemption above the age of forty-five in the Constitution and in the statute were the same, so that under the present phraseology the exemption provided by statute over forty-five would be an exemption now provided by law.

MR. ROBINSON—Does not your section in there apply to the blind, the deaf and dumb and to wounded soldiers, who have less than five hundred dollars worth of property?

MR. WEATHERLY—Yes, sir.

MR. ROBINSON—That is exactly it.

MR. SAMFORD—I state to the Convention it is my contention and I do not think it would apply but think it does apply to these men. There would be a discrepancy and the Committee upon "Harmonies" would be expected to put it right.

MR. REESE—Will the gentleman allow a question? Would you allow me to make a motion to suspend the rules to allow the insertion of words.

MR. SAMFORD—I will.

MR. REESE—I move that the rules be suspended and that the gentleman be allowed to insert the words requested.

Upon a vote being taken the rules were suspended.

MR. SAMFORD—This is the amendment: "Add after the word 'law' in the third line 'except on account of age.'"

Now I move the previous question.

The previous question was ordered.

MR. GRANT—I consider this, sir, a much more dangerous proposition than the one voted down——

THE PRESIDENT PRO TEM.—The gentleman from Calhoun will be seated he is out of order.

MR. GRANT—For what reasons. I move to lay the amendment of the gentleman from Pike on the table.

The motion to lay the amendment on the table was lost.

THE PRESIDENT PRO TEM.—The gentleman moves to lay what on the table?

MR. GRANT—The amendment of the gentleman from Pike.

THE PRESIDENT PRO TEM.—Which amendment does the gentleman refer to?

MR. GRANT—The amendment of the gentleman from Pike —the dangerous amendment.

THE PRESIDENT PRO TEM.—The motion to lay on the table is not debatable.

MR. CUNNINGHAM—I call for the ayes and noes.

The call was sustained.

AYES

Messrs. President,
Burnett,
Byars,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Craig,
Davis, of Etowah,
Duke,
Eley,
Fitts,
Fletcher,
Freeman,
Glover,
Grant,
Handley,
Heflin, of Randolph,
Hinson,
Hodges,
Howze,
Jones, of Wilcox,
Ledbetter,
McMillan (Baldwin),
Malone,
Martin,
Merrill,
Miller (Wilcox),
Moody,
Norman,
O'Neal (Lauderdale),
Parker (Cullman),
Pettus,
Robinson,
Rogers (Sumter),
Sanders,
Sloan,
Smith, Mac. A.,
Smith, Morgan M.,
Spears,
Thompson,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson (Clarke),

TOTAL—51

NOES

Almon,	Haley,	Oates,
Banks,	Harrison,	Opp,
Barefield,	Heflin, of Chambers,	O'Rear,
Bartlett,	Hood,	Palmer,
Beddow,	Inge,	Parker (Elmore),
Bethune,	Jackson,	Pearce,
Blackwell,	Jenkins,	Phillips,
Boone,	Jones, of Bobb,	Pillans,
Brooks,	Jones, of Montgomery,	Pitts,
Browne,	Jones, of Hale,	Reese,
Burns,	Knight,	Rogers (Lowndes),
Chapman,	Kyle,	Samford,
Cobb,	Leigh,	Sanford,
Coleman, of Walker,	Lomax,	Selheimer,
Cornwall,	Long (Walker),	Spragins,
Cunningham,	Lowe (Jefferson),	Stewart,
Davis, of DeKalb,	Macdonald,	Tayloe,
Dent,	McMillan (Wilcox),	Vaughan,
Ferguson,	Maxwell,	White,
Foster,	Miller (Marengo),	Whiteside,
Graham, of Montgomery,	Murphree,	Winn,
Graham, of Talladega,	NeSmith,	
Greer, of Perry,	Norwood,	

TOTAL—67

ABSENT OR NOT VOTING

Altman,	Greer, of Calhoun,	Renfro,
Asheraft,	Howell,	Reynolds (Chilton),
Beavers,	King,	Reynolds (Henry),
Bulger,	Kirk,	Searey,
Case,	Kirkland,	Sentell,
Cofer,	Locklin,	Smith (Mobile),
Coleman, of Greene,	Long (Butler),	Sollie,
deGraffenreid,	Lowe (Lawrence),	Sorrell,
Eyster,	Morrisette,	Studdard,
Espy,	Mulkey,	Willet,
Foshee,	O'Neill (Jefferson),	Wilson (Washington),
Gilmore,	Porter,	
Grayson,	Proctor,	

Upon casting up the vote there were 51 ayes and 67 noes and the motion to table was lost.

THE PRESIDENT PRO TEM.—The previous question having been ordered the question recurs upon the amendment of the gentleman from Pike.

A vote being taken a division was called for.

MR. LONG (Walker)—I call for the ayes and noes.

A DELEGATE—I rise to a point of order. The call is too late.

THE PRESIDENT PRO TEM.—The point of order is sustained.

MR. HEFLIN—I rise to a point of parliamentary inquiry. I insist that the amendment of the gentleman from Pike suggested by the gentleman from Macon excluded those from paying poll tax who are now forty-five years of age. Is that true?

A DELEGATE—No, included them.

THE PRESIDENT PRO TEM.—I think that is a matter of individual opinion for delegates of the Convention.

A division was called for.

Upon a vote being taken, there were 60 ayes and 55 noes and the amendment was adopted.

THE PRESIDENT PRO TEM.—The question recurs upon the section as amended. The previous question has been ordered.

MR. WILLIAMS (Marengo)—I call for the ayes and noes.

The call was sustained.

THE PRESIDENT PRO TEM.—The question is upon the adoption of the original section as amended. As many as favor its adoption will say aye and those opposed no as the roll is called.

Upon the call of the roll the section as amended was lost by a vote of 55 ayes to 64 noes as follows:

AYES

Messrs. President,	Dent,	Lowe (Jefferson),
Banks,	Ferguson,	Macdonald,
Beddow,	Fletcher,	McMillan (Wilcox),
Blackwell,	Foster,	Murphree,
Boone,	Graham, of Talladega,	NeSmith,
Brooks,	Harrison,	Norwood,
Burns,	Hood,	Oates,
Chapman,	Jackson,	O'Neal (Lauderdale),
Cobb,	Jenkins,	Palmer,
Coleman, of Walker,	Jones, of Hale,	Parker (Elmore),
Cornwall,	Jones, of Montgomery,	Pillans,
Craig,	Knight,	Pitts,
Cunningham,	Kyle,	Reese,
Davis, of DeKalb,	Lomax,	Rogers (Lowndes),

Samford,
Sanford,
Selheimer,
Spragins,
Stewart,
Tayloe,
Vaughan,
Waddell,
Weatherly,
White,
Whiteside,
Williams (Elmore),
Winn.

TOTAL—55

NOES

Almon,
Barefield,
Bartlett,
Beavers,
Bethune,
Browne,
Byars,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Davis, of Etowah,
Duke,
Eley,
Fitts,
Freeman,
Glover,
Graham, of Montgomery,
Grant,
Haley,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Hodges,
Howell,
Howze,
Inge,
Jones, of Bibb,
Jones, of Wilcox,
Kirk,
Ledbetter,
Leigh,
Long (Walker),
Lowe (Lawrence),
McMillan (Baldwin),
Malone,
Martin,
Maxwell,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Norman,
Opp,
O'Rear,
Parker (Cullman),
Pearce,
Pettus,
Phillips,
Robinson,
Rogers (Sumter),
Sanders,
Sloan,
Smith, Mac. A.,
Smith, Morgan M.,
Spears,
Thompson,
Walker,
Watts,
Weakley,
Williams (Barbour),
Williams (Marengo),
Wilson (Clarke),

TOTAL—64

ABSENT OR NOT VOTING

Altman,
Ashcraft,
Bulger,
Case,
Coleman, of Greene,
Espy,
Foshee,
Gilmore,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
King,
Kirkland,
Locklin,
Morrisette,
Mulkey,
O'Neill (Jefferson),
Proctor,
Renfro,
Reynolds (Chilton),
Reynolds (Henry),
Searcy,
Sentell,
Smith (Mobile),
Sollie,
Sorrell,
Studdard,
Willett,
Wilson (Wash'gton),

PAIRS

AYES.

Burnett,
deGraffenreid,
Eyster,

NOES.

Long (Butler),
Porter,
Cofer.

MR. O'NEAL (Lauderdale)—I offer an amendment to the original section.

THE PRESIDENT PRO TEM—It was amended and has been lost and there is nothing to amend.

MR. BROWNE—I make the point of order that the gentleman from Pike offered an amendment to the substitute reported by the Committee. The amendment of the gentleman from Pike was adopted. The substitute as reported by the Committee as amended by the gentleman from Pike has been lost and the question recurs on the original section.

MR. O'NEAL (Lauderdale)—I offer an amendment—a substitute—if in order.

MR. REESE—I rise to a point of order. The original section which the gentleman claims is now before the house was offered as an amendment to the substitute, that was presented here today by the Committee, by the gentleman from Tuscaloosa. The Convention has passed upon the section which was originally reported as Section 18, and has voted that down, and there is nothing before the house in the shape of Section 18. I ask for a ruling.

THE PRESIDENT PRO TEM—The recollection of the Chair is that the gentleman from Tuscaloosa (Mr. Fitts) offered the original substitute reported by the Committee, and the recollection of the Chair is that that substitute and the original section was laid on the table. Therefore there is nothing before the house to amend.

MR. ROGERS (Sumter)—I move to reconsider the vote by which the section originally reported by this Committee was recommitted to that Committee if it is not too late.

MR. SAMFORD (Pike)—Mr. President, I move to take the amendment offered by the gentleman from Tuscaloosa from the table.

MR. KNOX—I rise to a question of inquiry. My question of inquiry is this: Unless the original section which the Committee on Suffrage and Elections first reported was before the Convention, what was there for them to report a substitute to? This original section was recommitted to the Committee on Suffrage and Elections. They reported it back with a substitute. Thereupon the gentleman from Tuscaloosa. I believe, offered a substitute for that substitute. Now, the mere fact that his substitute was in terms about the same as the original section would not get rid of the original section because that is the base, it seems to me, upon which all these amendments are built. Now the Convention voted down the substitute offered by the gentleman from Tuscaloosa, and then it engrafted upon the substitute which the Committee

has reported the amendment offered by the gentleman from Pike, and then the Convention voted down that substitute as amended, and it seems to me that the question would recur upon the original section, as the Convention has voted down all amendments and all substitutes to it.

THE PRESIDENT PRO TEM—The Chair is of the opinion that the original section is on the table, but since this question has been merely a parliamentary battle this afternoon, and there is already a motion to take from the table, and one to reconsider. The Chair will change his ruling for the purpose of facilitating the matter and hold that the original section is before the Convention. (Applause.)

MR. KNOX—And the previous question has been ordered.

MR. O'NEAL—I offer an amendment.

MR. SANFORD (Montgomery)—I offer a substitute—

THE PRESIDENT PRO TEM—The previous question has been ordered on the original section and amendments will not be in order.

MR. WHITE—I move the adoption of Section 18 as reported by the Committee.

MR. SANFORD (Montgomery)—I move we adjourn.

Upon a vote being taken the section was adopted.

MR. CARMICHAEL (Coffee)—I move we adjourn.

MR. REESE—I move to amend the motion to adjourn by fixing the time to adjourn at 6:55 o'clock.

Upon a vote being taken the amendment to the motion was lost.

MR. SANFORD—I moved to adjourn just now.

MR. BROOKS—I make the point that a motion to adjourn is not amendable.

THE PRESIDENT PRO TEM—The point of order comes too late, because a vote was taken on the amendment, and the Convention refused to adjourn at 6:55.

MR. REESE—I move that when this Convention adjourn it adjourn to meet at 11 o'clock Monday morning.

THE PRESIDENT PRO TEM—I do not understand the motion of the gentleman.

MR. REESE—I move that when this Convention adjourn that it adjourn sine die.

THE PRESIDENT—The motion is out of order.

MR. WHITE—I have a substitute for Section 19, which I now send to the Clerk's desk.

MR. CARMICHAEL (Coffee)—The Chair did not put my motion to adjourn.

THE PRESIDENT PRO TEM—I overlooked the fact that I had not put the motion to adjourn. The gentleman from Coffee moves that we now adjourn.

Upon a vote being taken the motion was lost.

THE PRESIDENT PRO TEM—The Chair will state to the gentleman from Jefferson that when the Convention adjourned yesterday afternoon the gentleman from Tallapoosa, Mr. Sorrell, had offered a substitute to the original section, and the gentleman from Montgomery, Mr. Sanford, had offered an amendment to that, hence there is already pending an amendment to the amendment, and therefore a further amendment is not now in order.

MR. WHITE—Were they not recommitted?

THE PRESIDENT PRO TEM—No, sir.

MR. WHITE—Then I move to lay the amendment of the gentleman from Tallapoosa and the amendment to that amendment which was offered by the gentleman from Montgomery, on the table, with the view of offering a substitute.

MR. WILLIAMS (Elmore)—I was going to suggest for the information of the Chair that the gentleman from Tallapoosa accepted the amendment of the gentleman from Montgomery.

THE PRESIDENT PRO TEM—Unanimous consent was not given, hence the motion to table is in order.

MR. SANFORD (Montgomery)—I ask that the two amendments be read.

The amendments were read as follows:

Amendment by Mr. Sorrell of Tallapoosa: "Amend Section 19 by adding at the end thereof the following: 'Providing that any new law enacted by the General Assembly as provided for in this section, shall not become operative until ratified by a majority of the qualified electors in this State.'"

Amendment by Mr. Sanford (Montgomery) to the amendment, by adding the words "at an election expressly held for that purpose."

MR. COBB—I make the point of order that the amendment offered by the gentleman from Montgomery was by unanimous consent accepted by the gentleman from Tallapoosa.

THE PRESIDENT PRO TEM—The journal does not so show, and the motion is to table both amendments, hence there is nothing in the point of order, even were it well taken, because the motion was to table.

MR. COBB—But if it had been accepted, then the amendment would be in order.

THE PRESIDENT PRO TEM—The journal states otherwise.

MR. JENKINS—I call for the ayes and noes.

The Call was not sustained.

Upon a vote being taken, the motion to lay the amendment on the table prevailed.

MR. WHITE—I offer a substitute for Section 19, and on that I call for the previous question.

MR. KNOX—Please state that the Committee on Suffrage and Elections in lieu of Section 19.

The substitute was read as follows:

The substitute for Section 19 by the Committee on Suffrage and Elections:

"If any section or subdivision of this Article shall for any reason be, or be held, by any court of competent jurisdiction, and of final resort to be invalid, inoperative or void, the residue of the Article shall not otherwise be invalidated or affected."

MR. WHITE—This substitute is offered by the Committee on Suffrage and Elections, and I move its adoption, and upon that I call the previous question.

MR. HARRISON—I appeal to the Acting Chairman of the Committee not to deny me an opportunity to be heard.

THE PRESIDENT PRO TEM—The gentleman from Jefferson does not yield.

MR. WHITE—I would like to have a moment to confer with the committee on this matter.

THE PRESIDENT PRO TEM—The Convention will give the Committee an opportunity to confer.

MR. WHITE—I yield.

THE PRESIDENT PRO TEM—The gentleman from Jefferson yields to the gentleman from Lee.

MR. HARRISON—I am much obliged to the majority of the Committee. I am one of the minority who voted against this

substitute. I was opposed to the original section, and am more strongly opposed to the substitute than I was to that. One of the same reasons that induced me to oppose the original section applies to this, and that is, in the first place, it is a quasi admission that this Convention has made some mistake. In the second place, I am opposed to it as a matter of policy. I do not believe we can sustain it before the people, when it comes to a question of a ratification of this Constitution. The Convention will bear in mind that this is intended in case any court should hold void any section or clause of this Constitution. It is only applicable in that case. Now, I simply submit this proposition: It will have no effect, only in the event that some section or clause is declared unconstitutional. Say, for instance, that the descendants or grandfather clause is declared unconstitutional; what would become of your temporary plan or permanent plan? It is made up from three sources. There is no provision made in this Article whatever to keep them separate—none on earth. This permanent list is made up by the registrars, and no one knows, or can know, under which subdivision a party was registered; therefore, I submit to all the lawyers in this Convention, and even to the laymen that if one of these sources is held to be void—and there is no way to tell which, or to tell how many of that registered list comes from this void source—will it not affect the whole registration? If so and your entire permanent list is held void, then in 1903, you place the entire voting population of Alabama on an educational and property qualification. That will stand, the temporary plan being destroyed. If we declare that it is our intention that if any part be declared void, the rest shall stand. Isn't that the natural result?

And again, what power has this Convention to limit the powers of the courts? I say it in a friendly spirit, as I said it in the Committee, if you propose to do this, then go back and make some such provision as this: Provide that the Boards of Registration appointed for the several counties shall prepare and file as required by the seventh subdivision of Section 10, of this Article, three separate and distinct lists of those registered by them, showing upon one those who registered under the first subdivision of the Section, showing upon another those who registered under the second subdivision of said Section, and showing upon another those who registered under the third subdivision of said Section. If this is incorporated in it, then the purpose indicated for it might be carried into effect. I only offer this in a friendly spirit. I am against the policy. I hesitated for awhile in entertaining the doubts I do as to one of these subdivisions, but a large majority of this Convention have said after discussing it that there is no doubt of its constitutionality, and whether right or wrong, I propose to stand by you and take your judgment, but I do not want you in conclusion to express this sort of doubt, as to whether or not it will stand. I only ask that in this closing hour of this Convention, will deliberate

and not adopt this provision, simply because it is reported here as a substitute. It is true a majority of the Committee have recommended it. I have briefly stated to you the reasons that actuated me, and I ask you as lawyers and gentlemen of intelligence, what will be the effect of it? If there is to be opposition in the State of Alabama to the ratification of this Constitution, and you present it to the voters, and show to them that there is a likelihood of its being declared void, and you admit it, indirectly or in a quasi manner, or at least, that in case this temporary clause should be held void, that then you throw the entire electors of the State upon the permanent provision of education and property qualification? Can you ratify it if you do that? Isn't it better, if you desire to adopt this position, in contradiction to what the State of North Carolina took, for I understand in the adoption of their Constitution they took exactly the reverse of his proposition, and that was if any part of it was held unconstitutional, the whole of it should fall, they did not attempt to adopt any part of it without adopting it all. If we separate ours, then the strongest objection to it is taken away, for a part may stand. But under my view of it, if this is adopted and the courts will regard it, and so held, then in case the temporary plan is held unconstitutional, we are at once on the other plan,—the educational and property plan, for which our people will not be ready in 1903, and that will stand, and we will have virtually placed upon the people of Alabama an educational and property qualification upon this plan.

THE PRESIDENT PRO TEM—The gentleman's time has expired.

MR. HARRISON—I had read my amendment, and I hope I may offer it as an amendment to the substitute.

The amendment by Mr. Harrison was read as follows:

Amend by adding at the end of Section 19 the following words, to wit:

Provided, that the Boards of Registration appointed for the several counties, shall prepare and file, as required by the seventh subdivision of Section 10 of this Article, three separate and distinct lists of those registered by them, showing upon one those who registered under the first subdivision of the Section; on another those who registered under the second subdivision of said Section; and on another those who registered under the third subdivision of said Section.

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

Upon a vote being taken the motion to lay the amendment upon the table prevailed.

MR. SANDERS—I have an amendment to offer, or rather a substitute.

The substitute was read as follows:

"It is hereby declared that the suffrage plan contained in this Article is one and indivisable, and that each provision thereof is separate, distint, independent and indivisable."

MR. SANDERS—It seems to me that the substitute reported by the Committee contains a suggestion and intimation that some of the provisions in the Suffrage Article are void and would fall before the courts. I do not believe, Mr. Prseident, that would be the case, but I doubt the wisdom, and I doubt the policy of the Article upon its face containing a doubt and intimation as to the soundness of all of its provisions. I take it that what the Committee aims to accomplish is that each provision of the Suffrage Article shall be separate, distinct, independent and indivisible, so that if one part of it shall fall the other part will remain intact, and every provision will stand upon its own merits. I think that the substitute accomplishes all that we should attempt to embody in the suffrage Article upon that point.

MR. CARMICHAEL (Colbert)—I move to lay the section, substitute and amendment to the substitute upon the table.

MR. KNOX—I hope the gentleman will withdraw that for a moment.

MR. CARMICHAEL—I withdraw it.

MR. KNOX—Mr. President, it seems to me that we should adopt the substitute as reported by the Committee on Suffrage and Elections. The gentleman from Lee (General Harrison) has maintained with great emphasis in the discussion of the general question, that he believed that one clause, the descendants clause of the suffrage plan, was unconstitutional, and would be so held by the Supreme Court. He claimed to concur in the wisdom of the committee in reporting that provision of the plan which provided that all those of good character should have the right to vote, and that all soldiers should have the right to vote, and yet he objects in his argument here, to a simple statement in this article, that it is not the intent and meaning of the framers of this Constitution that it should all stand or fall together. Now, we remember that when the income tax cases were before the Supreme Court of the United States, that court first decided that the statute was valid in part, and invalid in part, and yet for the want of a declaration in the statute itself disclaiming any such intention, a divided court, upon a reconsideration of the question, held the whole act void. Why? Because they said they would presume that Congress would not have passed any part of that act if they had known

and understood that the other part was going to be declared invalid.

And so the gentleman from Lee here following up the strenuous opposition he has offered to one provision of this article, objects to our making any provisions for protection to the rest of the plan against a disaster which he says will befall the whole plan, when the Supreme Court knocks out one clause. He suggests, Mr. Chairman, and this has been harped upon a great deal during the discussion of this article on suffrage, that when we make any declaration in this article as to what our intentions are with reference to the whole article we show a lack of confidence in the article. I do not think that because an attorney is cautious and prudent, because he wishes to hedge about an article with every safeguard which it is possible to throw around it, that it indicates any lack of confidence on his part in its validity or constitutionality. These people who are always so dead cock sure about every proposition which they advocate do not always make the safest counsellors or advisers. Of what comfort is it to your client, after he has entrusted important interests to your management and has lost his case, to be able to say that my attorney was so confident in the position he occupied that he even omitted to throw around it a needed safeguard, which would have protected the whole scheme, or practically the whole scheme.

MR. SANDERS—May I interrupt the gentleman.

THE PRESIDENT PRO TEM.—Will the gentleman yield?

MR. KNOX—I prefer not to yield just now. Lord Eldon, the greatest of the Lord Chancellors—one of the greatest—was regarded and so designated by the profession as the "great doubter." The attorney is not always wrong, either, Mr. President, simply because the court has decided contrary to the advice he has given. The court is sometimes wrong, and the court sometimes admits that it is wrong. Why, I remember a case where Gen. Butler—Benjamin F. Butler—who without regard to his many other shortcomings, was justly regarded everywhere, as a very eminent lawyer, appeared before the Supreme Court of the United States and filed an application for a rehearing of a case that had been decided against him. His application was overruled, and he appeared and presented a second application for a rehearing. Chief Justice Waite, who was then presiding, called him to order, and said: "Don't you know, General Butler, that it is contrary to the precedents and practice of this court to entertain a second application for a rehearing!" To which General Butler replied: "Yes, if Your Honor please, I recognize that, but I venture to suggest that if the court will take this application for a rehearing, they will not only grant it, but they will thank me for putting it in." And the court did take the application for a rehearing and it was granted! I remember another instance which is related as having occurred

in that court, where it is said that a very bright young Irishman by the name of Johnson was arguing some important case before the court, and he had with him Coke and Blackstone and Kent, and was laying down elementary principles one after another, when Judge Miller, who was fond of interrupting counsel, interrupted and said: "Oh, Mr. Johnson, Mr. Johnson, I think you might at least indulge the presumption that this court knows the A B C's of the law!" "No," he said, "if Your Honor please, I indulged that presumption in the court below, and got left, and I do not propose to take any chances here!"

Now, Mr. President, simply because a court decides a proposition adversely to the advice of counsel, it does not always follow that the original advice was not sound and proper, and therefore it is the more important that we should hedge around this article —this most important article of our Constitution—with proper safeguards. Where is the general who will lead his men out to fight in the open, to be shot at in the open, when he can just as safely, and just as effectively. It is not from want of confidence in our position that we wish to insert in the face of this article a provision declaring it to be our intention that it should stand notwithstanding some one or more of its provisions may be declared invalid.

Now, in the North Carolina Article on Suffrage, they distinctly declare there that it is their intention, if any part of the Article is overthrown, that it shall overthrow the whole Article. In Louisiana they make no declaration upon that question, but their intention is left open to construction by the courts. It is simply to get around the construction which the Supreme Court of the United States placed upon the income tax act, that we wish to incorporate in this Article a simple declaration, that it is not our intent that if one clause fails, all should fail. Suppose they should strike out the descendants clause; you would have the good character clause, and you have the old soldier clause. The gentleman from Lee (General Harrison) seems to want to leave it, so as to be sure that all will fall if the Supreme Court of the United States should sustain his position.

Mr. President, I move the previous question upon the amendment to the section and substitute, as reported by the Committee, and the amendment to the amendment.

MR. SANDERS—May I ask the gentleman a question.

THE PRESIDENT PRO TEM—Does the gentleman yield for a question?

MR. KNOX—Yes, sir.

MR. SANDERS—Does not the substitute offered by myself meet the decision of the Supreme Court of the United States in the income tax case?

MR. KNOX—I sympathize with your object in offering the substitute, but I am afraid it does not go far enough, and, as everybody will understand, what we mean by it anyhow, we may as well say so. I move the previous question.

MR. HARRISON—I desire to ask the gentleman what would become of the permanent list that is made under the temporary plan in case either of those clauses would be held unconstitutional?

MR. KNOX—I think it will undoubtedly stand, and that it cannot be successfully attacked in any court.

THE PRESIDENT PRO TEM—The gentleman from Calhoun moves the previous question. The question is, shall the main question be now put?

Upon a vote being taken, a division was called for and resulted in the main question being ordered.

MR. KNOX—I move to table the amendment offered by the gentleman from Limestone.

Upon a vote being taken, a division was called for, and, by a vote of 63 ayes and 21 noes, the motion to table prevailed.

The question recurred upon the substitute offered by the Committee.

MR. HARRISON—I demand the ayes and noes.

The call for the ayes and noes was not sustained, and upon a vote being taken, the motion to table was lost.

THE PRESIDENT PRO TEM—The question recurs upon the motion to adopt the substitute offered by the Committee.

MR. HARRISON—I ask for the ayes and noes.

The call was not sustained.

Upon a vote being taken, a division was called for, and by a vote of 64 ayes and 22 noes, the substitute was adopted.

THE PRESIDENT PRO TEM—The question recurs upon the original section as amended by the substitute and upon that the previous question has been ordered.

Upon a vote being taken, the section as amended was adopted.

MR. KNOX—I move that we adjourn.

MR. SANFORD (Montgomery)—I have an additional section to this.

The section was read as follows:

Section 20. When any person offers to vote, the returning officer must call his name audibly and distinctly and if there be

no objections to the qualifications of such person as an elector, he is to receive his vote and the name of each elector whose ballot has been so received must be taken down immediately by the clerk, or clerks, on separate lists, which shall be headed "names of voters" and called poll lists, and the numbers and order in which such elector votes must at the same time be entered by each clerk against his name, and numbered on the ballots with the same number as that which is entered against his name.

MR. SANFORD—I offer that amendment for the purpose of carrying out, as I said a day or two ago, the declared purpose of reforming the suffrage system in the State of Alabama, and having pure elections entirely devoid of fraud or a suspicion of fraud.

If that section should be adopted, it will render fraud absolutely impossible. It will enable contested elections to be thoroughly investigated, and I hope, therefore, that it will be adopted. I hope, too, my friends, that you will, if an aye and no vote should be called upon it, sustain the call, and vote and don't dodge the question.

MR. WEATHERLY—I move to lay the amendment upon the table.

MR. SANFORD—I call for the ayes and noes.

The call was not sustained, and a vote being taken the amendment was tabled.

MR. HEFLIN (Chambers)—I move that this Convention now adjourn.

MR. WHITE—I ask the gentleman to withdraw that a moment.

MR. HEFLIN—I withdraw the motion.

MR. WHITE—I move that the article be now engrossed and ordered to a third reading.

MR. SAMFORD (Pike)—I desire to state that at the beginning of this discussion it was stated that there would be an opportunity given for offering substitutes, and while I have no substitute to offer, and am perfectly ready—

MR. KNOX—That is true, if there is any substitute to be offered.

MR. WHITE—If there is a substitute to be offered I will withdraw my motion.

MR. BLACKWELL—I desire to offer an additional section.

MR. WHITE—I will not withdraw the motion for that. I will withdraw it for a substitute to the entire article.

MR. JENKINS—I desire to offer as a substitute—

MR. BLACKWELL—I insist upon my right to introduce a section.

THE PRESIDENT PRO TEM—The gentleman declines to yield for that purpose, and the Chair cannot help the gentleman from Morgan.

MR. WHITE—I will state to the gentleman that we have taken this article up section by section—

MR. BLACKWELL—And we have always permitted the introduction of an additional section under such circumstances.

MR. WHITE—The Committee insists upon the motion.

MR. HEFLIN (Randolph)—Is a motion to adjourn now in order?

THE PRESIDENT PRO TEM—Not while the gentleman from Jefferson has the floor.

MR. HEFLIN (Chambers)—I will ask the gentleman from Jefferson a question.

THE PRESIDENT PRO TEM—Does the gentleman yield?

MR. WHITE—Yes, sir.

MR. HEFLIN (Chambers)—Unless the article now ordered to engrossment then a substitute could be offered.

MR. WHITE—I suppose so.

MR. HEFLIN (Chambers)—I understand some gentlemen want to offer additional sections, and one or two want to offer substitutes, and I will ask the gentleman from Jefferson to renew my motion to adjourn.

MR. WHITE—We have no objection to allowing a substitute to the entire article to be offered.

MR. PILLANS—I trust the gentleman will not withdraw it. We have been here two weeks on this proposition and there are many other things for us to consider.

MR. WHITE—I am here at the direction of the Committee, and I must insist upon it.

MR. BLACKWELL—We insist that this is a very unusual proceeding to deny a man this right.

MR. WADDELL—A parliamentary inquiry.

THE PRESIDENT PRO TEM—The gentleman will state the inquiry.

MR. WADDELL—What has become of Section 18?

THE PRESIDENT PRO TEM—Section 18 has been adopted.

MR. LOWE (Jefferson)—I rise to suggest to the Chair and to the Convention that by unanimous consent it was agreed when the final section of the suffrage proposition was disposed of a substitute or substitutes for the article would be in order.

MR. WHITE—I withdraw for the purpose of allowing you to introduce that now.

MR. LOWE (Jefferson)—I rise now for the purpose of offering a substitute.

THE PRESIDENT PRO TEM—The Chair will recognize the gentleman from Jefferson to offer a substitute for the entire article. Does the gentleman desire that the substitute shall be read at this time.

MR. LOWE (Jefferson)—I have no preference as to whether it is read at this time or in the morning. .

MR. BAREFIELD—I move that we do now adjourn.

Leaves of absence were granted Mr. Norwood for Saturday and Monday, Mr. Opp for yesterday and this morning on account of sickness and Mr. Foshee for Saturday.

The Convention thereupon adjourned.

CORRECTIONS.

In speech of Mr. Pillans on sixtieth day, fourth page, fifth column, thirty-second line should read: "We do not know how these names of electors are to be purged, nor by what processes." In thirty-fourth line should read: "If a man is registered and dies, etc."

In first column fifty-ninth day, in Mr. Brooks's remarks, in thirty-sixth and fortieth line from bottom of column the word "few" should be omitted.

SIXTY-SECOND DAY

MONTGOMERY, ALA.,
Saturday, Aug. 3, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by the Rev. Mr. Marshall as follows:

We come into Thy presence this morning, our Father, with a deep sense of our unworthiness of Thee and our dependance upon Thee, and we feel this morning that we need Thee in everything that we do. We pray Thy guidance this day. Bless each and every one of us according to our needs. We pray Thee that Thou wouldst strengthen us and help us that we may faithfully discharge every obligation that is upon us. Bless those who are in authority over us. Bless the members of this Convention assembled, and may their works be well pleasing in Thy sight and acceptable to the people of their State. Guide us through this day, guide us into all truth. Forgive us of our sins and at last in heaven save us, we ask, for Christ's sake. Amen.

Upon a call of the roll, eighty-five delegates responded to their names.

THE PRESIDENT—The Chair will call attention of the delegates to the fact that we have a bare quorum this morning and it will be necessary for the delegates to remain in the Convention in order that we may proceed with the business before us.

MR. SANDERS—The substitute I offered yesterday for Section 19 offered by the committee read in part as follows: "It is hereby declared that the suffrage plan contained in this article is not one and indivisible." The stenographic report has it "is one and indivisible," and that is just what I did not say. The word "not" is omitted. Therefore, I request that it be corrected.

THE PRESIDENT—The official stenographer will make note of the correction.

Leaves of absence were granted to the following delegates—To Mr. Parker (Cullman) for Monday; to Mr. Eley for Monday; to Mr. Pitts today; to Mr. Long (Walker) for today and Monday; Mr. Locklin, from July 28th to August 5; Mr. Morgan M. Smith for today; Mr. Winn, Monday and Tuesday; Mr. Bethune and Mr. Ledbetter for Monday and Tuesday; Mr. Altman for today and Monday; Mr. Malone for Monday.

The report of the Committee on the Journal was read, stating that the journal for the sixty-first day had been examined and found correct and the same was adopted.

MR. WHITE—I move that the regular order be dispensed with this morning and that we take up the special order on which the Convention was engaged yesterday afternoon.

THE PRESIDENT—Including the call of the standing committees?

MR. WHITE—Yes sir. That I understood to be a part of the regular order.

Upon a vote being taken, the motion was carried.

MR. SMITH (Mobile)—I want to ask unanimous consent to introduce a resolution to be referred. It is introduced by request.

The Secretary read the resolution as follows:

An ordinance to exempt maimed soldiers who served in the Confederate army or the State of Alabama in the war between the States.

Be it ordained by the people of Alabama in Convention assembled, That all soldiers who, while serving in the Confederate army or serving the State of Alabama as soldiers in the war between the States, lost a limb or an eye, and who have no property other than that which is exempt under the provisions of this Constitution from process for the collection of debt, shall be exempt from the payment of all taxes now due by them to the State or to any county or municipality, and shall be exempt from the payment of all taxes, State, county and municipal, that shall hereafter become due upon the property so exempt from debt, and also from the payment of any and all license tax of every kind and description.

Referred to Committee on Taxation.

MR. MULKEY—I have a short petition that I ask unanimous consent to have read and referred.

There being no objection, the Secretary read the petition as follows:

Geneva, Ala., Aug. 1, 1901.

To the Honorable Convention of Alabama:

We, the undersigned petition you to reduce Section two (2) of the suffrage article from one year to three months, we ask this in behalf of the many teachers and preachers who are constantly changing their location, and we deem them to be as good a class of voters as there is in the State.

J. B. Welsh, Frank M. Justice, R. J. H. Simmons, J. R. Adair, Jr., F. J. Ward, C. D. Carmichael, W. M. Tatum, J. S. Collins, J. A. Jones, D. D. Lamont, J. A. Cumby, James B. Cox, attorney; A. D. McKinny, J. M. Hutcheson, W. W. Seay, T. M. Day, G. W. Liton, H. H. Foster, F. G. Miligan, J. R. Clark, J. C. Jones, R. H. Grey, M. B. Pierce, J. H. Heard, D. W. Gilchrist, Ed Cowan, J. M. Jeter, E. F. Elsberry, E. D. Johnson, Ed Reaper, W. H. Holloway, A. R. Chapmen, J. G. Holloway, W. M. Thomas, W. R. Jones, J. R. Kuth, J. J. May, F. J. Laird, J. M. Merritt, C. E. Darby, J. Yohn, J. B. Welsh.

Referred to Committee on Suffrage and Elections.

MR. SAMFORD (Pike)—Before beginning with the special order, I move that when the Convention adjourns at 1 o'clock, it adjourn to meet on Monday at 11 o'clock.

MR. PILLANS—If it is in order to debate a motion to fix the hour of adjournment, I would like to submit a few remarks. I am opposed to these short sessions on Saturday. We are here to do business, and I would rather stay to the end and do the work.

MR. OATES—I desire to say in reply to that, while it is no convenience to me to adjourn early, and no inconvenience to hold late, and I believe in work, and I believe I have been here every day during the session except one, we are going to enter upon the consideration of the report of the Committee on the Judicial Department, and everyone sees how thin this Convention is and after dispensing with other business and the preliminaries in regard to that, the Convention ought to be full to consider such an important report as that and you will not have it this afternoon, if we have an afternoon session, and not before 11 o'clock Monday morning, when all the trains get in. Therefore, I am in favor of adjourning at 1 and meeting at 11.

MR. DAVIS (Etowah)—I move to amend by extending the session until 2 o'clock and then adjourning until the time specified.

THE PRESIDENT—It is moved that when the Convention adjourns today at 1 o'clock it adjourn until 11 o'clock on Monday. And the gentleman from Etowah moves to strike out 1 and insert 2.

Upon a vote being taken the motion was carried.

MR. MILLER (Marengo)—I move to lay the motion to adjourn on the table, and upon that I call for an aye and no vote.

The call was not sustained.

Upon a vote being taken a division was called for, and the motion to table was lost.

THE PRESIDENT—The question is on the adoption of the motion of the gentleman to adjourn when we adjourn today to meet at 11 o'cock on Monday.

Upon a vote being taken, there were 45 ayes and 26 noes and the motion was carried.

MR. BOONE—I rise to a point of order.

THE PRESIDENT—The point of order is too late.

MR. WADDELL—Do not the rules provide for less than a quorum may adjourn or fix the hour?

THE PRESIDENT—The special order this morning is the consideration of the report of the Committee on Suffrage and

Elections. When the Convention adjourned yesterday afternoon, the substitute offered by the gentleman from Jefferson was pending. The secretary will read the substitute.

The Secretary read the substitute as follows:

Be it ordained by the people of Alabama, in Convention assembled:

Section 1. Every male citizen of the United States, and every male citizen 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 not under 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.

First—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; provided, that any elector who within three months next preceding the date of election at which he offers to vote, has removed from one precinct or ward to another precinct or ward in the same county 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; and provided also, 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 made a contribution to the public schools of $3, by all electors under 45 years of age, and $1.50 by all electors over 45 years of age by paying that amount to the Tax Collector of the county during the month of January, February or March of each year subsequent to the last general election and preceding the year in which the election is held at which he shall offer to vote. The contribution herein provided for shall be called "the school contribution," and the amount received therefrom, less the commission allowed by law to the collector, shall be applied to the public schools of the State; provided, however, that the General Assembly may by law provide that the school contribution made by the residents of the several precincts may be used for the support and maintenance of the public schools in such precincts. It shall be the duty of the Tax Collector of the county to issue to each person who shall make the school contribution a receipt showing correctly the date of the payment, the name of the said person and the precinct and county of his residence, and immediately upon said payment being made, the Tax Collector shall enter the name of the person contributing in a well-bound book to be kept for the purpose, or allow such person to write his own name in said book, which shall be ruled and marked to show the date of payment of the school contribution, age, color and precinct

of residence of the persons who make the same. And on or before the 15th day of April of each year the Tax Collector shall certify under oath and file in the office of the Judge of Probate of his county an accurate list of all persons who during the next preceding month of January, February and March have made the school contribution, and the Judge of Probate shall within ten days from its filing cause said list to be recorded in a well-bound book to be kept for the purpose and designated Registration of Electors. The list as certified by the Tax Collector and as recorded in the probate office shall designate the name, age, color and precinct of residence of the persons whose names appear thereon. The Judge of Probate shall give notice by posting at some convenient place at the court house and by publication in one or more newspapers of general circulation, if any be published in the county, once a week for three successive weeks, that the list has been filed in his office, and that said notice shall be given, or the first insertion thereof, be made within ten days from the date of said filing of the list by the Tax Collector and any citizen whose name does not appear on said list may before the 31st day of May of each year have the right to apply to the Judge of Probate to enter his name thereon, and upon due proof that the school contribution was made by such person within the time allowed therefor, it shall be the duty of the Judge of Probate to enter his name as an elector at the foot of said list as recorded with appropriate remarks indicating that said person's name had been improperly omitted; and upon the refusal of the Judge of Probate to enter the name of any applicant as an elector the latter may appeal from the judgment or decision of the Judge of Probate to the Circuit Court of his county, and the judgment of the Circuit Court upon such matter shall be final. The General Assembly shall provide by law a method for expunging from the Registration of Electors any name or names improperly placed on the list certified by the Tax Collector or recorded by the Judge of Probate or added to either of said lists by any person. The Tax Collectors of the several counties shall remit to the State Auditor within the first fifteen days of April of each year the amount received by them respectively upon the school contribution, less their commission. It shall be unlawful for any Tax Collector to receive any school contribution for any year after the 31st day of March of that year, and any Tax Collector who wilfully or intentionally adds to or omits from the list herein required to be certified, and any Judge of Probate who wilfully or intentionally fails to accurately record the list certified, shall be guilty of a felony. No person whose name does not appear on the said certified list and registration of electors for the year next preceding that on which the election is held, shall be entitled to vote, except that in case of application by a citizen to have his name added and the judgment favorable thereto of the Judge of Probate or Circuit Court, such person may vote, as though his name were on said list; provided, that nothing herein shall be construed to exclude from

voting any soldier or sailor who has fought or was actually enlisted on either side in the war between the States, or who has fought or was actually enlisted in any war to which the United States was a party, but all such soldiers and sailors otherwise qualified may vote without having made the school contribution.

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 persons shall be disqualified both from registration and from voting, namely:

All idiots and insane persons; 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 pretense, perjury, subornation of perjury, robbery, 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 crimes involving moral turpitude; also any person who shall be convicted as a vagrant or a tramp, or of selling or offering to sell his vote or the vote of another, or buying, or offering to buy, the vote of another in any election by the people, or in any primary election, or to procure the nomination or election of any person to any office, or of suborning any witness or registrar to secure the registration of any person as an elector.

Sec. 4. 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. 5. No person not registered and qualified as an elector under the provisions 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, and all electors who shall comply with the provisions hereof in the year 1902 shall be entitled to vote in said elections.

Sec. 6. 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. 7. 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 incriminate 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 testifies, but may be prosecuted for perjury committed on such examination.

Sec. 8. 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 provisions by law, not inconsistent with this Article, for the regulation of primary elections compulsory.

Sec. 9. 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. 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. 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 members of the General Assembly, shall be made to the Secretary of State.

Referred to Committee on Suffrage and Elections.

THE PRESIDENT—The question will be upon the adoption of the substitute offered by the gentleman from Jefferson to the report offered by the committee.

MR. LOWE—I believe that the Convention is now ready to vote upon this question. I believe that all that could be said to advantage upon one side or the other has been said. It is not my purpose or desire to detain the Convention longer. The proposition in the substitute as offered by me, eliminates the registration clause, the grandfather clause, the property qualifications, and the educational qualification, and leaves merely the voluntary contribution to the public school system of Alabama, to be discharged within the first three months of each year, intervening between general elections. Mr. President, although it is a matter of disappointment to me, to be in opposition to the majority of the committee, I feel sustained in some measure by knowledge of the fact that many, if not most, of those who have had actual experience in past years in political affairs in Alabama are in accord with the proposition which I have submitted. I hope even now,

even before the fever of debate is past, that the majority of the committee are right, because I believe that the report of the committee is going to be adopted. I hope that in time I may be able to see the wisdom embodied in the report of the majority of the committee. At this time, Mr. President, it seems to me it is worse than folly; but I shall not consume the time of this Convention longer, because my views upon these questions and each one of the objections, have been fully expressed heretofore.

MR. BANKS—I feel always at a disadvantage in trying to give expression to my views in a public way. I have been deeply interested in this question before the Convention, as has been every good citizen in the State of Alabama. I have been looking forward to the convening of this Convention because I felt that its chief purpose was to settle this great and vital question to the people of the State. Mr. President and gentlemen, after the discussions of many days, both by the committee and by the members of this Convention, we have before us well nigh a complete plan, and I do regret from the very bottom of my heart that I cannot give my endorsement to it, not because, Mr. President and gentlemen of the Convention, I am unprepared by nature to accord with the views of others, but because I honestly and sincerely feel that the plan wrought out by the Convention does not meet the ends and the aims had in view in calling this Convention. Let us consider it a little. The great question before us was a reformation of our political methods.

The aim of this convention in the discussion of this question was to give us pure politics in the State of Alabama. I belong to the part of the State that is most deeply interested in this question, the widely known Black Belt of Alabama. We have come before this Convention confessing to the Convention and confessing to the world, that we need some method by which we might extricate ourselves from conditions which as honest men and good citizens of the State we have found unbearable.

The men of the Black Belt are not inferior in intelligence, in moral character and in nobleness of purpose, to the men of any part of the State of Alabama. We have found ourselves in the midst of conditions that have been perplexing, that have been difficult, and that have seemed to demand the employment of questionable methods in order to extricate ourselves therefrom. We have before us, as I said, the finished work of this committee. What does it provide? The Black Belt has come before this Convention and we have asked with outstretched hands and with pleading voices for relief from these conditions that have necessitated fraud in elections. What does this finished plan provide in the way of relief? Mr. President, it is a part of this plan, not the avowed purpose of the plan as written in the plan itself, but as expressed a thousand times on the floor of this Convention, to

do things that are questionable in their character. It has been said by almost every advocate of this plan that its purpose, the plan itself does not say so, but the advocates of it and the key which unlocks its mysteries, without which it would be utterly unintelligible, show that the purpose of the plan is to disfranchise the negroes of the Black Belt. Now, I am not here to advocate the enfranchisement of the negro. I am here to advocate a plan by which we may have pure elections in the Black Belt, and by which we may deal with the conditions that exist there, and that touch us on many sides. What is the very first thing necessary to be done in order to carry out the plans that have been wrought here. The Black Belt understands the meaning of the plan, and that it is to perpetrate the most monumental frauds in all the history of the State. Then what is the next step? This plan has no life in it until it is ratified by the people, and it cannot be ratified except by the aid of the Black Belt of Alabama. There is no other chance to breathe life into it, and it is the Black Belt of Alabama and the men of the Black Belt who are asking relief from political fraud that are to be sent home to perpetrate the most outrageous fraud in all the history of fraud. But after this is done, what comes next? There is breathed into this immaculate Registration Board, that is to appear clothed in partizan garb a brief life in each county. It has to go forth like the swiftness of the destroying Angel to finish the work of fraud and corruption.

Mr. President and gentlemen of the Convention, are we then to have relief? Yes, we are told that then we may wash our hands, say our prayers, and behave ourselves, and have pure elections and good citizenship Let us see. What does the permanent plan provide? The permanent plan provides such a low standard of citizenship that statistics show that a majority of negroes in the Black Belt may come in and register under the permanent plan. Then what new conditions do we face? Why, sir, this valley of dry bones that was slain but a few days ago by this registration board, is an army of live men, who are ready to wreck vengeance on those who have wrought such a grave injustice towards them.

Then what other conditions do we face? The Black Belt of Alabama is in the midst of a disorganized and discontented laboring class of people, that we are in a large measure dependent upon for our material prosperity. But does this end our trouble? Allowing that we can stand this part of it, allowing that we can manage this part of it, are our troubles at an end? By no means. A majority of the voters in many of these black counties will be negroes, and negroes who are inspired with patriotism and with vengeance against those who were unjust and unfair to them. They will be then more than ever in the hands of every adventurer and more than ever ready to believe at the mouth of every man that comes into their midst that the white people of the Black

Belt are their enemies and that Democracy means to the negro damnation of every man.

I want to tell you what I think it will be in this Hall twenty years from today, and I want to tell you what I think will be the result of the act of this committee twenty years from today. North Alabama will be Republican twenty years from today if I am not greatly mistaken about the trend of affairs in that direction. A majority of the men on the floor of this Legislative Hall twenty years from today, with the plan you have wrought, will be Republicans, and the Black Belt will be at their mercy, and absolutely at the mercy of the Republican Legislature. Then the very guns that you have erected here for the accomplishment and achievement of white supremacy in Alabama will be turned against the Black Belt of this State, and then the Black Belt will understand that they themselves have sown the seed that has sprung up and produced the thorns that are tearing the very flesh from their bones.

THE PRESIDENT PRO TEM.—The time of the gentleman from Jefferson has expired.

MR. BANKS—I am sorry it is out.

MR. SMITH (Mobile)—As stated by the gentleman from Jefferson, I think these questions have been fully discussed by the Convention and are well understood, and I therefore move to lay the substitute of the gentleman from Jefferson on the table.

Upon a vote being taken, the motion to lay the substitute on the table prevailed.

MR. BLACKWELL—I desire to offer an additional section to the article.

The section by Mr. Blackwell was read as follows:

New section to be added to the report of the Committee on Suffrage and Elections:

Sec. —. "Any board of registrars, or a majority of any board of registrars, who shall knowingly register any person who is not of good moral character and who does not understand the obligations of citizenship under a republican form of government, or who is otherwise legally disqualified from registering, shall, upon conviction, be fined not less than $250 for each member of the board of registrars participating in the registration of such person or persons, and shall forfeit their offices as registrars."

PRESIDENT PRO TEM—The question will be upon the adoption of the amendment offered by the gentleman from Morgan.

MR. BLACKWELL—I offer this additional section because I find no provision in the article prepared by the Committee on Suffrage and Elections that fixes a punishment upon the part of registrars. The registrars have an unusual amount of authority conferred on them by this article, and they are unusually exempt from any responsibility to anybody for the exercise of that authority. Under this article a hundred men, or as many more as are inclined, might appear at any time, who did not possess the requirements that are set forth, and the Registrar would be the sole judge and although he might know that they did not possess the qualifications, if he were corrupt, if he were a bad man, if partisan spirit was running high, he would have it in his power to register those men, though he knew that they were corrupt and vicious, and their ballot could be cast, and no provision is made for punishing the Registrars for the act. This might be repeated as often as the Registrars pleased. Some of the Committee have said to me that they have furnished a remedy. Notice the reading of the amendment that I have offered: "Any Board of Registrars or a majority of any Board of Registrars, who shall knowingly register any person who is not of good character and who does not understand the obligations of citizenship under a Republican form of government, or who is otherwise legally disqualified from registering, shall upon conviction, be fined not less than $250 for each member of the Board of Registrars participating in the registration of such person or persons shall forfeit their offices as registrars."

Now I do not see how the Committee or how any gentleman of this Convention can afford to say by their vote that if a man wilfully and knowingly registers anybody whom the law says he shall not register, shall not be responsible somewhere and to somebody in a way that he will know and feel, for a violation of this law. The only thing furnished by the Committee is this:

"Any elector who registers for another, or registers more than once, or any registrar who enters the name of any electors on the list of registered voters without said elector makes application in person, under oath, on the form made for that purpose, or who knowingly enters a name upon the registration list as a registered voter when no one of that name applied to be registered——

MR. SMITH (Mobile)—May I interrupt the gentleman?

MR. BLACKWELL—My time is limited and I prefer not to be interrupted, but I will yield.

MR. SMITH—I wanted to ask if under your plan, you would not punish a man for registering a voter under the soldier's or descendant clause? I think you have overlooked that.

MR. BLACKWELL—I think not. He is in no way registered illegally, if registered under the soldiers or descendant's clause.

MR. SMITH—But you say "if they register any one who is not of good character or who does not understand the duties and obligations of a Republican form of government." If a soldier does not understand, and the registrar registers him, he must be fined?

MR. BLACKWELL—Under the good character clause, as set forth in the article here, it is provided that he must have that character to be registered. Now the soldiers are exempted from that, and in the exemption of them, he would legally register those parties and they would not be illegally registered. I say they must be illegally registered, in order that he may be held liable for registering a party who has no exemption applied to him. You will find in the plan of the Committee that they do not provide any punishment for the registrars if they register men who have no right to register. But this amendment provides that he is punishable for illegally registering parties. It seems to me that this unusual power ought to have restraints placed upon it. Can any gentleman say that, if a man wilfully and knowingly illegally registers a man, he should not be punished by law for the violation of the law? This is simply a provision that, if he does knowingly what is a violation of the law, and registers men illegally, or he participates it, he shall be fined $250 and forfeit his office.

MR. OATES—Will the gentleman allow me to ask him a question?

MR. BLACKWELL—Yes sir.

MR. OATES—It seems to me that the object of the amendment is to punish registrars for allowing illegal registration or making it fraudulently. Is that the purpose?

MR. BLACKWELL—Yes sir.

MR. OATES—It may have too many words in it but I sympathize with the purpose.

MR. BLACKWELL—Yes sir, that is the object of it, simply to punish men for violating the law. Now is there anybody here who can afford to say by their vote, that, if a man knowingly violates the law you have laid down for his guidance, he ought not to be punished for a violation of the law? Are we here for the purpose of providing for fair elections in Alabama? Then if we are, every safeguard should be thrown around the ballot that will help to bring about the results that we are sent here by our people to accomplish, and it seems to me that there can be no question and no doubt about the matter.

But, Mr. President, I am willing, so anxious am I to accomplish the purpose set forth, in order to satisfy the suggestion that I do not see much in offered by the gentleman from Mobile, to

ask leave to strike out of my section that part of it which says "shall be of good character," and that which says "and does not understand the obligations of citizenship under a republican form of government," and simply add "those who are legally disqualified," and I ask leave to do so.

PRESIDENT PRO TEM. — The gentleman from Morgan asks unanimous consent to make an amendment to the section proposed by himself.

MR. HOOD—I object.

PRESIDENT PRO TEM.—Does the gentleman propose an amendment?

MR. BLACKWELL—I propose it as amendment.

PRESIDENT PRO TEM.—The question is upon the amendment of the gentleman from Morgan to his own amendment. Will the gentleman write out the amendment.

MR. BLACKWELL—Yes, sir, I will.

MR. WILLIAMS (Marengo)—While he is writing that out, I would like to submit two resolutions and move that they be referred to the proper committees.

Ordinance No. 436 read as follows:

Be it ordained by the people of Alabama in Convention assembled, that the provisions of an act to provide for the removal of the county seat or Shelby county from Columbiana to Calera, approved March the 5th, 1901, be and the same are hereby suspended until the question of permanently locating the county seat of Shelby county shall have been submitted to a vote of the qualified electors of said county under the provisions of an act to provide for the permanent location of the county seat of Shelby county, approved Feb. 9, 1899, and an act amendatory thereto approved Feb. 20, 1899.

Provided, that should said election result in favor of the removal of the county seat of Shelby county to Calera, Alabama, the provisions of an act to provide for the removal of the county seat from Columbiana to Calera, approved March the 5th, 1901, shall remain in full force and effect; otherwise to be null and void.

Referred to Committee on State and County Boundaries.

Resolution No. 284 read as follows:

Resolution 284 by Mr. Williams of Marengo.

Resolved, That the following amendment be referred to the Committee on Judiciary to wit:

Amend Section 29 of the report of the Committee on Judiciary by striking out in the eighth line the words "and the inferior courts here in provided for" and by inserting after the word "ejectment" in the tenth line, the following: "and the inferior courts herein provided for shall have such jurisdiction as may be conferred on them by law."

Referred to the Judiciary Committee.

MR. SAMFORD (Pike)—I ask unanimous consent to introduce a short ordinance to be referred.

Ordinance No. 437 read as follows:

Be it ordained that Section 2 of the article on Suffrage and Elections be amended by adding the word at the end of the section as follows: "Provided, that ministers of the Gospel who are legally engaged in preaching shall be eligible to vote by a residence in the county three months, provided, he has been a citizen of the State for two years and is otherwise qualified.

Referred to Committee on Suffrage and Elections.

THE PRESIDENT PRO TEM.—The question is upon the amendment to the amendment offered by the gentleman from Morgan.

The Clerk will read the amendment.

The amendment was read as follows:

"Any Board of Registrars, or a majority of any Board of Registrars, who shall knowingly and corruptly register any person who is legally disqualified from registering, shall, upon conviction, be fined not less than two hundred and fifty dollars for each member of the Board of Registrars participating in the registration of such person or persons, and shall forfeit their office as registrars."

MR. BLACKWELL — Now, Mr. President, the section as amended leaves out the only suggestion of objection that has been made to it by any one. Now if we intend to have parties who are to conduct elections fairly, and who are to have the power of the law behind them, to require them to do it honestly, then I can see no reason why any man should vote against this resolution. Out of the 200 registrars necessary to be appointed under the plan which is proposed (and I have supported that plan), there will necessarily, we may expect, no matter how much care or caution is observed, that men will be selected who under differing conditions and under partisan excitement, may attempt to do wrong, and we want to say in connection with the authority we give them, if you do wrong, you are not the sort of men we want to discharge these duties, and you shall be removed; we will put the stamp of our disapproval upon anything that is disclosed to be corrupt or wrong.

MR. SPEAR—Would you be willing to accept an amendment providing for the punishment of the majority of the registrars, in case they refuse to register a man who is entitled to register?

MR. BLACKWELL—No, sir, I would not, because you have a remedy. He can go to the court and have that right adjusted in the court, if he is refused and denied. If a man is denied the right to register, he can go to the court and have that right settled and adjudicated.

MR. WALKER (Madison)—It seems to me that a provision of this kind in view of the character and term of office of the Registrars, provided under the article as passed, is wholly unnecessary and would attain no good object. These Boards of Registrars, under the article as it has been adopted, are to be appointed by the three Chief Executive officers of the State, who are directed to select suitable and competent men for the discharge of those duties in each county. We certainly have no reason to assume that the duty imposed upon the Executive officers of the State will be disregarded, but that there will be selected suitable and competent men in the various counties. By amendments, provisions have been introduced into this Article by which any person improperly and fraudulently put upon the list can be removed. The provision now offered by this amendment, I submit, would be abortive in its operation. The Convention will remember that this board will complete its labors in seventy or seventy-five days. If a charge of this kind was made, it would have to be tried in the courts and there is not a court in the State of Alabama in which a case of that kind would be reached for trial before the term of the board had expired. It would be practically a dead letter. Now, having made provisions in the amendments that have already been made for purging the list of any name fraudulently and improperly entered thereon, so that the electorate of the State of Alabama will be kept as we intended, that it should be established, I submit that there is no necessity for a provision of this kind. It is simply holding a threat over the Board of Registration, so that they in every case which may come before them, will act under the idea that they may be brought up and made the subject of partisan criminal prosecution in the courts of Alabama.

MR. SANFORD (Montgomery)—Is there any more threat to the Registrars in this provision that there is to the Governor and other officers of the State in impeachment proceedings? It is no more of a threat to the Registrar than it is to those officers.

MR. WALKER—Would it accomplish the purpose? Would it do any good to put it in there? The very same man would go along and complete the registration, and if a charge was made, it would have to be tried after the registration was completed. The men serve for patriotic purposes, only getting $2 a day. Is there any necessity under the circumstances of their appointment for

putting a threat of this kind over them, when the proposition is so framed that it could not possibly have any beneficial operation to keep the electorate pure? As first written, there was a proposition made to punish these men who knowingly registered any person. Well, every person registered is "knowingly registered." So, if it happened that any one who was registered—and everybody is registered knowingly—should afterwards turn out not to have the qualifications prescribed, these men would be subject to punishment.

MR. O'NEAL — I desire to ask if these registrars are not quasi judical officers?

MR. WALKER—Certainly.

MR. O'NEAL—And if it is not against the policy of our law to punish judicial officers for errors of judgment?

MR. WALKER—Certainly.

MR. BLACKWELL—I will ask if we don't provide to punish our judicial officers for knowingly and corruptly——

MR. WALKER—Deciding a case.

MR. BLACKWELL—Knowingly and corruptly doing wrong.

MR. WALKER—No, not even of that kind. You can impeach them and remove them from office. But by this provision to remove them from office you upset the whole scheme of registration in Alabama for the purpose of having an impeachment trial, and before the trial could be concluded, the term of the Registrars would have expired. It certainly will accomplish no good purpose. All of the objects that have been made out in purging the lists of names of any persons fraudulently entered upon the lists having been provided for by amendments already made, I can see no good purpose that would be served, but is merely a threat to hang over these men, whose selection is guarded in every possible way, and I move that the amendment proposed be laid upon——

MR. CHAPMAN — Will you withhold that for a moment, please?

MR. WALKER—Will you renew it?

MR. CHAPMAN—Yes, sir. There is no question in my mind, and I dare say the same thing is in the minds of every other delegate on this floor that that amendment is an indirect thrust at the Black Belt of the State, under the supposition that has been heretofore intimated, that the registration would be fraudulent in the Black Belt.

MR. BLACKWELL—I most positively disclaim any such thrust as that alleged or charged by the gentleman from Sumter.

MR. CHAPMAN—We have heard it intimated upon this floor repeatedly that under the guise of fairness in this registration, the Black Belt will again come forward with its tremendous majorities in favor of the Democratic party, whether those majorities were given rightfully or wrongfully, or whether the vote was cast. I desire to say to this Convention and to the State of Alabama, that the Black Belt has come to this Convention bearing a gift, an unusual gift, and, Mr. President it bears the gift to this Convention of the power it has heretofore held and heretofore used, but it now turns it over to the State, without consideration, and without request for any compensation therefor, save such protection as the white people of the State may give the Black Belt. Now, in the future, when the vote of the Black Belt comes forward to the State, it will come counted as cast. There will be no frauds and can be none. We do not desire any; we want to get rid of them, and no matter what the result may be in the election of officers, no matter how it may turn out, the people of the white counties of the State will be responsible therefor, for we are turning over to you the majorities which we have heretofore held, ranging anywhere from 25,000 to 50,000 votes. We turn over that majority and whatever the result, rests with them, and it may come within five or ten years, that the State will have the exquisite pleasure of addressing the distinguished delegate from St. Clair as His Excellency Governor Spear. Now, it may be, that in five or ten years what this Convention does will return him and his friends to the control of the State.

This fear about the black belt giving these majorities is all unfounded. We are done with it. You must take care of the negroes and take care of us too, hereafter, because we are going to have nothing more to do with that thing if it can be avoided, and we want to avoid it. Now as the distinguished gentleman from Madison says, I do not think this amendment offered by the gentleman from Morgan will serve any good purpose at all. It only applies to a mushroom registration. It is up in a day and dead in a day. They will be out of the way long before there can be any prosecution, even if they should wilfully and knowingly make illegal registrations, but Mr. President, it will deter a great many good men from taking the responsibility of attempting to register men in the counties if you put such a penalty as that right before them, because they will not know when their discretion will be exercised wrongly. There is no distinction made there between the judicial and the ministerial acts of registration, and the man will put himself in a position to be prosecuted, and fined two hundred and fifty dollars if perchance he has under the construction of the law, not intentionally, but wrongfully registered an improper person.

MR. SANFORD (Montgomery)—Suppose he does it corruptly?

MR. CHAPMAN—That is a presumption that he is going to do it corruptly and I do not think we should indulge such a presumption as that against these registrars. I renew the motion of the delegate from Madison to lay the amendment on the table.

MR. BLACKWELL—And I call for the ayes and noes.

The call was not sustained and upon a vote being taken, the motion to table prevailed.

MR. BROWNE—I have an amendment.

The amendment was read as follows:

"Amend Article on Suffrage by adding the following section thereto: Section —. The legislature is authorized to raise the limit of age to which the payment of poll tax is required under this article, from forty-five years to not more than sixty years."

MR. BROWNE — The difference between that amendment and the one I proposed yesterday, which was voted down, is that the amendment voted down yesterday left it discretionary with future legislatures to fix the minimum as well as the maximum limit of age. It was argued by the gentleman from Lauderdale. Mr. O'Neal, that a Republican or Populite legislature might convene and might lower the limit to thirty years, in order that all the colored people, or most of them, might register. This amendment simply leaves it discretionary with the legislature to raise the limit from forty-five to sixty years, if it should ever become necessary. For one, I believe, in ten or fifteen years, it may become necessary, while I do not now believe it is necessary. There are very few colored men in the State of Alabama, comparatively speaking, over the age of forty-five years who can read and write the Constitution of Alabama, but in the future, if, as is predicted by some of the gentlemen upon this floor, the negroes are to become educated so rapidly it may become absolutely necessary, and I believe, Mr. President, firmly that whenever in the future, it shall be demonstrated that it is necessary to raise the poll tax limit from forty-five to sixty years—

MR. OATES—Have you in your proposition the words: "If it is necessary?" or is that only implied?

MR. BROWNE—I do not say, "If necessary," but that is implied. The legislature can do it when they desire to do it, but of course they will not do it unless they deem it necessary.

MR. WHITE—I desire to say that the Committee will accept that.

MR. BROWNE—Then I hope it will be adopted, and I move the previous question upon this amendment.

A reading of the amendment was called for and the amendment was read.

The main question was ordered.

PRESIDENT PRO TEM.—The question is upon the amendment proposed by the gentleman from Talladega.

Upon a vote being taken, the amendment was adopted.

PRESIDENT PRO TEM.—The question is upon the engrossment and third reading of the article.

MR. BEDDOW—I have an amendment which I desire to offer.

The amendment was read as follows: "Section 20. The affidavit of an applicant for registration under paragraphs one and two of Section 4 of this Article, based on his personal knowledge or information and belief, shall be sufficient evidence to entitle the applicant to registration as a voter."

MR. BEDDOW—Under the Suffrage Article as it now stands, we have given the right to the descendants of war veterans to vote without complying with certain requirements imposed upon other proposed voters. There has been during the discussion of this grandfather clause basketfuls of flowers thrown at this class of citizens known as the descendants of deceased veterans, but in my opinion, without this amendment these flowers will be something of an artificial nature, such as the ladies wear upon their hats, without perfume or fragrance. Under the rules of evidence the descendants of a soldier desiring to register, has the burden of proof on him to show that he is a descendant of a deceased soldier. In most instances, this cannot be done by knowledge, and any evidence tending to show his relationship to the deceased veteran would be mere hearsay. With this amendment, it allows him to qualify and take advantage of this clause, which was passed in his behalf, by testifying upon information and belief. I do not suppose that there is one in ten of the descendants of veterans who knows of his own knowledge that his father ever fought in any war. He was not there, he did not see it; his mother was at home and she did not see it, hence it is that the burden of proof is upon him to show that, and the rule of law that says a man cannot testify and give in evidence matters that are merely hearsay, will make it hard upon him and he might not be able to qualify under that provision. This amendment, if adopted, will allow him to qualify upon information and belief.

MR. MULKEY—Under the law there is an exception as to that.

MR. BEDDOW—I do not understand it so. That is all I care to say. That is my object in offering the amendment.

MR. HOOD—I do not think there is any uneasiness in the minds of the delegates to this Convention that there will be any trouble in the registration of the soldiers and their descendants under the scheme that has been adopted by this Convention. That being true, sir, I move to lay the amendment of the gentleman from Jefferson on the table.

MR. BEDDOW—On that I call for the ayes and noes.

A reading of the amendment was called for and the amendment was read.

The call for the ayes and noes was not sustained.

Upon a vote being taken, the motion to table prevailed.

MR. KIRK—I have an amendment to offer.

The amendment was read as follows:

"Amend Article on Suffrage and Elections by adding the following as Section 20:

Section 20. After the 1st day of January, 1903, the following persons having the qualifications prescribed in Section 2 of this Article, shall be qualified to register as electors, provided they shall not be disqualified to register under Section 6 of this Article, to wit: All male persons who were, on the 1st of January, 1867, or at any date prior thereto, entitled to vote under the Constitution and laws of any State of the United States, wherein he then resided, and the lawful male descendants of such persons on arriving at the age of 21 years and not disqualified under Sections 2 and 6 of this Article.

MR. KIRK—Mr. President and Gentlemen of the Convention: It is only from a sense of duty to the people that I represent that I ask you to consider the question presented in the resolution or amendment just read by the clerk. Now, gentlemen, I presume that no man will disagree with me on this proposition——

MR. SANDERS—Quite a number of us would like to hear that amendment read again.

The amendment was read as requested.

MR. KIRK—Now, gentlemen, I presume that no one will disagree with me on the proposition that in order to maintain this republican form of government in its original purity, it is necessary to place the ballot in the hands of all good and pure citizens. I plant myself squarely upon that proposition—that, in a republican form of government, the ballot—the right to select their rulers, should be accorded to every citizen who is a true and upright man. The plan which I suggest by this amendment, you all recognize is not original with me, but is the Louisiana plan, pure and simple.

It extends the ballot to a class of men, Mr. President, beyond that which is provided in the plan or the scheme that has been adopted by this Convention. It will embrace more people; it will give more men the right to vote than will have it without this amendment. They will be qualified electors, Mr. President, because this amendment provides that they shall not be disqualified by Section 2 and Section 3 of this Article. That is a higher test than we have ever before had in the State of Alabama. Our people have been taught that in order to maintain a republican form of government, manhood suffrage was right and proper. We have always had manhood suffrage in this State, but the condition that confronts us today demonstrates to us that it is necessary to curtail that to some extent, in order to get rid of the ignorant and vicious —the ignorant and the vicious, as we all understand the term, to apply to the colored race.

Mr. President, I say that this Convention is under obligation to the people of the State of Alabama to adopt this amendment or something similar thereto. When this Convention was called, it was shown that the people of the mountainous portion of the State was opposed to it, because they believed that a large number of them would be disfranchised. The Democratic party met in Convention and adopted a platform which pledged itself that no white man should be disfranchised. When I canvassed the mountainous part of my county, gentlemen, those white men that gathered around me to hear what I had to say upon the subject were extremely cautious. They asked me time and time again, how we were to disfranchise the negro and at the same time not disfranchise any white man. I told them, gentlemen, that Louisiana had done it. "Yes, but," they said, "will Alabama do it?" My only response to that was that we have here before us today, and I had it in my hand, the platform of the Democratic party which pledged every member of the Democratic party to that promise, and I said to them, "Can you believe that I or the Democratic party of Alabama would be willing to disfranchise the noble white men of this section of this State?"

MR. CUNNINGHAM—Will the gentleman from Colbert please point out in what particular the present suffrage plan, as it has been passed, will disfranchise a single white man in Alabama unless he is disqualified under Section 6.

MR. KIRK—He might fail to register for some cause, during the period that he was——

MR. CUNNINGHAM—Then whose fault would that be?

MR. KIRK—It may be that of Providence. You cannot tell who might be providentially hindered from registration. Then, again, there are boys growing up today throughout the hill counties of Alabama, who will not be able to register under the per-

manent plan—scores of them—and for this Convention to say to the people of Alabama that only men who are 21 years of age at the adoption of this Constitution, will be practicing a deception upon those people.

MR. ROGERS (Sumter)—I want to know if any one under 21 years of age is a man? We guaranteed not to take away the rights of any man.

MR. KIRK—The question answers itself from a legal standpoint, but I do submit that was not the spirit of that promise. If it was, I did not understand it and my people did not understand it, and those whom I now plead for when they arrive at the age of 21 years, if they can stand the test that is embodied in Section 2 and Section 6 of this Article, surely they ought to be given the right to vote. Take the educational test in the permanent plan: now we all know that Alabama has undertaken the education of its children——

MR. ASHCRAFT—Will my friend permit me to ask a question?

MR. KIRK—Yes, sir.

MR. ASHCRAFT—In answer to the gentleman from Jefferson you said, under the present plan, those who were not able to register under the temporary plan, would also not be able to register under the permanent plan. Now is it not a fact that the temporary plan for registration in Louisiana was brought to a close in as short a time as the present temporary plan is brought to a close.

MR. KIRK—I think that is correct.

MR. ASHCRAFT—Wasn't that Louisiana plan the very highest and best offer that we could make to our people?

MR. KIRK—I think the first proposition stated by the gentleman is correct, but I submit, Mr. President, that that does not answer the proposition. I was going to say that we have both a property and educational qualification in the permanent plan, and under the system that Alabama has adopted for years, the education of the poor children of the State has been undertaken by the State. We tell these people that we are levying a tax upon them to educate their children, and they necessarily, those especially of moderate means, are sitting back and expecting and waiting for the State to educate their children. What are we doing for them? We are appropriating the paltry sum of $1.30 a year for the educating of each one of these children, and while we are doing that, we are here adopting a Constitution which will prevent them from exercising the right of the franchise, which I say is wrong.

MR. CUNNINGHAM—I move that the time of the gentleman be extended ten minutes.

Upon a vote being taken the gentleman's time was extended.

MR. KIRK—Now, gentleman, I submit to you that with the meager amount we appropriate to the education of these boys, is it right that we should here by this Constitution deprive them of the right to exercise a voice in the election of their officers. A dollar and thirty-five cents per annum, the State has donated for the education of these children, and we all realize the fact that men in moderate circumstances wait for the State to educate their children, for the reason that they are unable to raise the money to educate them, and the State has undertaken that duty. Gentlemen, let us not deprive them of the right to vote so long as the State of Alabama is unable to furnish them with the necessary means of acquiring an education. Take the property qualification: Three hundred dollars seems to us in this Convention to be a very small amount, but you take the great mass of people that inhabit the mountainous part of our State, and it is a tremendous sum to them. It is a very difficult matter for a man with a large family to accumulate that amount of property, and if he has not the property nor the education, he is denied the right of the franchise. And where is the tendency of the times with the creation of the trusts and combines? Everything tends towards centralization, and I submit to you gentlemen, that the poor man of the next 25 years in the State of Alabama will have an awful hard time to either acquire education or to acquire three hundred dollars of property. Now, no harm can result to any one by the adoption of this amendment, so far as the question of the constitutionality——

MR. WALKER (Madison)—Isn't it a fact that on the first day of January, 1867, the qualifications for voters in Alabama was that of being male white citizens?

MR. KIRK—Yes, sir.

MR. WALKER—Then would not the provision you now offer necessarily write into this Constitution the qualification of being white men?

MR. KIRK—This provision will answer that. This provision includes every man that could vote either in Alabama or any State in the United States.

MR. WALKER—Then it would apply to every one who had the qualification of being a white man in 1867.

MR. KIRK—No, sir; freed men were allowed to vote prior to 1867 in some of the States. If this limited the provision to the State of Alabama, I think the objection to the constitutionality

of it would be correct, but it does not, and I think no one would deny the fact that some of the Northern States admitted freed men to vote at that time, or some date prior thereto, and if they did, this provision includes every man that could vote in any State in the Union. Then there is no discrimination against him because he is a colored man. As I was going to say, the principle involved in this question, so far as the constitutionality of it is concerned, is the same that is involved in the grandfather clause of the temporary plan, and if that is constitutional, I submit this will be. I do not care to make any further remarks on that proposition.

MR. WHITE—I do not wish to discuss this section that is offered. The matter was thoroughly considered in the committee, and we were unanimously of the opinion that it was violative of the 15th article of the Federal Constitution, and I believe we were equally unanimous in believing that it was vicious and would perpetuate indefinitely the right to inherit the ballot. Therefore, I move to lay the amendment upon the table.

MR. PETTUS—I call for the ayes and noes.

The call was sustained.

Upon the call of the roll, the motion to lay the amendment on the table prevailed by a vote of 80 ayes to 23 noes, as follows:

AYES

Messrs. President,	Glover,	Maxwell,
Ashcraft,	Graham, of Montgomery,	Merrill,
Banks,	Graham, of Talladega,	Miller (Marengo),
Barefield,	Greer, of Perry,	Miller (Wilcox),
Beddow,	Handley,	Morrisette,
Bethune,	Harrison,	Murphree,
Blackwell,	Hinson,	NeSmith,
Boone,	Hood,	Norman,
Brooks,	Howell,	Oates,
Browne,	Inge,	O'Neal (Lauderdale),
Burns,	Jackson,	O'Neill (Jefferson),
Cardon,	Jenkins,	Opp,
Carnathon,	Jones, of Bibb,	Palmer,
Chapman,	Jones, of Hale,	Parker (Cullman),
Cobb,	Jones, of Montgomery,	Parker (Elmore),
Craig,	Jones, of Wilcox,	Pearce,
Cunningham,	Kyle,	Pillans,
Davis, of DeKalb,	Ledbetter,	Robinson,
Dent,	Leigh,	Rogers (Lowndes),
Duke,	Lomax,	Rogers (Sumter),
Eley,	McMillan (Baldwin),	Samford,
Eyster,	McMillan (Wilcox),	Sanford,
Fletcher,	Malone,	Selheimer,

Smith (Mobile),	Walker,	Williams (Marengo),
Stewart,	Weatherly,	Wilson (Clarke),
Tayloe,	White,	Winn,
Waddell,	Williams (Barbour),	

TOTAL—80

NOES

Almon,	Haley,	Porter,
Bartlett,	Heflin, of Chambers,	Sanders,
Beavers,	Hodges,	Smith, Mac. A.,
Byars,	Kirk,	Spears,
Carmichael, of Colbert,	Lowe (Lawrence),	Spragins,
Cofer,	Macdonald,	Thompson,
Davis, of Etowah,	Pettus,	Whiteside.
Freeman,	Phillips,	

TOTAL—23

ABSENT OR NOT VOTING

Altman,	Heflin, of Randolph,	Reese,
Bulger,	Henderson,	Renfro,
Burnett,	Howze,	Reynolds (Chilton),
Carmichael, of Coffee,	King,	Reynolds (Henry),
Case,	Kirkland,	Searcy,
Coleman, of Walker,	Knight,	Sentell,
Cornwall,	Locklin,	Smith, Morgan M.,
deGraffenreid,	Long (Butler),	Sollie,
Espy,	Long (Walker),	Sorrell,
Ferguson,	Lowe (Jefferson),	Studdard,
Fitts,	Martin,	Vaughan,
Foshee,	Moody,	Watts,
Foster,	Norwood,	Weakley,
Gilmore,	O'Rear,	Willet,
Grant,	Pitts,	Williams (Elmore),
Grayson,	Proctor,	Wilson (Washington),

PAIRS

AYES	NOES
Coleman, of Greene,	Mulkey,
Greer, of Calhoun,	Sloan.

Mr. White was recognized by the Chair.

THE PRESIDENT PRO TEM.—Does the gentleman from Jefferson yield?

MR. WHITE Yes, sir.

MR. JENKINS—I have an amendment.

The amendment was read as follows:

"Amend the Article on Suffrage by adding the following thereto as an additional section to be known as Section 20: 'In addition to the permanent qualifications for suffrage, provided for in Section 3, every voter shall be of good character for truth and veracity as now interpreted by the courts; but such good character shall be presumed until challenged, and no person shall be challenged on less than three affidavits of three reliable and responsible citizens stating that they know the general character for truth and veracity of the person challenged, and that from that knowledge they would not believe such person on oath. Upon the challenge of any person under this section, it shall be the duty of the Registrars to sit as a jury and decide as to the good character of the person so challenged, and any person denied the right to register under this section, shall have the right to appeal to the Circuit or City Court or court of like jurisdiction in the county, and the person so appealing may wave a jury if he so elects in each case, and the decision of the court shall be final as to the right of such person to register under the provisions of this section.'"

MR. JENKINS—I just want to submit a few remarks. I have studied this report brought in by the Committee, and I think it is good so far as it has gone, but it is my candid belief that you have not gone far enough. You have made it too easy to get upon the voting list, and unless you assure the section that I come from that white supremacy is going to be maintained fairly and honestly, under this Constitution, you will never persuade the leading men in that section to give up the security and peace that they now have, to bring in a crowd of voters that may overturn white rule in that section. Now, Mr. President, where does it stand? After 1903 any man that can read and write can vote under this Constitution. If you take the census, you will see that in my county there are 1,900 negroes that can read and write and 1,500 whites. Now, it is true some of them will be disfranchised by the poll tax—those under 45 years old. But, Mr. President, we are just presuming that. They may pay the poll tax if they find out they are going to vote and get the offices of the county by doing it. There will be some designing man shrewd enough to get up this money and pay the poll tax for them, but if you put on this additional qualification that they must have a good character for truth and veracity, you can challenge every last living one of them when it comes down to the pinch, because I do not know probably 100 white men in the county that would come up and testify on oath that they would believe a negro on oath. Now, Mr. President, there are not more than 100 white men that you would challenge on oath and you could not get three responsible white men to come up and say they would not believe them on oath, and for that reason you could not knock out any of them. I don't believe, but you could knock out every negro in the county, except a few. If this is a fact, it is their own fault; it is the de-

pravity that they have brought upon themselves, and it is right that we should take advantage of it. Nearly every State in the Union has some such qualification. Connecticut, the Nutmeg State, the leading State of New England, has a good character clause in its Constitution. Is it wrong for us to have it? You will say: "Oh, it will put too much power in the hands of the Registrars. They might come in and knock out all free silver men or gold men, or all Populists or Republicans. I say they cannot do any such thing, because there is an appeal from the decision of that board, and before the board can act there must be three affidavits signed by three responsible people, stating that they challenge the person it is proposed to keep from voting, and then after that board passes upon it, there is an appeal to the Circuit Court or to the City Court, and then you will have as fair a trial upon the voter's truth and veracity as you will upon his right of property or any other right. And there you have a provision that if a man doesn't want a jury, he can waive it, and go before the Judge of the Circuit Court, and the Circuit Courts are presided over by able, pure-minded men, and they are not going to disfranchise any white Alabamian who deserves to vote; but if a negro comes up there, they will let the law go down on him, and, if he can't stand the test, he will go out.

I say you have got to put on some other qualification. I voted for the extreme limit of the poll tax yesterday, because I did not think you had the thing fixed strong enough. I call the attention of the Convention seriously to this thing. As it stands now, there is a restlessness among the people I have talked with—an uncertainty as to the workings of your Article, and I believe if a vote were to come off tomorrow, it would be voted down. Now, this is a fact that we must look in the face. We will have hard work to get this Constitution ratified, and if we can add here today any provision or section that will strengthen it with the people, and assure the people of my section that white supremacy will be maintained under the Constitution legally and honestly, sir, I believe that your Constitution will go in with an overwhelming vote. But with the Black Belt in doubt, and wavering and uncertain and undecided what to do, and the white counties up in arms against you, why, sir, I do not know where we are going. We should adopt something here today that will at least satisfy the Black Belt portion of the State, and that will satisfy the old soldier vote and the honest people and the people of virtue and intelligence and good character in the State; and, when you do that, your Constitution will be ratified.

MR. DENT—It seems to me that it is not necessary to put so much machinery in the Constitution. The plan has been studied, and, if worth anything, ought to stand like it is, and I, therefore, move to table the amendment offered by the gentleman from Wilcox.

Upon a vote being taken, the motion to table the amendment prevailed.

Mr. White was recognized by the Chair.

MR. WHITE—The gentleman from Montgomery desires to offer an amendment, and I yield for that purpose.

MR. SANFORD (Montgomery)—I offer an amendment.

The amendment was read as follows: (An additional section):

"Any person who shall pay the poll tax for any elector, for the purpose of controlling or influencing his vote, upon conviction, shall be disfranchised, and shall hold no office in Alabama."

MR. SANFORD (Montgomery)—That is offered in accordance with Section 6, submitted by the Committee. It is an additional prohibition of any form of bribery or corruption, because a man of large means could pay the poll tax of a large number of men, and thereby contribute very largely to his success in the primaries or in the Convention nominating candidates, and therefore I offer it.

MR. ROGERS (Sumter)—Your amendment says "for the purpose of controlling his vote or influencing it?"

MR. SANFORD Yes, sir.

MR. ROGERS—How are you going to tell it was for that purpose?

MR. SANFORD—It would be a matter of proof, in case he is put on trial. If you cannot prove it of course he cannot be convicted.

MR. O'NEAL (Lauderdale)—Why not take the Louisiana clause?

MR. CUNNINGHAM—I would like to ask the gentleman from Montgomery a question.

MR. WHITE—The Committee say they are willing to accept that, if it is the wish of the Convention, and I ask the previous question.

MR. CUNNINGHAM—Before the question is put, I would like to say that I don't think that amendment goes quite far enough. I would like to ask the Chairman of the Committee, that, if a citizen from another State, feeling an interest in national elections, in his own person, and not through a citizen residing here, pays the poll taxes, could you disfranchise him in the State in which he lives?

MR. WHITE—We could not do that.

MR. CUNNINGHAM—I want something to cover the fellow that is going to come here from another State and pay the poll tax of those fellows.

MR. WHITE—The legislature can take care of that. The legislature can provide against everything of that kind.

MR. CUNNINGHAM — I just wanted to say that I am heartily in favor of the purpose of this amendment. It is right but I do not think we ought to apply the punishment to our own citizens alone. I believe if a national organization sends its emissaries down to this country, they ought to be punished by putting them in the penitentiary.

A reading of the amendment was called for.

THE PRESIDENT PRO TEM.—The Chair will not feel obliged to have this amend read any more, and will ask the delegates to pay attention to the reading.

The Secretary read the amendment as follows: Any person who shall pay the poll tax of any elector for the purpose of influencing his vote upon conviction shall be disfranchised and shall hold no office in Alabama.

MR. CUNNINGHAM—I desire to ask some of these lawyers here to prepare a substitute for that to punish the man who comes here from another State and pays out the money. With that in it, it will be all right. I have not the time to prepare one.

MR. O'NEAL—I have an amendment.

The Secretary read the amendment as follows: Any person who shall pay the poll tax of another, or advances the money for that purpose in order to influence his vote, shall be guilty of bribery and punished accordingly."

MR. CUNNINGHAM—That is the stuff. (Laughter.)

MR. SAMFORD (Pike)—I rise to amend the motion of the gentleman from Jefferson by moving the previous question upon the article and the substitute.

A vote being taken, the previous question was ordered.

THE PRESIDENT PRO TEM.—The question is upon the amendment proposed by the gentleman from Lauderdale to the amendment proposed by the gentleman from Montgomery.

MR. SAMFORD (Montgomery)—I accept the amendment.

THE PRESIDENT PRO TEM. — The gentleman from Montgomery asks unanimous consent to accept the amendment of the gentleman from Lauderdale.

The consent was given. A reading of the amendment was called for and the same was again read by the Secretary.

MR. SANFORD (Montgomery)—That is in addition to the one I offered: that does not reach the point at all.

THE PRESIDENT PRO TEM.—The gentleman obtained unanimous consent to accept the amendment.

MR. SANFORD (Montgomery)—The purpose I had in offering the amendment was to make it a very serious loss to these men who may be candidates and who desire to obtain nominations——

MR. GRAHAM (Talladega)—I rise to a point of order.

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

MR. GRAHAM—The gentleman is out of order, the previous question has been ordered.

THE PRESIDENT PRO TEM.—The point of order is well taken.

MR. SANFORD (Montgomery)—Have I not a right to conclude on my own proposition?

THE PRESIDENT PRO TEM.—The Chairman of the committee has the right to conclude.

MR. SANFORD (Montgomery)—So far as that is concerned, I am a committee of one, and I have a right to state why I did it.

There were cries of "leave."

MR. SANFORD—I have but a few words to say.

MR. WHITE—I yield the gentleman five minutes of my time.

MR. SANFORD (Montgomery)—I am very much obliged to you. I simply wish to say that it is to meet that class of men who will seek to corrupt the electors by paying the tax, it is to disfranchise him and prevent his holding an office in Alabama, that is the reason I offered it, to punish him for paying the tax of men who pass through the country as tramps.

MR. O'NEAL—If a man is convicted of bribery he is punished under Section 6.

MR. SANFORD (Montgomery) — The gentleman may be right on that—that answers every purpose.

THE PRESIDENT PRO TEM. — The question is on the third reading of the article as many as favor the engrossment and

third reading of the article say aye. The ayes have it and the article is ordered to engrossment and a third reading.

MR. SAMFORD (Pike)—I would state that that would come when the Committee on Engrossment makes its report.

MR. WHITE—When the article is engrossed the committee will ask further orders in the premises.

THE PRESIDENT PRO TEM.—The Secretary will read the article of the Committee on Judiciary.

MR. SMITH (Mobile)—I move that the report be read and acted upon by sections.

THE PRESIDENT PRO TEM.—The gentleman from Mobile, chairman of the Committee on Judiciary, moves that the report of that committee be taken up and acted upon section by section.

A vote being taken the motion was adopted.

The Secretary read Section 1 as follows:

Section 1. The judicial powers of the State shall be vested in the Senate sitting as a court of impeachment, a supreme court, circuit courts, chancery courts, courts of probate, such courts of law and equity, inferior to the supreme court and to consist of not more than five members, as the General Assembly from time to time may establish, and such persons as may be by law invested with powers of a judicial nature; but no court of general jurisdiction, at law or in equity, or both, shall hereafter be established in and for any one county having a population of less than twenty thousand or property assessed for taxation at a less valuation than three million five hundred thousand dollars.

MR. SMITH (Mobile)—I move the adoption of Section 1. I do not care to make any remarks on the question—the section has been read. I expect that there will be considerable discussion of the article in the Convention, and I simply move the adoption of Section 1 at this time.

PRESIDENT PRO TEM.—The question is on the adoption of Section 1.

MR. KIRK—I have an amendment to Section 1.

The Clerk read the amendment as follows: "Amend Section 1 of the Article on Judiciary by striking out the words 'twenty thousand' in line seven, and insert in place thereof the following words: 'Thirty thousand,' and by striking out the words 'three millions five hundred thousand dollars' and insert in lieu thereof 'seven million dollars.'

THE PRESIDENT PRO TEM. — The question is on the amendment offered by the gentleman from Colbert.

MR. KIRK—Mr. President and gentlemen of the Convention, the object of this amendment is to avoid the effort made by the Committee on Judiciary to create more courts in the State of Alabama than in my judgment should be created. Under the report of the Committee authorizing the legislature to create a court with chancery and circuit court jurisdiction in counties with twenty-five thousand population and an assessed value of property at three millions five hundred thousand dollars, will authorize the legislature to create nineteen or twenty courts of that character at the expense of the State. Twenty courts more than we now have, that are doing the business of the State. It is placing a burden on the State that in my judgment is unnecessary to do. We have thirteen circuit courts and five chancellors doing the business that is required. Under the report of the Committee there can be added to those thirteen circuit courts nineteen more. We will then have something like thirty or thirty-five courts at the expense of the State, and the work is now being done by thirteen circuit judges and five chancellors.

MR. PILLANS—Will the gentleman allow me to ask a question right there?

MR. KIRK—Yes, sir.

MR. PILLANS—Under the present Constitution of Alabama the legislature has the power to establish that court in sixty-six counties of the State, has it not?

MR. KIRK—At the expense of the State? I think not.

MR. PILLANS — Has not it the same power in sixty-six counties under the present Constitution that it would have in this in some nineteen counties?

MR. KIRK—I think not. At the expense of the State?

MR. PILLANS—I did not say anything about the expense of the State, I asked the gentleman whether the power to put it in nineteen counties in that proposed amendment does not exist in sixty-six counties under the present Constitution? The gentleman does not care to answer my question directly.

MR. KIRK—The question of the gentleman from Mobile, perhaps, can be answered in this way. The legislature would have the right to create a court of that kind at the expense of the county, but not at the expense of the State. Now my position is, that if a county wants those courts as a matter of convenience, and not as a matter necessity, let them have them.

MR. DUKE—I wish to ask the gentleman a question.

PRESIDENT PRO TEM.—Will the gentleman yield?

MR. KIRK—Yes, sir.

MR. DUKE—I will ask the gentleman if he states it as a matter of law that the legislature now could not create a county court in each county in the State and make the State pay for it?

MR. KIRK—I do not state that as a matter of law that they could not, because I have not examined that proposition.

MR. PILLANS—One more question, and I will try not to interrupt further, it is bringing out fairly the discussion. Is there anything in this proposed first section which imposes the burden of the local court upon the State treasury, any more than the burden of the inferior court, which might be established by the legislature under the existing Constitution? Is there a line which declares that the burden of the local court shall be imposed on the State Treasury which does not also find a place in the existing Constitution?

MR. KIRK—I will say in answer to that question that this is simply a part of the scheme or plan I will call it—I do not mean any disrespect by saying scheme—that question was up the other day. I think embodying that in the first section is a part of the plan which appears later in Sections 2 and 9. When I was preparing my minority report on this question, I overlooked the fact that this clause was in Section 1, or I would have made a minority to this section reported by the Committee, and embraced that in the minority report, I think is it a part of a plan that seeks to have the legislature to create this number of courts which I think is unnecessary.

President Knox resumed the Chair.

MR. BAREFIELD—Will the gentleman permit a question?

PRESIDENT—Will the gentleman yield to a question?

MR. KIRK—Certainly.

MR. BAREFIELD—I understand by your amendment you strike out the words 'twenty thousand' and insert "thirty thousand."

MR. KIRK—Yes, sir.

MR. BAREFIELD—And insert "seven millions" for "three and a half millions." Isn't the principle just the same?

MR. KIRK—Yes, sir. But further on I propose to show in my minority report that in certain counties, in all counties where they have thirty thousand population and seven millions of assessible property, that the legislature would be authorized to create a court of the kind asked by the Committee in their report.

MR. BAREFIELD — Under that you would be willing for those counties with assessable property of seven million and thirty thousand population to take out of the State Treasury a given amount of money, and not for other counties to do it?

MR. KIRK—That is my proposition.

MR. BAREFIELD—Your proposition is in favor of the greater, and against the lesser?

MR. KIRK—That is my proposition exactly, wherever the assessable value of property and the number of population and the amount of business required it, then a court should be created. Now, you take the plan offered by the Committee, and under it the county of Lauderdale will be entitled to a separate court to transact the business of Lauderdale County. Today the business of Lauderdale, Colbert, Franklin and Marion Counties is done by one Circuit Judge, who works a little more than one-half of his time. What would be the sense of creating a separate court for the county of Lauderdale at the expense of twenty-five hundred dollars a year to the State, when one Circuit Judge can attend to all the business of that county and three other counties at the same expense?

MR. WALKER (Madison)—The gentleman is entirely mistaken in saying that under this provision in Section 1, any county in the State will be entitled to a court.

MR. KIRK—Not under this, of course; but, gentlemen, I take it to be the part of the plan of the Committee to establish these courts. If, as is contended by the gentleman who asked the question, the Legislature has the same authority under the present Constitution that it has under the provision reported by them in this section, then why do they want this clause embodied in the section? It could be stricken out and leave it just as it is in the present Constitution.

MR. DUKE—Does it not limit the Legislature?

MR. KIRK—Yes.

MR. DUKE—And there is no limit now?

MR. KIRK—Provided it is not done at the expense of the State.

MR. COBB—Where do you find it in the Constitution?

MR. KIRK—I did not say it is in the Constitution, but I submit that it is a part of the plan, and by striking this out, we simply leave the first section in the new Constitution as it was in the old.

MR. WATTS—This provision in Section 1 was put there for the purpose of changing the law as it now exists. Under the

Constitution of 1875, the Legislature would have the right to establish a special court in every county, and at every cross roads in this State. The purpose of putting this limitation there is that the people of the respective counties, or the State Treasury, if the Legislature should so determine, should not be burdened with special courts except in such counties of the State where the number of people and the amount of taxable property in the county justified the Legislature in giving a special court. The Committee had various and sundry propositions before it as to this limitation. One proposition was to make it twenty-five thousand of population and four million of taxable property; another proposition was to make it of twenty-five thousand population and three million taxable property; and another that it should be twenty thousand of population and four millions of property; there were various and sundry propositions, all looking to the limitation of the power of the Legislature in creating new courts. As you know, in the past it has been the practice of the Legislature if the representative from a county said he wanted a special court for his county, Senatorial courtesy or House courtesy, as the case would be, allowed the representative from that county to govern in the matter, and they have established various and sundry courts. Why, we have actually got a court in Alabama that has law, equity and criminal jurisdiction, where the judge does not get a salary of $850.

MR. KIRK—Is that paid by the State?

MR. WATTS—No; and I do not think in any of these counties are paid by the State, but by the respective counties. There is another provision in here that they shall be paid by the State or by the county. It is for the Legislature to say, and the Legislature will evidently do in the future as it has in the past, wherever it establishes one of these courts, it will provide how the judges shall be paid. This is a limitation, instead of allowing the Legislature to establish a court in each of the sixty-six counties, or, as I said before, to establish an independent court at every cross roads in the State, we simply say you shall not establish a Circuit Court except where there are twenty thousand persons in the county and where there are three million five hundred thousand dollars worth of taxable property.

MR. KIRK—What objection would you have to any county in the State having a court in that county regardless of its population or its assessed value of property, if the county was willing to pay the expense of the court?

MR. WATTS — Simply because there is no necessity, Mr. President, and gentlemen of the Convention, for having the Legislature fill the woods with officers holding judicial powers in this State. The Committee has considered this matter in all its phases. Under this provision, there are already eight counties in the State,

as I understand, who have these special courts—this gives twelve others the right to have them.

MR. PILLANS—Not the right, but gives the Legislature the power to give it to them.

MR. WATTS—Yes, the right to the Legislature to give it to them if any necessity should arise. We thought the provision as framed by the Committee a salutory one, and move in the right direction, and we think it should be adopted, and I, therefore, move to table the amendment of the gentleman from Colbert.

THE PRESIDENT PRO TEM—The question is on the motion to table the amendment of the gentleman from Colbert.

Upon a vote being taken, the motion to table prevailed.

MR. SAMFORD (Pike)—I move the previous question upon the section as reported by the Committee.

Upon a vote being taken, the main question was ordered, and on a further vote the section was adopted.

The Secretary read Section 2 as follows:

Section 2. Except in cases otherwise directed in this Constitution, the Supreme Court shall 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, except where jurisdiction over appeals is vested in some inferior court, and made final therein; provided, that the Supreme Court shall have power to issue writs of injunctions, habeas corpus, quo warranto, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

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

THE PRESIDENT PRO TEM.—The Secretary will read the minority report.

The Secretary read the minority report as follows:

The undersigned member of the Committee on Judiciary does not concur in the report of the majority of the Committee in recommending the adoption of Sections 2 and 9 of said Report.

I object to the adoption of Section 2 of said Report for the reason it empowers the General Assembly to create an intermediate Court of Appeal, which in my judgment is unwise. The object of the majority of the Committee is to furnish relief to the Supreme Court. The relief needed can be furnished when necessary by increasing the number of Associate Justices. I object to the creation of said Court for the further reason there will be ir-

reconciliable conflict in the decisions of this and the Supreme Court which would render the law uncertain on many questions to the great annoyance of the people. The expense of sustaining that Court will, in my judgment cost the State about $15,000 per annum. The addition of two Associate Justices to the Supreme Court will not cost more than half of that amount. I therefore offer as a substitute for Section 2 the following:

Section 2. Except in cases otherwise directed in this Constitution, the Supreme Court 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, the Supreme Court shall have power to issue writs of injunction, habeas corpus, quo warranto and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdiction.

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

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

MR. ASHCRAFT—The report of the Committee and minority reports were read when made, and this morning the report of the Committee was not read at all. We proceed at once to the consideration of the amendment.

THE PRESIDENT PRO TEM.—It seems to the Chair that the point of order is well taken, the Chair intended to request the Secretary to read the proposed amendment. The question will be on the adoption of the report of the gentleman from Colbert of the Minority Committee.

MR. KIRK—I do not care to make a speech on this question. My reasons are stated in my report. I think the Minority Report should be adopted. I see no reason for that court of appeal. I have discharged my duty in bringing that proposition before the Convention. It is my conviction that that court should not be established, the Legislature not given the authority to establish it. If it is ever established I think the people of the State will regret it.

MR. PILLANS—Of course I shall not detain the Convention but a few minutes, because the gentleman who has moved this important amendment has not thought it proper to say much in support of it. I desire, however, to call the attention of this Convention to the fact that the clause as reported is substantially almost in words, the clause exists as Section No. 2 of the Judiciary Article in the present Constitution, and under the existing Constitution of Alabama, and under the Constitutions of Alabama which have existed since 1819, this dangerous power which the gentle-

man finds in our report existed unquestioned. It is always within the power of the Legislature of Alabama to do this thing which he now objects to. Now there is no plan, there is no scheme in this report, the report simply seeks to trammel the Legislature as little as necessary to the good government and due organization of the State Judiciary, and in so doing it has brought forward into the plan proposed in Section 2 the powers which always existed in the Constitution of Alabama. Therefore, Mr. President, I move that the amendment offered in behalf of the Minority Committee be tabled.

On a vote being taken the motion to table prevailed.

MR. SAMFORD (Pike)—I move the adoption of the Section as reported by the Committee and upon that I move the previous question.

MR. SANFORD (Montgomery)—Can I ask a question. In the second Section don't it provide practically for two Supreme Courts?

MR. SAMFORD (Pike)—No sir.

MR. SANFORD (Montgomery)—It says an Appellate Court, which shall be final besides the Supreme Court.

MR. SAMFORD (Pike)—I call the gentleman's attention to the fact that it only gives the Legislature power to do so in case it may become necessary in the future, it does not establish any court at all.

MR. SANFORD (Montgomery)—Did you ever know a Legislature that did not exercise a power and sometimes abuse it?

MR. SAMFORD (Pike)—Yes sir.

THE PRESIDENT PRO TEM.—The question is shall the main question be now put?

Upon a vote being taken the main question was ordered and a further vote being taken the Section was adopted.

The Secretary read Section 3 as follows:

Sec. 3. The Supreme Court shall be held at the seat of Government, but, if that shall become dangerous from any cause it may adjourn to another place.

MR. SMITH (Mobile)—I move the adoption of that Section, there is no change from the old Constitution.

Upon a vote being taken the Section was adopted.

The Secretary read Section 4 as follows:

Sec. 4 Except as otherwise authorized in this Article, the State shall be divided into convenient circuits. For each circuit there shall be chosen a judge who shall, for one year next preceding his election and during his continuance in office, reside in the circuit for which he is elected.

MR. SMITH (Mobile)—I move the adoption of Section 4.

A vote being taken the section was adopted.

The Secretary read Section 5 as follows:

Sec. 5. 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, other than suits for libel, slander, assault and battery and ejectment, it shall have jurisdiction only where the matter or sum in controversy exceeds fifty dollars.

MR. SMITH (Mobile)—I move the adoption of Section 5.

MR. OATES—I desire to ask the chairman of the committee a question. That does not, I believe, give the Circuit Court equity jurisdiction, does it still leave it in the power of the Legislature?

MR. SMITH—This section does not touch that question, but subsequent sections do authorize an equity jurisdiction in the Circuit Court. The only change in this section is that by some curious oversight in our former Constitution no court was given jurisdiction in cases of assault and battery and ejectment where the amount was less than fifty dollars, it was outlawed under the old Constitution, and we simply brought that within the jurisdiction of the Circuit Court. No other change was made.

A vote being taken the main question was ordered, and a further vote being taken the section was adopted.

The Secretary read Section 6 as follows:

Sec. 6. A circuit court, or a court having the jurisdiction of the Circuit Court, shall be held in each county in the State at least twice in every year, and judges of the several courts mentioned in this section may hold court for each other when they deem it expedient, and shall do so when directed by law. The Judges of the several courts mentioned in this section shall have power to issue writs of injunctions, returnable in the Courts of Chancery or courts having the jurisdiction of Courts of Chancery.

MR. SMITH (Mobile)—I move the adoption of Section 6.

A vote being taken the main question was ordered, and a further vote being taken the section was adopted.

The Secretary read Section 7 as follows:

Sec. 7. The General Assembly shall have power to establish a court or courts of chancery, with original and appellate jurisdiction, except as otherwise authorized in this article. The State shall be divided by the General Assembly into convenient chancery divisions; each division shall be divided into districts, and for each division there shall be a Chancellor, who shall have resided for one year preceding his election or appointment, and, at the time of his election or appointment, and during his continuance in office, in the division for which he shall be elected or appointed.

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

MR. OATES—I have not yet reduced it to writing, but I move to strike out that section, that is definite enough, I suppose, without putting it in writing, and I desire briefly to state my reasons for making that motion. Of course if it is stricken out, it does not affect the Chancellors who are now in office, and if I should be wrong in that opinion, then I would like to provide for that because I do not wish that such would be the case, but I presume in the preparation of the schedule that it would be there provided that the term of no one legally in office now should be curtailed by the ratification of this Constitution. The reasons why I make this motion, I will briefly state. Next month, gentlemen, will be twenty-six years since the last Constitutional Convention. I was convinced then that a separate chancery system was not necessary in Alabama, and I proposed in that Convention to strike it out as the Journal will show you upon examination. That Convention declined to do it, but since then many of the best informed lawyers in Alabama have arrived at the conclusion that the court is wholly unnecessary. As to its personnel we have Chancellors who are learned in the law, most excellent judges and gentlemen, one or two of whom are among my best personal friends, but I do not think that any man has a right on account of friendship to the action of his friends here, to preserve to him the office that he has, or to act upon the presumption that the job is his and he may be perpetuated. My idea is that we ought to do whatever is for the best for the people of Alabama at large. Now what is the necessity for these Chancery Courts? This separate chancery system has no jurisdiction except in three other States besides Alabama, so that forty odd States of the Union have no separate chancery system. The courts of the United States have no separate chancery system, and only an equity docket which proves perfectly satisfactory. The States where there is no separate chancery system maintain most of them a chancery docket, and the Judge holding the law court is perfectly capable of deciding equity cases, and everywhere where it has been tested they have been found quite capable. In this country whomsoever is admitted to the bar and becomes a lawyer is learned in the law, in all branches of the law. The separate chancery system was established by act of Parlia-

ment. It originated in Great Britain, where more than thirty years ago it was wiped out of existence by act of Parliament, and there is no such thing as separate chancery divisions there. Then why should we hold on to it? Is there any necessity for it? You can dispense with these five chancellors after the terms of the present incumbents expire, and with no necessity for their exercise in the future. Confer equity jurisdiction upon the law courts and you have accomplished everything necessary. Besides that, every one knows that now there is a chancery court held in every county in the State. Then of necessity there are sixty-six registrars, one in every county. These gentlemen live on costs and wish to get all they can by law. Every one knows that the Chancery is the most expensive court that litigants get into. For instance you go and file a bill and place a vendor's lien upon a note of two or three hundred dollars, it is generally against a man who is insolvent and if the complainant gets out with two-thirds of his money, he is fortunate, the other one-third has gone in costs. Now if this Convention desires reform as is claimed and is held for the betterment of the government of Alabama here is a good place touching our judicial system to declare that a separate chancery system shall not be maintained because there is no necessity for it. Mr. President, presuming that the delegates all understand my position and the reasons for my motion, I do not wish to consume any more time.

MR. HEFLIN (Chambers)—I move to lay the motion of the gentleman from Montgomery on the table.

MR. OATES—Mr. President, I ask for a division.

Upon a vote being taken there were ayes 42 and noes 39 and the motion to table prevailed.

MR. GRAHAM (Montgomery)—I move the adoption of the section as reported by the Committee and call for the previous question.

MR. SANFORD (Montgomery)—Did a majority vote on that motion to table?

THE PRESIDENT—The Chairman is not keeping any mathematics this morning. A quorum voted, however.

The question is shall the main question be now put?

A vote being taken, the main question was ordered and a further vote being taken the section was adopted.

The Secretary read Section 8 as follows:

SEC. 8. A chancery court, or a court having the jurisdiction of the chancery court, shall be held in each district, at a place to be fixed by law, at least twice in each year, and the chancellors may hold court for each other when they deem it necessary.

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

A vote being taken the previous question was ordered, and a further vote being taken the section was adopted.

MR. BAREFIELD—I give notice that on Monday I will move to reconsider the vote by which Section 2 of the Judiciary report was adopted.

The President read Section 9 as follows:

Sec. 9. Any county having a population exceeding twenty thousand according to the next preceding federal census, and also taxable property exceeding three million five hundred thousand dollars in value, according to the next preceding assessment of property for State and county taxation need not be included in any circuit or chancery division; but if the value of its taxable property shall be reduced below that limit or if its population shall be reduced below that number, the General Assembly shall include such county in a circuit and a chancery division or either, embracing more than one county.

No circuit or chancery division shall contain less than three counties, unless there be embraced therein a county having a population exceeding twenty thousand and taxable property exceeding three millions five hundred thousand dollars. The General Assembly may confer upon the circuit court or the chancery court the jurisdiction of both of said courts. In counties having two or more courts of record, the General Assembly may provide for the consolidation of all or any of such courts of record, except the probate court, with or without separate divisions, and an appropriate number of judges for the transaction of the business of such consolidated court.

The Secretary read the minority report as follows:

I object to the adoption of Section 9 as reported by the Committee:

First—This section provides for the establishment of too many circuit courts and courts with circuit and chancery jurisdiction. Under the report of the Committee, the General Assembly is authorized to establish at the cost of the State, a court in nineteen counties with circuit and chancery court jurisdiction, which, with the thirteen circuit courts and five chancery courts as now established. I further object to Section 9 as reported by the Committee for the reason it authorizes the General Assembly to abolish the court of Chancery. The system of separate chancery courts has been too long a part of the judicial system of the State to be now abolished. I therefore offer as a substitute for Section 9 as reported by the Committee the following:

Sec. 9. Any county having a population exceeding 30,000 according to the next preceding Federal census and also taxable property exceeding seven millions of dollars in value according to the next preceding assessment of property for State and County taxation need not be included in any circuit or chancery division, but if the value of taxable property shall be reduced below that limit, or its population be reduced below that number, in either of which events the General Assembly shall include such county in a Circuit or Chancery division, or either, embracing more than one county. No circuit or chancery division shall contain less than three counties, unless there be embraced therein a county having a population exceeding thirty thousand, and taxable property exceeding seven millions of dollars. The counties of this State not having a population of thirty thousand and taxable property of seven millions of dollars or more, shall be divided into convenient circuits by the General Assembly at its first session after the adoption of this Constitution, and when so divided, the number of circuits shall not be increased except by a vote of two-thirds of the General Assembly.

J. T. Kirk.

THE PRESIDENT—The question will be upon the adoption of the substitute offered by the gentleman from Colbert, who is a member of the minority committee.

MR. KIRK—Mr. President and Gentlemen of the Convention: The question now that I am driving at in offering the amendment to Section 2 is before you. A number of the members of the Committee seem to think that I was unnecessarily alarmed by offering the amendment to Section 1. Now, my purpose it to avoid, if possible, the creation of so many courts at the expense of the State, and courts which are unnecessary. Now, we have thirteen Circuit Courts in the State. The substitute which I offer authorizes the Legislature to create a court of this character in all counties where there is a population of thirty thousand and property of the assesseed value of seven million dollars. My idea in putting it at that amount was that in counties of that size, counties of that population, perhaps would need a court of this kind. Now, if you have not taken the pains to investigate the length of time our Circuit Court judges work, upon inquiry you would find that there is not one who works more than two-thirds of his time, and most of them about half of their time, and yet they are doing all the work necessary to be done, trying all the cases. Why the necessity of authorizing the Legislature to create this great number of courts? Take the First Circuit, the judge works—and under the provision that I have reported herein the substitute—it will authorize the creation of six new courts. Now, with those courts organized and those counties taken from the different circuits, the judges of the different Circuit Courts, the judge of the First Circuit, with these six courts created, which I have provided in the substitute, will

have to work twenty weeks during the year; in the Second Circuit, he will work twenty-six weeks; in the Third Circuit, thirty-six weeks; in the Fourth Circuit, twenty-four weeks; in the Fifth Circuit, twenty-two weeks; in the Sixth Circuit, thirty-six weeks; in the Seventh Circuit, twenty-two weeks; in the Eighth Circuit twenty-one weeks; in the Ninth Circuit, thirty-eight weeks; in the Tenth Circuit, twelve weeks; in the Eleventh Circuit, twenty-four weeks; in the Twelfth Circuit, twenty-one weeks; in the Thirteenth Cricuit, twelve weeks. That shows you, gentlemen of the Convention, that the creation of these courts is absolutely unnecessary. Of course, I admit that it is a great convenience to the lawyers. I would not object to have one in my county so far as I am individually concerned, but it would increase the expense which is absolutely unnecessary, and for these reasons, I have offered this substitute.

MR. WALKER (Madison)—The gentleman supporting the substitute speaks of this section as reported by the Committee creating certain costs. It does not do that at all. Under the present Constitution, if a necessity arises in any particular county to have a local court, and it is absolutely necessary for the transaction of business to establish such courts, it is beyond the power of the Legislature to establish that court without also retaining in that same county both a Circuit Court and a Chancery Court, and the object of this provision, as written by the Committee, is that in the case of a county so situated that it is necessary for the transaction of the business there, to establish a local court. In that case, the additional burden and expense of having two other needless courts in that county may be dispensed with. Now, is not that in the interest of economy in this State? It has been found in recent years that in certain counties it has been necessary to establish such courts in some of these counties; those courts are still in existence and are necessities in such counties. In some of those counties, where the necessity has disappeared, the court has disappeared but wherever these additional courts have been established, the State has had still to carry on the useless expense of having two other courts in that county, having both the Circuit and Chancery Court still in existence. Now, under the amendment offered by the gentleman from Colbert, there are several courts now in existence in this State that would be abolished and they are found necessary in Talladega, in Etowah and perhaps in other counties. Now, what does this provision do? It simply puts it in the power of the Legislature when a necessity of that kind has arisen, to establish a court in such a county and to get rid of the useless expense of continuing to maintain in that county two other courts, the necessity of which has disappeared. Now, is not that common sense? Is Alabama to remain in this position—that although Jefferson County may require one, two or three additional courts, that you must still continue in Jefferson County a Chancery

Court and in Jefferson County a Circuit Court, with two other counties in the district maintaining their courts for which there is no necessity? In Montgomery County the same thing; in Calhoun County the same thing, and in other counties the same thing. In a county such as the one I come from, a large county having a considerable population and large taxable property, it is impossible under the present system for us to get a local court there without also retaining useless courts that are put there by the Constitution.

MR. KIRK—Would not under the substitute I have offered all Madison County, Calhoun and four other of the large counties to have this separate court and dispense with separate Chancery Courts?

MR. WALKER—Yes, and it would abolish several courts that have been in existence and in existence now and that are needed by the people. Are you going to sit here and abolish the court in Talladega County, are you going to sit here and abolish the court in Etowah County, would you sit here and fix it so that under the condition of affairs that existed in Morgan County a few years ago as the result of a boom there, it would be impossible to establish a court as was done, a special court, to get rid of business there? That court that was established existed several years, and when the necessity for it passed the court passed out of existence. The same was true in the county from which the gentleman comes. The same thing was true in Lee County.

MR. KIRK—Will the gentleman point out wherein this Section abolishes those courts.

MR. WALKER—It would render it impossible to establish in Lauderdale or Colbert County a court that was required at that time.

MR. WHITE—I rise to a point of parliamentary inquiry. These city courts are frequently created simply for the purpose of giving place to some one in that county and soon after the people have a chance to get rid of them, and they do so.

MR. WALKER—Yes sir.

MR. WHITE—Well, now, if the State has withdrawn from those counties, the Circuit Court and the Chancery Court, and the State has been relieved of the expense of maintaining those courts, would it be very difficult to get the Legislature to abolish local courts in those counties?

MR. WALKER—Not at all, for the simple reason if the conditions so changed that the local courts are not necessary as has been the case in the county in which I live, and the two counties which I have mentioned, these additional courts were absolutely necessary at the time they were established, but when the condi-

tions so changed that there was no longer any necessity to maintain them they were abolished.

MR. WHITE—What I mean is whether it would have been abolished, if the expense had been thrown back on the State instead of the county.

MR. WALKER—There is no necessity under this Article of throwing the expense upon the State in any instance. Now I realize the position—

MR. WHITE—One more question. Wouldn't that enable a political party that wants to make a showing on State taxation to reduce the State taxes and put it upon the county?

MR. WALKER—Not at all. I do not see it that way. This is just a question, gentlemen—we have a large county in Madison, in which the judicial business is frequently blocked because we are dependent upon the Circuit Court and upon the Chancery Court, still we are not in a position to come to the Legislature and ask for an additional court, so we are tied up that it is impossible to dispense with the Circuit Court and the Chancery Court in that county. If there is a necessity in that county of establishing a court there there ought to be the right in the Legislature to dispense in that county with the two courts whose place has been fully filled by the new courts and that is all this Section does. I move to lay the amendment of the gentleman from Colbert on the table.

MR. SANDERS—Will the gentleman yield to me a moment?

MR. WALKER—Yes sir; I ask the gentleman to renew the motion.

MR. SANDERS—Mr. President, I desire in a very few remarks to support the report of the majority of the Committee. I think this provision for consolidating the law and equity courts in certain counties which can measure up to the population standard and to the property standard is one of the happiest provisions of a very excellent report. It is an elastic provision which will meet the growing demands of the business of this State. The members of this Convention hope that at least a quarter, perhaps a half of the century shall pass before another Constitutional Convention is held in this State and in that period of time the business of Alabama and the business of the courts will increase to such an extent as to demand some provision of this sort. It is purely optional, Mr. President. No county is forced to consolidate its courts and there are many counties which may come in within the provisions offered by the Committee which will not see fit to come in at once, but the growth of the business of the court will permit them to come in under these provisions later on if they see fit, and the gentlemen will bear in mind if such a court is established, it

is not permanent, it is not fixed for all time upon the people, but can be repealed by the Legislature as well as it can be enacted. I believe this provision will meet the hearty approval of the lawyers of the State. I believe more than any other provision, perhaps, in this State it will bring the lawyers of Alabama to the support of the Constitution which we adopt. I know, Mr. President, that the measure is very popular in my own county. This Convention is not here for the purpose of considering what an isolated county in North Alabama may desire, but those considerations are not altogether to be ignored, and I believe both before the people and before the bar of my county I can make a stronger plea for the adoption and ratification of this Constitution because of this provision than perhaps any provision we shall engraft within the instrument. We have had in times past a very crowded docket, costs have accumulated alarmingly. Cases could not be reached for trial. I know of one instance where a $35 case appealed from the Justice of the Peace ran up to $1,000 in cost in the Circuit Court, simply because the crowd of witnesses came from time to time in order to get a trial. Mr. President, I got mixed up last year in a little bull calf case worth $10, the calf was, and the costs before it terminated, were $250. Litigants appreciate a system by which they can get speedy trials, it helps litigants and it helps the lawyers. My friend from Colbert seems to fear that there will be a great number of new offices created at once under this provision. As I said at the outset that every county that can avail itself of the provisions, will do so. If they should do so, Mr. President, I have made up some figures as to the number of counties which can come in. The Committee considered at one time, I have not the honor to be a member of that Committee, but in conversation with the Chairman and other members I understood the basis of 20,000 and $4,000,000 of property were considered at one time, that would have admitted fourteen counties, and the basis of 25,000 population and $4,000,000 would have admitted the same number of counties. The basis of 20,000 and $3,000,000 would have admitted twenty-five counties, 25,000 population and $3,000,000 would have admitted twenty-three counties, and I think 20,000 and $3,500,000 of property, the basis reported by them, admitted about twenty counties. So there can be no great influx of new officers in the State, if all should avail themselves of the provision at once.

MR. ASHCRAFT—If these counties who could avail themselves of this provision should do so, it would enable the Legislature to correspondingly reduce the judges and chancellors.

MR. SANDERS—I understand that to be the effect. I hope the majority report of the Committee will be adopted. I promised to renew the motion of the gentleman from Madison to lay upon the table the substitute offered by the gentleman from Colbert. I do so.

Upon a vote being taken the motion was carried.

MR. WATTS—I move the adoption of the section and call for the previous question.

MR. OATES—I hope the gentleman will withdraw the motion for the previous question.

MR. WILLIAMS (Barbour)—I offer an amendment.

MR. WATTS—If the gentleman wishes to offer an amendment of course I will withdraw.

THE PRESIDENT—Does the gentleman yield to the gentleman from Montgomery.

MR. WATTS—Yes, sir.

MR. WILLIAMS (Barbour)—I offer this amendment: "Strike out the sentence beginning in line 10 with the words 'General Assembly'."

MR. WATTS—I move to lay on the table the amendment offered by the gentleman from Barbour.

THE PRESIDENT—The gentleman from Barbour has the floor.

MR. WILLIAMS—I do not offer this amendment, Mr. President, for the purpose of making a speech. I have studiously left all matters of argument in this Convention to other gentlemen and shall continue to do so except where I think it may be necessary or may serve some good purpose for me to say something. The Convention has already determined that it will not abolish the Chancery Court and I think has wisely so determined. Then the amendment that I have offered proposes to strike out a mixture —for I cannot call it properly by any other term—of the jurisdiction of two courts—into either a court of law or the law jurisdiction in a court of chancery. The sentence reads this way in Section 9: "The General Assembly may confer upon the Circuit Court or Chancery Court the jurisdiction of both of said courts." Now, Mr. President, if we are to have the Chancery Courts preserved it will be better to preserve them in their separate and complete jurisdiction. It is a novel idea to me and I think will be to the other lawyers in this body that you can mix both jurisdictions especially in a court of chancery. Anybody with any experience knows how thoroughly separate and exclusive and how necessarily so, is the jurisdiction of the court of chancery. Some times it may happen that a question of law gets into the Chancery Court, but it rarely happens that questions of equity can be decided in the courts of law. Well, what does this provision here do, "The General Assembly may confer upon the Circuit Court or the Chancery Court the jurisdiction of both courts. Would the gentleman that put that

provision in this section have the Chancellor to have a grand jury summoned and petit jury summoned.

MR. WALKER—Will the gentleman allow an interruption?

MR. WILLIAMS—Yes, sir.

MR. WALKER—Suppose a county in which it was necessary to establish an additional court, there resided either a Circuit Judge or a Chancellor and it was not desired to legislate him out of office, what possible harm could there be in conferring upon the court in which he presided the jurisdiction of Chancery Court in a Circuit Court or the jurisdiction of the Circuit Judge if a Chancellor?

MR. WILLIAMS—The gentleman will remember I stated two or three times that a Chancery Court was not to be abolished, there would be a Chancery Court in any event in every county where it exists now.

MR. ASHCRAFT—Will the gentleman permit me to call his attention to the fact that the same section provides that if one of these courts is established the chancery division or from the circuit.

MR. WILLIAMS—I do not see that.

MR. ASHCRAFT—It is not provided here that there shall be held in any event a Chancery Court but it says a Chancery Court or court having like jurisdiction.

MR. WILLIAMS—Well, Mr. President, I have watched to some extent the history of the courts of law which are allowed equity jurisdiction and while some gentlemen seem to be in favor of that system, I have never thought that it worked well. You take a Circuit Judge with a heavy docket of criminal cases having for one or two weeks engaged actively in the hearing of the criminal cases, the trial of serious cases, and when that one or two weeks work is finished have the same man take up the other docket and upon separate business of altogether a different character, different in its importance, different in its range, different in the quality of the court and of the adjudications to be held and he will have to be a very remarkable man if he is a fit judge in both courts. But what I started particularly to say was with reference to these words, that the law and equity jurisdiction might be combined in a Chancery Court. Now, the instance which the question of the gentleman from Madison would hit at would be the establishment of a separate Chancery Court in a county for the convenience of the people of that county.

Mr. Walker dissented.

MR. WILLIAMS—Well, then I mistake him. I see he shakes his head. If you establish a separate court of law jurisdiction and give it chancery jurisdiction, you do all the harm that I think

would follow if you establish a separate Chancery Court because this says the General Assembly may give to either court the jurisdiction of both.

MR. WALKER—Is it not a fact for many years in Alabama the cities in which the largest amount of judicial business has been done have had courts presided over by men exercising both law and equity jurisdiction and they have done it to the eminent satisfaction of the people and the bar.

MR. WILLIAMS—Yes, sir, that may be so and at the same time it was to get rid of the weight of business in those courts.

MR. PILLANS—May I ask the gentleman a question? Is it not a fact that the Federal judiciary is organized on the same plan, that is to say that one Judge holds all the various courts, whether they be at law, in equity, or in admiralty, without any embarrassment to the administration of justice.

MR WILLIAMS—Yes, sir.

MR. PILLANS—And is it not true in forty-one States of the Union at least, the same system obtains of all functions being exercised by one Judge.

MR. WILLIAMS—Yes, sir, and if my friend will permit me to say I will say that I believe that in about forty of those jurisdictions they have made mistakes.

MR. PILLANS—That is like the eleven obstinate jurors.

MR. WILLIAMS—I am only one. The others may be as obstinate as they please, but, Mr. President, what I am undertaking to do here is not without good reason and not entirely without force. I go back now to the fact that the General Assembly may give either to the Circuit Court or the Chancery Court equity jurisdiction. I have already said there would be a Chancery Court in any event because they cannot be abolished and in the south-eastern division a court is held in every county twice a year. Now when the General Assembly sees fit to make the Chancellor take up the business of the Circuit Court and there is no limitation it means the jurisdiction of that court, its criminal as well as civil business, that you propose to write in the face of the Constitution here and you would have a Chancellor to order a grand jury or the Legislature would do it, a lot of indictments, have petit jurors assemble to hear the criminal business until done with it, and then go back somewhere and take up the equity docket. I say again he would be a remarkable man if he could hold both courts successfully and it is a lowering of the history, the character and to a large extent the dignity of the Chancery Courts of the State.

THE PRESIDENT—The time of the gentleman from Barbour has expired.

MR. HOOD (Etowah)—The committee in framing this article, this section, had in view especially the fact that many delegates of this Convention and a great many of the bar in the State of Alabama favor the abolishment of the Chancery Court. The Committee after having given the matter most thorough investigation were of the opinion it should not be done by this Convention. The Committee also came to the conclusion after making a most thorough investigation of the judiciary in Alabama, that what was most needed in this State was speedy trials, a more frequent meeting of the courts in the several counties of the State. The gentleman who has just preceded me urges the objection that courts with both jurisdictions conferred upon them will not give satisfaction; that a common law judge cannot administer the equity docket, and vice versa, the chancellor cannot administer the common law docket. Now in a number of cities in Alabama, the chancery jurisdiction has been conferred upon the law courts. Heretofore, in the county of Jefferson, in the County of Etowah, in the County of Calhoun, and a number of other counties, the circuit and city courts have had equity jurisdiction for a number of years. They have given perfect satisfaction. Why an examination of the Supreme Courts of Alabama will demonstrate to the bar of the State that these judges who are presiding over these courts in several counties of the State that have both common law and equity jurisdiction give as eminent satisfaction as any judges in the State. I therefore move that the motion offered by the gentleman from Barbour be laid upon the table.

Upon a vote being taken the motion to table was carried.

THE PRESIDENT—The question is on the adoption of the section as reported by the Committee.

MR. OATES—I have an amendment.

The Secretary read the amendment as follows: "Amend Section 9 by striking out all the words in line 8 and 9, down to and including the word 'therein' in the 9th line.

MR. OATES—The words I wish to strike out are these: "No circuit or chancery division shall contain less than three counties unless there be embraced therein," etc., so that the sentence shall begin, "A County having a population," etc. Mr. President, I am in accord with the spirit manifested by the Committee in many of its changes. I am one of those who believe we have not too many courts. Now sir, the object of the amendment is to remove this evil. I know, sir, at times when the legislature have sought to make a circuit or circuits containing less than three counties they have not been able to do it and such was the case with the last legislature. They wanted to make on account of the vast amount of business here a new circuit but it would not work because of the volume of the business that would be in three counties,

and what was the result? We have a double-headed city court, a city court with two judges, both of them most excellent gentlemen, but it is a novelty to have city court with two judges and it is because they could not make it a circuit court. I am in favor of the system that will give the people proper facilities for having their judicial business performed. I am very much in accord with the remarks of the delegate from Limestone. Our judicial system in Alabama belongs to the old cow-county system and is way behind the age. It is an old fogy system, and the idea of a judge coming around and holding court once every six months is superlatively ridiculous. Why, look at the Auditor's report. Bills for feeding prisoners detained in jail awaiting trial, $98,000 last year; and it has run over $100,000. When a man is thrown into prison, the court ought to be able to try him very soon, and if he is not guilty, he should be allowed to go, and if he is guilty, he ought to be put on punishment. We are behind in this respect. I say clean out the jails and clear up the dockets. Courts are inaugurated for no other purpose than for the disposition of the business. The whole object is to dispose of controversies between man and man and to enforce the criminal law for the protection of society, and the greater the facilities for accomplishing these objects, the better it is done. Now, sir, this thing of delay and delay, and continuances and eating up parties with costs is very bad indeed, and I hope before this Convention gets through with this department that a clause will be inserted declaring the courts of the State always open for business so as not to wait for regular terms; that when business accumulates for the Judge or Clerk to give notice to the parties interested and let the judge, whose business it is, go and sit and try cases and dispose of them at once. Why, I invite the attention of the gentlemen to the system in the new States out West. You look at Texas and there is where they beat us ten to one in the facilities for the disposition of business. Go to California, a most admirable system, where every large county has one, two or three circuit judges. One half the salary paid by the county and the other half paid by the State, and the salaries are $4,000 a year. Where there are small counties they sometimes throw two and sometimes three together, and there the courts are always open for business. You get two or three or four cases on hand and the judge goes and tries those cases and disposes of them. They have one grand jury a year to find bills and they have a criminal term of two or three, if necessary, and they do the business. That is the object of the court, to do business and get on with it. Why this eternal delay is deleterious to the interests of the people. It is more expensive, it is against interest of the professional brethren, and it is wrong all along the line. We have a declaration in the bill of rights that court shall be open for business and justice shall be dispensed without denial or delay, and then follow it up with a system where you cannot get your case tried under six months, maybe twelve or eighteen months, and

many men who bring suits to recover money, do it most reluctantly, because it might be twelve or eighteen months and then the Sheriff takes six months or longer to get money on the execution, and he would rather take fifty cents on the dollar for his debt than to go into court. We want to get out of the slow rut and give the people a judicial system that will not be so expensive in the end and will transact the business and will get on with it. Now, sir, you strike out these words here, what does it say It does not tie the General Assembly. Why put this that no circuit court shall consist of less than three counties and no chancery division less than three. Can you not depend on your legislature, if the burden is thrown upon that body? I would like for this Convention to take greater responsibility in fixing up a judicial system, but if it is thought wise to remit most of it to the Legislature, let this go through, so the Legislature will not be hampered and can make a Circuit Court of less than three counties or a Chancery Division of less than three.

MR. TAYLOE—I would like to call the attention of the gentleman from Montgomery to the fact that he leaves a sentence in that incomplete.

MR. OATES—That was hurriedly written.

MR. TAYLOE—It strikes out all the words in the line down to and including "therein," so it leaves that sentence incomplete.

MR. ASHCRAFT—Have you observed that the purpose of this clause is simply to prevent the Legislature from putting two counties where both would have less than the requisite number of people into one circuit. Now, if one county has more than that number of people or that amount of property, then the circuit may be made up of two counties or it may have just one as in the case cited of Montgomery. If the gentleman had been able to exclude Montgomery from a circuit and Chancery Division, they would have created a Circuit Court that would have had complete jurisdiction and answered the purpose.

MR. OATES—Do you think the Legislature would create a separate court for a little county? They have done some imprudent things, but I don't think they would do that.

MR. ASHCRAFT—They have made a Circuit Court for Clay County.

MR. COBB—I am at a loss to understand what the gentleman's amendment is. Does he mean to strike out the whole of that first sentence?

MR. OATES—To strike out the restriction to three counties.

MR. COBB—And leave the balance.

MR. OATES—Yes, sir, I have no objection.

MR. COBB—I think it is hardly necessary, Mr. President, to consume the time of the Convention upon this question. It has been the policy for years to restrict the Circuit or rather to prevent the Circuit Court from being smaller than necessary. It is in the old Constitution that we shall not have less than three counties in a circuit. This is the identical provision. The reason for it is that under ordinary conditions, a circuit should not be composed of less than three counties, but this Section goes on and I think the gentlemen have abandoned that, goes on to provide for the very purpose for which he contended and that is that where there are counties of a certain number of inhabitants, and having a certain amount of taxable property, that that county may be made into a circuit or chancery division, so that the argument of the gentleman from Montgomery is in direct accord with the purpose had by the Committee in framing this Article.

MR. OATES—I stated I was in accord with them and on further examination of it I believe that the difficulty that I was trying to remove is provided for in the latter part of it and I will withdraw the amendment.

THE PRESIDENT—The gentleman from Montgomery asks leave to withdraw his amendment. Is there objection?

THE PRESIDENT—The Chair hears no objection, and the amendment is withdrawn.

MR. COBB—I move the previous question upon the Section reported by the Committee.

MR. WADDELL—I give notice I shall move to reconsider the vote whereby Section 7 was adopted, and also to reconsider the vote whereby the amendment offered by Mr. Oates of Montgomery, was rejected.

THE PRESIDENT—The question is on the motion of the gentleman from Macon for the previous question. Shall the main question be now put?

The main question was ordered and the Section as reported was adopted.

MR. WADDELL—Did the Chair recognize me to make a motion to reconsider?

THE PRESIDENT—The Chair understood the gentleman from Russell merely gave notice he would move to reconsider.

MR. WADDELL—Will it be in order for me to reconsider then on Monday?

THE PRESIDENT—It will, at any time during the morning session.

MR. SAMFORD—I move that we adjourn.

The motion was carried and the Convention adjourned until 11 o'clock Monday.

SIXTY-THIRD DAY

MONTGOMERY, ALA.,
Monday, Aug. 5, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by Rev. Mr. Howell as follows:

Oh, Lord, we recognize our unworthiness to come into Thy presence, and we feel a deep sense of our dependence upon Thee and of our obligations to Thee. We thank Thee for the preservation of life, and health and strength. Now, we invoke Thy blessings upon us this day. Give us the enlightening influence of Thy holy Spirit to guide us in the way of all truth. May we be conscious of the obligations that are upon us. Bless the delegates here assembled. Bless their homes. Bless their families, and bless all of our people. We ask Thy blessings upon the people everywhere, and may all recognize Thy divine authority and Thy divine sovereignty, and may they be obedient to Thy commandments, and work out their salvation with fear and trembling. Forgive our sins; lead and direct us in the way of all truth. And when life's labors are all over, may we have so labored that our Master may say to us Well done, good and faithful servants; and bring us to the home of the good above, through Christ, our Redeemer. Amen.

Upon a call of the roll, seventy-eight delegates responded to their names.

The report of the Committee on the Journal was read, stating that the journal for the sixty-second day had been examined and found correct, and the same was adopted.

MR. LEIGH (Escambia)—I have a short petition which I would like to have read.

The Secretary read the petition as follows:

We, the undersigned citizens of Alabama, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective, self-operative provision to that end.

Brewton, Ala., July 23, 1901.

E. M. Lovelace, lumber manufacturer; M. A. Rabb, attorney; W. T. Neal, lumberman; F. S. Horton, bookkeeper; A. T. Douglas, merchant; E. M. Neal; O. F. Sentell, cashier bank, Brewton; C. M. Luttrell, president Hardware Co.; J. W. Adkinson, vice-president Bank Brewton; W. C. Jones; E. F. Parker, Mayor; P. H. M. Tippin, M. D.; P. B. Sowell, liveryman; L. M. McLendon, M. D.; W. E. Foshee, merchant; T. W. Curry, druggist; A. C. Smith, merchant; J. H. Harold, merchant; J. H. Harold, merchant; R. E. Park, merchant; S. F. Moore, naval stores; S. B. Parker, bookkeeper; Robbin & McGow Co., department store; J. E. Finlay; W. Y. Lovelace, lumberman; J. M. Perdyett, merchant; C. Sowell, lumberman; W. J. Coleman, lumberman; Smith & Son, merchants; Mark Miller, B. C. G. Minister; J. W. Blacksher, lumberman; A. M. McGowin, Jr., banking; W. D. Sowell, editor Pine Belt News.

Referred to Committee on Corporations.

MR. GRAHAM (Montgomery) — I have a short resolution and I ask unanimous consent to have the same read.

Unanimous consent being given, the Secretary read the resolution as follows.

Whereas, This Convention has heard of the great affliction which has befallen ex-Governor Thomas G. Jones, a member of this Convention, in the tragic death of his daughter, which occurred at an early hour this morning, and

Whereas, it is proper that we should place on record some evidence of the sorrow which we feel at the calamity that has overtaken our colleague, therefore,

Be it resolved by the Constitutional Convention of Alabama, That we, individually and collectively profoundly sympathize with Hon. Thomas G. Jones, and the members of his family in the great affliction which they have sustained in the untimely and dreadful death of his daughter.

Resolved further, That the Secretary of this Convention be and he is hereby instructed to send a duly certified copy of these resolutions to Governor Jones.

MR. GRAHAM—I move that the rules be suspended in order that the resolution may be adopted.

Upon a vote being taken, the rules were suspended.

MR. HOWELL—I move that the resolution be adopted by a rising vote.

By a rising vote, the resolution was unanimously adopted.

Leaves of absence were granted to the following delegates:

To Mr. Jones (Wilcox) for today; Mr. Jones (Montgomery) indefinitely; to Mr. Harrison (Lee) today; to Mr. Jackson (Lee) for today; to Mr. Sloan for today; to Mr. M. M. Smith for today; to Mr. Lomax for today; to Mr. Reynolds (Chilton) indefinitely; to Mr. Sanders (Limestone) for today; to Mr. Pitts for today; to Mr. Reese of Dallas for today.

THE PRESIDENT—The Secretary will call the roll of delegates for the introduction of ordinances.

MR. WATTS—I move that the rules be suspended, and that the call of the roll of delegates and of standing committees be dispensed with.

MR. TAYLOE—I object to that simply because I have not troubled this Convention with ordinances and I want to introduce one this morning.

THE PRESIDENT—The gentleman can do it by unanimous consent.

MR. TAYLOE—I am afraid that would not be given.

THE PRESIDENT—Suppose the gentleman tries his hand.

MR. TAYLOE—I ask unanimous consent to introduce an ordinance.

The consent was given.

Ordinance No. 438, by Mr. Tayloe of Perry, read as follows:

An ordinance to amend an ordinance lately passed by the people of Alabama in Convention assembled, entitled "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 section three of an ordinance lately passed by the people of Alabama in Convention assembled, entitled "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 and the same is hereby amended by adding at the close thereof the following words, to-wit:

Provided, further, That out of the counties of Hale, Perry, Dallas, Wilcox and Marengo a new county may be formed under

the provisions of this article for forming new counties, so as to leave said counties of Hale, Perry, Dallas, Wilcox and Marengo, with not less than six hundred square miles each, which said new county shall contain not less than four hundred square miles.

MR. SAMFORD (Pike)—There is a resolution which has been favorably reported by the Legislative Committee that has reference to and will have to be considered along with the Legislative Report before the Committee on Order, Consistency and Harmony. I therefore move that resolution No. 194 be made the special order after the special order which now obtains.

Upon a vote being taken a division was called for, and the motion was carried by a vote of 22 ayes and 21 noes.

MR. WHITESIDE—I ask unanimous consent to introduce an ordinance.

Ordinance No. 439 was read as follows:

Ordinance No. 439, by Mr. Whiteside:

An ordinance to amend section 3 of Article XI, of the Constitution:

Be it ordained by the people of Alabama in Convention assembled, that section 3 of Article XI of the Constitution heretofore adopted by this Convention be and the same is hereby amended by adding thereto the following: And provided further, that out of the counties of Calhoun, Cleburne and Cherokee a new county may be formed under the provisions of this article, to have an area of not less than 400 square miles, and to leave each of said counties of Calhoun, Cleburne and Cherokee with not less than 450 square miles.

Referred to Committee on State and County Boundaries.

THE PRESIDENT—It is moved that the regular call of the roll of delegates for the introduction of ordinances, resolutions, etc., and the regular call of the standing committee be dispensed with.

Upon a vote being taken the motion was carried.

THE PRESIDENT—The special order this morning will be the consideration of the report of the Committee on the Judiciary Department. The Convention had under consideration when it adjourned section 10 of this report. The secretary will read the section.

Section 10 was read as follows:

Sec. 10. The General Assembly shall have power to establish in each county within the State a Court of Probate, with general jurisdiction to grant letters testamentary and of administra-

tion and of orphan's business; provided that whenever any court having equity powers has taken jurisdiction of the settlement of any estate, it shall have power to do all things necessary for the settlement of such estate, including the appointment and removal of administrators, executors, guardians and trustees, and including action upon the resignation of either of them.

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

Upon a vote being taken the section was adopted.

Section 11 was read as follows:

Sec. 11. The Justices of the Supreme Court, Chancellors and the Judges of the Circuit Courts, and other courts of record, except Probate Courts, shall, at stated times, receive for their services a compensation which shall not be diminished during their official term; 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.

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

MR. OATES—I have an amendment which I presume will be accept by the committee. It is to amend by adding at the end of the section the word "appointed," so as to read "elected or appointed."

The amendment was read as follows: "Amend Section 11 by adding thereto the words 'or appointed.'"

MR. SMITH—The committee asks unanimous consent to accept that amendment.

The consent was given.

MR. MACDONALD (Montgomery)—I was about to prepare and will prepare an amendment to this section and desire a few minutes for that purpose.

MR. OATES—I have another amendment which I desire to offer.

The amendment was read as follows:

"Amend Section 11 by adding thereto as follows: 'And shall not during their continuance in office, taken an active part in partisan politics.'"

MR. OATES—I have but two or three words to say in favor of this amendment. I remember when I first came to the bar, and for a good many years after the war, I never heard of any judge taking an active part in politics. It was considered a nonpartisan office; but in more recent years, I have heard, and known

personally, of judges in some cases going into campaigns and taking an active part in politics. I think it is an impropriety. I think it is wrong. They ought to abstain from it, and that is all there is in this amendment, that during the time judges are in office, none of them shall take an active part in partisan politics. I hope it will be adopted.

MR. WALKER (Madison)—The purpose of the amendment offered by the gentleman from Montgomery certainly will meet general approval but as presented, it does not seem to me it would practically create any control over the conduct of those officers. There is no standard fixed. It would practically amount to nothing. It is a matter of public sentiment. It is a matter of the prevalence of ideas of propriety on the subject, and it does not seem to me that a provision of this kind would practically operate to control the conduct of judicial officers.

MR. OATES—I want to ask the delegate from Madison if it would not, if incorporated in the Constitution, be a violation of the oath of any judge who has sworn to support the Constitution, to take part in partisan politics? Would it be at all necessary to fix a penalty? It seems to me that if it merely shows the impropriety or disapproval of the public in it, that any judge would have enough regard for himself and his character to comply with it.

MR. WALKER—The answer to that would be simply this: That it would always be a question in the first place that the officer would answer for himself as to what was an active participation in politics. Judges who were disposed to keep aloof from politics and to have nothing to do with them, would do so, but judges who were actively interested in politics, would still exercise their influence as far as they could, without a violation of this constitutional prohibition. I do not think it fixes any practical standard by which the conduct of judges would be tested, and it would practically have no beneficial operation. It would be a question of the view of propriety of each particular member of the bench, and not deeming the proposed amendment to be one that would have any practical beneficial operation, I move to lay it on the table.

Upon a vote being taken, a division was called for, and the motion to table prevailed.

MR. MACDONALD—I offer an amendment.

The amendment was read as follows:

"Amendment to Section 11 of article reported by the Judiciary Committee by Mr. Macdonald of Montgomery.

"Amend by striking out all of said section after the word 'perquisites' where it appears in the fourth line of said section."

MR. MACDONALD—It appears to me that the last two lines of this section are entirely unnecessary. We have a Judiciary now that are paid poorly enough any how. Their salaries are ridiculously small, and yet this section, if adopted, would absolutely prevent any judge who might resign, from getting any office in the gift of the State except, as it says a judicial office. Now why is that? What good purpose would it subserve? It is not to be contemplated that a judge would use his office for the purpose of securing another, or that he would exercise any influence upon any appointing power by reason of the exercise of his judicial functions which would give him such an office, so why should we select members of the judiciary for such an exclusion as this? I am informed that the history of this State will show that a very eminent judge at one time of the Supreme Court of Alabama became so convinced that his salary was insufficient to support his family, that he resigned for the purpose of accepting the more lucrative position of clerk of the court of which he was judge, and I understood nobody ever blamed him for that action. Here we have a poorly paid—and absurdly poorly paid—judiciary, as I believe, perhaps, the most poorly paid judiciary of any State of the Union, and yet we are to exclude them from accepting any office other than a judicial one. I do not see any good purpose to be subserved by it, and it does not occur to me that there can be any valid reason why the provision in the last two lines of this section, should be incorporated in the Constitution.

MR. HEFLIN (Chambers)—I move to lay the amendment of the gentleman on the table.

Upon a vote being taken the motion to lay the amendment on the table prevailed. Upon a further vote being taken the section was adopted.

MR. SENTELL—I move that the privileges of the floor be extended to the Hon. J. F. Jones, a member of the General Assembly.

A vote being taken, the motion was adopted.

The Secretary read Section 12 as follows:

Section 12. The Supreme Court shall consist of one chief justice and such number of associate justices as may be prescribed by law.

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

Upon a vote being taken the section was adopted.

The secretary read Section 13 as follows:

Sec. 13. The Chief Justice and Associate Justices of the Supreme Court, Judges of the Circuit Courts, 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, at such times as may be prescribed by law, except as herein otherwise provided.

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

MR. OATES—I have an amendment.

The secretary read the amendment as follows:

In lines 2 and 3 strike out the words "elected by the qualified electors of the State" and insert in lieu thereof the following, to-wit: "Appointed by the Governor by and with the advice and consent of the Senate for the State, except the Judges of Probate."

MR. OATES—Judging by the past, I presume this Convention will not adopt that amendment, but yet, sir, I have the courage to offer it because it is my honest conviction. I have had some little experience in life and in the affairs of this State, and whether to much purpose or not, this experience has reached a conviction in my own mind. In the Convention of 1875 I was in favor of the very thing that I move here, from a conviction that I then had, and the vote was a remarkably close one whether the judges should be thus selected or elected by popular vote, and the latter prevailed, as shown by the present Constitution. Now, sir, there are reasons for this. The idea seems to be now to elect everything by popular vote. If there be anything that contributes more than any other to the well being of the State, it is an intelligent and independent judiciary. Have you such a judiciary when the judges are elected by popular vote? I say that you have not, in many cases. The man who is elected a judge is but a man, and human nature has its place in him as well as in any other, and it is the most natural thing in the world when the man is usually a candidate to succeed himself or for some other office, he wants to get votes, and he is going to cater as much as he can to such a sentiment as will bring them. In the case between a man who is worth 100 votes in an election, and another who scarcely controls his own, the judge may be very honest, but the human nature in him and his own interests makes him naturally look for a reason that seems sound in favor of the big fellow, he wants his influence, he wants to be popular with him. It does not contribute to holding the scales of justice in equipoise. I will give to this Convention a little illustration without calling names. The first year I had the honor to be Governor of the State, a petition was presented to me to pardon a man from one of the counties north of this who had been indicted and tried for murder and found guilty of manslaughter in the second degree. A fine was imposed upon him and sentenced to 30 days in jail. I learned from other parties that the judge gave the Sheriff the wink and said: "Consider him in prison." Now, the defendant was a man of much influence in that

county. A petition was gotten up and sent to the Governor for him to be pardoned. The judge who tried him wrote a letter to the Governor along with the petition, and set forth the evidence in the case, and said: "Now, Governor, you are a lawyer and you know on that evidence he ought to have been acquitted, the jury should not have found him guilty." I replied: "Dear judge, yes, and I presume if you were not a lawyer you would not be judge of the Circuit Court. Taking the evidence as presented, he should not have been sentenced, but why did you not, as a judge, set aside the verdict and give him a new trial?" The reason was, that the dead man had a few friends in the circuit that had votes that he might lose if he took the responsibility. He would dodge it and throw it off on the Governor. That is but one instance, and there are many cases of dodging. This is no reflection upon the capacity of the people to elect good men, not at all, but the judicial system is regarded as the very best in those countries where the judges are appointed and not elected by popular vote. You take the judicial system of the United States. The President nominates every judge in that system, and then the nomination goes before the Senate, and the Senate does not always confirm. Even when Gen. Grant the most popular President, the most popular man on account of his success in the war, that we had seen in this country in fifty years, when he sent in the name of one of the members of his Cabinet to be Chief Justice of the Supreme Court, the Senate not deeming him a fit man for the place, rejected him. That has often occurred. Once, when our Democratic President sent in the name of a New York man whom he regarded as splendid material for Associate Justice, he was rejected and it has often occurred. When under the Constitution already framed in regard to the Executive Department, is confined to one term, and cannot be his own successor, he would be ambitious to appoint the very best lawyers and men who would make the best judges, and is it unsafe to leave it to him, the man of your choice to nominate a judge and let it go before the Senate? Are you unwilling to trust your senators to act; they will investigate his character and see whether he is worthy to fill the place or not. I think it is perfectly safe, and I think besides that it is the only way, the only method that has ever been invented in this country to have an independent judiciary, and hence I offer this amendment.

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

On a vote being taken on a division there were 53 ayes, 12 noes, and the motion to table prevailed.

MR. OATES—I make the point of order that a quorum has not voted.

MR. REESE—I understand that a point of no quorum can not be made unless developed by a call of the roll all members are not required to vote upon this sort of a motion.

THE PRESIDENT—It seems to the Chair that it would be in order to make it on division of the vote. The Chair will ask for a verification of the vote unless the gentleman asks for a call of the roll.

MR. OATES—I would like to have a roll call to see how the members vote. I would like to go on record myself.

The call for the ayes and noes was sustained.

The vote resulted as follows:

AYES

Ashcraft,	Graham, of Montgomery,	Norman,
Barefield,	Graham, of Talladega,	Opp,
Beavers,	Grayson,	Pearce,
Beddow,	Haley,	Pettus,
Blackwell,	Handley,	Phillips,
Boone,	Heflin, of Chambers,	Porter,
Brooks,	Heflin, of Randolph,	Reese,
Browne,	Henderson,	Reynolds (Henry),
Bulger,	Hodges,	Samford,
Burns,	Hood,	Sentell,
Byars,	Howell,	Smith (Mobile),
Cardon,	Inge,	Smith, Mac. A.,
Carmichael, of Colbert,	Jenkins,	Sorrell,
Carnathon,	Jones, of Bibb,	Spragins,
Chapman,	Jones, of Hale,	Stewart,
Cobb,	Kirk,	Studdard,
Coleman, of Walker,	Ledbetter,	Tayloe,
Craig,	Long (Butler),	Vaughan,
Davis, of DeKalb,	Macdonald,	Waddell,
Davis, of Etowah,	McMillan (Wilcox),	Walker,
Duke,	Maxwell,	Watts,
Epy,	Merrill,	Weakley,
Ferguson,	Miller (Marengo),	White,
Fletcher,	Miller (Wilcox),	Whiteside,
Glover,	NeSmith,	Wilson (Clarke),

TOTAL—75

NOES

Messrs. President,	Kyle,	Rogers (Sumter),
Dent,	McMillan (Baldwin),	Sanford,
deGraffenreid,	Murphree,	Selheimer,
Foshee,	Oates,	
Gilmore,	Palmer,	

TOTAL—13

ABSENT OR NOT VOTING

Almon,	Jackson,	Pillans,
Altman,	Jones, of Montgomery,	Pitts,
Banks,	Jones, of Wilcox,	Pitts,
Bartlett,	King,	Proctor,
Bethune,	Kirkland,	Renfro,
Burnett,	Knight,	Reynolds (Chilton),
Carmichael, of Coffee,	Leigh,	Robinson,
Case,	Locklin,	Rogers (Lowndes),
Cofer,	Lomax,	Sanders,
Coleman, of Greene,	Long (Walker),	Searcy,
Cornwall,	Lowe (Jefferson),	Sloan,
Cunningham,	Lowe (Lawrence),	Smith, Morgan M.,
Eley,	Malone,	Soffe,
Eyster,	Martin,	Spears,
Fitts,	Moody,	Thompson,
Foster,	Morrisette,	Weatherly,
Freeman,	Mulkey,	Willet,
Grant,	Norwood,	Williams (Barbour),
Greer, of Calhoun,	O'Neal (Lauderdale),	Williams (Marengo),
Greer, of Perry,	O'Neill (Jefferson),	Williams (Elmore),
Harrison,	O'Rear,	Wilson (Washington),
Hinson,	Parker (Cullman),	Winn.
Howze,	Parker (Elmore),	

So the motion to table prevailed.

MR. deGRAFFENREID—I have an amendment to offer.

The Secretary read the amendment as follows: "Chief Justices and Associate Justices of the Supreme Court, Judges of the Circuit Courts, and Chancellors shall be elected by the members of the General Assembly on joint ballot, and Judges of Probate shall be elected by the qualified electors of the county for which such courts may be established at such times as may be prescribed by law."

MR. deGRAFFENREID—I sympathize with the amendment as offered by the gentleman from Montgomery, Governor Oates, and I voted for it, because I thought if that were adopted, the law would probably furnish us with more impartial judges than our present methods, but at the time I voted for it, I thought that instead of the Governor having the appointing power, it would be safer and better for the people of Alabama that they should be elected by the General Assembly on joint ballot. We all know, Mr. President, that it is to the interest of the State that its judiciary should be removed as far as possible from politics. There was, I believe, offered by the gentleman from Montgomery, a while ago an amendment to another section which provided that judges should not take an active part in partisan politics, and a

gentleman on the committee took the floor and said that they sympathized with the purpose, but that it was not self-executing and that the difficulty would be that each judge would determine for himself his course of action in the premises. The report of the Committee on Suffrage has been adopted substantially by this Convention. We all recognize that in the future if this Constitution is ratified by the people, there will be more independence of thought, and more intelligence of action by the people of Alabama in politics. It seems to me, Mr. President, that it would be better for the State if its judges were removed from the hustings and were removed from active participation in politics by placing their election in the hands of the General Assembly. It was for this reason, Mr. President, that I favored prohibiting judges from carrying railroad passes in their pockets, not, Mr. President, that any judge would be corrupted by the use of a pass, but that its tendency was evil, and it seems to me that a judge who sits upon the trial of a case where one of the parties is a political friend, where one of the parties is a man who has been active in securing his nomination, would at least find embarrassment if the other party to the cause was a man who had actively fought his nomination and tried to defeat his election at the polls. It is true that if you elect him by the General Assembly, he might be called upon to try the case of some man who was a member of that body, but the chances of that are few in comparison with the number of cases that he would have to try in his Circuit Court of men who were not members of the General Assembly. For that reason, Mr. President, I think that amendment ought to be adopted.

MR. BOONE—I move to lay that amendment on the table.

MR. deGRAFFENREID—On that I call for the ayes and noes.

The call for ayes and noes was not sustained.

THE PRESIDENT—The question is on the motion to table the amendment offered by the gentleman from Hale to the section as reported by the committee.

The reading of the amendment was called for, and the amendment was again read by the Secretary.

Upon a vote being taken, the motion to table prevailed, and a further vote the section was adopted.

MR. WADDELL—I gave notice on Saturday afternoon that I would move to reconsider the vote whereby Section 7 was adopted, and also to reconsider the vote whereby the amendment offered by the gentleman from Montgomery was lost. I make that motion now.

MR. BOONE—I rise to a point of order.

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

MR BOONE—The morning hour has expired before the motion to reconsider was put before the House.

THE PRESIDENT—The Chair is of the opinion that under the rules the motion to reconsider may be brought at any time before the Convention adjourns during the morning session. The point of order is overruled.

MR. WADDELL—I will state that I voted for the adoption of the section, and against the adoption of the amendment, and I am still of the same opinion that I was at that time. I shall vote the same way, but the distinguished gentleman from Montgomery requested me to make the point, and I did so, and I now yield the floor to him.

MR. OATES—I have but little more to say than I said before upon this proposition. It will be remembered, however, that the vote on division was very nearly equal. There was a majority only of three votes in favor of tabling. In the event it is reconsidered—my motion before was to strike out that section, and my motion would be to reconsider, and to strike out and insert the following: "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 Legislature to provide by law for the judges of the Circuit Court 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 for pleading in equity cases as are now provided by law shall prevail, and an equity docket for causes be kept in said circuit courts, and be transferred to law courts, as provided by law."

Now, gentlemen of the Convention, the chancery courts would continue. Of course the chancellors would continue until the expiration of the term for which they are elected, two years or more. Now, is there any reason for continuing this separate chancery system? There are but four States in the Union that now retain the chancery system. I understand that one of the purposes of this Convention is reform in all departments of our State government, and it seems to me that here is a necessity for one. The chancery system was established by act of Parliament, and maintained for many centuries, and there is no such thing as a separate chancery court now in Great Britain.

MR. WALKER—Is it not a fact that in Great Britain where that has been done that they have courts, judges sitting all the time, as equity judges alone, and that in the courts in this county, where the separation of the courts has been made in the States, then in all the larger places, judges who are confined exclusively

to the disposition of chancery causes, say even in Great Britain, and States of this country where they have undertaken to abolish these courts, they are as a matter of fact still in existence, as separate equity courts.

MR. OATES—Mr. President, I have seen that myself, I have been in the law courts in London, and have observed their workings. There are a number of Judges who have law jurisdiction and have equity jurisdiction, and that is by assignment just like it is in some of the States of this Union. The judges where there was more than one in one locality, they may be assigned to perform certain duties, but it is not a permanency at all. Here there is no necessity for maintaining the separate equity jurisdiction. The Judiciary Committee have provided here, practically the abolition, except in name of the Chancery system. Retained it in name only. Why not abolish it and have equity jurisdiction conferred upon the lower court? Now here in the city of Montgomery, I have observed—because I practice sometimes in that court—the City Court where the equity jurisdiction has been conferred upon that court for some years past, that Judge Sayre does a great deal of that kind of work and does it remarkably well, and does it frequently, when he is not engaged in the trial of law cases. Such is the fact in other courts, and why is the necessity for the retention of this system? I cannot see it. It seems to me that it is an unnecessary expense. Every one knows that the chancery is the most expensive court, and why retain it? Why, sir, on a visit some years ago to California I had occasion to visit some of the courts there and observe closely their judicial system, which is said to be a model one, and I believe it. They have no separate chancery system at all, and there the courts are all organized for the purpose of doing business and doing it expeditiously and it is so done. While it is statutory, a rule prevails in those courts where a suit is brought on a note, if after ten days' notice or service of a summons, and the plea is not filed, the clerk of the court enters up judgment and issues an execution and the Sheriff makes the money. That illustrates the system of progress they make. Now in our chancery system, this motion I make is not on account of any hostility that I have to anybody connected with it. The chancellors as a rule are able men, and in fact the ablest chancellors in the State—the Hon. W. L. Parks—is one of the best personal friends I ever had. I am not disposed to do anything to maintain any man's job. I am doing whatever I believe to be the best policy for the State, and I want to contribute, if I can, to the Judiciary Committee in this work of theirs to improve the judiciary system and for these reasons I make this motion to abolish the Chancery Court. There is no need for them in the world, and there is no separate chancery system maintained in the courts of the United States nor in forty odd States in the Union. Why retain it in Alabama? I think it is really a source of economy,

We need more courts, but they should be courts that are capable of exercising jurisdiction as well as equity, and I want to call attention to the fact that subsequent to the last Constitutional Convention, when this question was discussed, that in my opinion, the greatest Chief Justice perhaps that Alabama has ever had or equally certain to any, the late Chief Justice Stone, wrote an article and read it before the Bar Association, in which he took very high and very strong ground in favor of the abolition of separate chancery system, and went much farther than I go, practically the abolition of the distinction between law and equity. All I propose in the amendment, I want to offer to retain the distinction and adopt it because it is a matter of convenience and a great many of the lawyers prefer it, but, sir, when it comes down to naked rules of reason, I think that Judge Stone was right in claiming that the distinction between equity and law courts was not well founded. It is a distinction laid down by Blackstone, and is not well founded in reason. You want the court to dispense justice between man and man and to enforce criminal laws for the protection of society, and that is the end of it, and to indulge in technicalities, and throwing cases out of equity courts, because it is supposed that a remedy exists at law or throwing cases out of a lower court because the remedy is of equity, all that is technical and expensive, and has no place in common sense, if you will allow the expression. Now I asked my friend from Russell to make this motion, because I did not do it in time, and having voted with the minority, could not, and the vote was so close I wanted to give another opportunity to the delegates in this Convention, to see if they would not abolish this unnecessary part of our judicial system, and, sir, I do not wish to unnecessarily consume the time of the Convention at all, believing that the question is fairly presented to the Convention. Now I ask for the motion to be put for reconsideration.

MR GRAHAM (Talladega) — I voted for the amendment suggested on last Saturday, and I desire to submit a few remarks on this question. I did not make many pledges before coming to this Convention, but among them was one in favor of the abolition of Chancery Courts in this State, and consolidating their work with Circuit Courts, and among my people, it was exceedingly popular not because of any lack of confidence in these courts as they exist, but because the people believed them to be unnecessary. I live in a chancery division, and in a circuit division, where in five counties the work of the chancellor has been practically done away with. In fact the business is done more expeditiously in the city or county courts, established in that division. In my county, I state from recollection and I think it is correct, there is only one case on the chancery docket of that division and that case commenced in the year 1872. There is also evidence of the fact that the Chancery Court had better be turned into the City Court

or some other court in that county. In the Seventh Judicial Circuit, the work of the Circuit Judge has practically been taken away from him in four counties, out of six. These things show the people that either the Circuit Court or the Chancery Court is unnecessary, if we are going to maintain and sustain these inferior courts. I am not disposed to quarrel with the Convention, or with the Judiciary Committee in making it possible for many more courts to be established in this State, but I suggest that the people will be able to see whether these courts are necessary. Along the line of reform, along the line of expediency, and policy, and along the line of subjecting the people to as little expense as is possible, in the administration of the courts of this country, I call this Convention to halt and to put the chancery jurisdiction along with the circuit jurisdiction, or the jurisdiction of the inferior court, and thus relieve the people of this burden. I speak seriously when I say that the prospect in this State is not the best for economy, in our court system, because we are opening wide the doors and all members of my profession are not any too busy in looking after their private practice, and I fear that a great many will become too busy in looking after the creation of positions to which they may aspire. Gentlemen let us be conservative in this matter. I believe this is the step in the right direction. I believe the people would approve it. I know that they are willing for us to have courts sufficient to carry on the business of the State expeditiously and I want them to have them, but I fear that we are opening the opportunity for the creation of too many courts. There are some in existence in this State today, in counties where the tax values are less than two million dollars, and I have heard it said that jurors could not get their certificates cashed when they served for such courts, and still those counties are put to the expense of supporting a circuit judge. Gentlemen of the Convention, let us make a reform just at this point. It is a quiet hour, and a moment for serious reflection, and I trust this Convention will consider this matter seriously and if after such consideration, you deem it wise and expedient, I hope you will reconsider the vote by which this was taken and let us work a just reform in this State in the judicial system.

MR. deGRAFFENREID—May I ask a question? We had this system that you advocate in this State at one time, did we not?

MR. GRAHAM (Talladega)—I do not remember.

MR. deGRAFFENREID—Is it not a fact that one term the Circuit Judge had Chancery jurisdiction, now I wanted to ask you if it was not a fact that the chancery cases were always put at the heel of the docket, and as a rule not reached?

MR. GRAHAM (Talladega)—I will state I was not in practice at that time. I understand it was way before the war. I will call on Mr. deGraffenreid to answer his question.

MR. deGRAFFENREID—I have heard Judge Stone say in a speech before the Bar Association on this subject, that when they did have that system, chancery cases were put at the heel of the docket, because the jurors were there and the judge was anxious to try cases that juries should try, so as to dispense with their services, and expense of keeping them there, and chancery cases as a rule were not reached until Friday or Saturday, and everybody was tired, and as a result, chancery cases were continued from term to term and year to year, and in order to get rid of that trouble the law was changed and made as it exists today.

MR. GRAHAM—I would like to ask if even that would make a chancery case more tedious and slow than now.

MR. deGRAFFENREID—We do get rid of cases now.

THE PRESIDENT—The time of the gentleman of Talladega has expired.

MR. deGRAFFENREID—The gentleman yielded to me.

MR. GRAHAM (Montgomery)—Mr. President, it is apparent to every one in this Convention that it is the purpose of the amendment offered by my colleague from Montgomery to eventually if not peremptorily abolish chancery courts in this State. Revolutions sometimes work out good, but revolutions of the character of this, in my humble opinion, will result in hardships and harm to litigants in this State. As has been intimated by the gentleman from Hale, the result of placing both equity and law jurisdiction in circuit courts, or in other courts of like jurisdiction of different names, will result on account of the expense attending upon having the jurors and witnesses, place the chancery docket at the tail end of the court, and the result will be that those cases will never be tried, except possibly at a special term when the conscience of the judge will prick him to do something he ought to do. With the circuit courts we have in the State of Alabama, at present, possibly there may be an increase—it will be absolutely impossible for the circuit court to perform its required duty in trying jury cases and equity cases which may be brought in that court. Reference has been made to other States in this Union which have abolished chancery jurisdiction. Only recently I have had an opportunity of discussing this matter with some of the most learned lawyers in the State of New York, and one of them an old man who practiced in the time when they had able chancellors on their bench, raised his hand and said "For God's sake, don't ever abolish your chancery jurisdiction. Those of us who knew what it was, are praying that the time will come when we will have it re-established in the Empire State of this country." He says: "We have herein a part of a court, a judge who in the trial engaged in nothing but equity cases for the last twelve or

fifteen years, and he will be engaged in that business possibly fifteen or twenty years longer before the court can try all of the cases.

MR. REESE—Does not Section 9 of this Act already provide that the Legislature may give the chancery jurisdiction to the Circuit Court?

MR. GRAHAM — I propose to refer to that before I get through. Such being the condition, Mr. President, those who have been accustomed to having the system, and such being their experience and observation, I think we should go slow in changing the system which has been woven into the very existence of the State of Alabama. The question asked by the gentleman from Dallas is answered by reading the further report of the Committee. The Committee reports and recommends that these courts may have equity or law jurisdiction conferred upon them in the discretion of the Legislature, and in those counties where special courts are established, they are wiped out, but if the system is carried out as suggested in the amendment of the gentleman from Montgomery, we will have little courts set up in every little county in the State of Alabama, with equity and law jurisdiction. We all want a court that we will have respect for. We might as well have a court in which we might be sure that we could have cases tried. The people will have more confidence in a Chancery Court than they will have in a little two-by-four court set up in various counties in the State for the purpose of disposing of business which may be brought before it. This is no time for radical action in the administration of justice. This is no time to make radical changes as to revolutionize the whole system. The people will not stand revolutions of this character.

MR. OATES—What authority have you for stating there will be a vast number of counties with little courts established?

MR. GRAHAM—Because there have been in the past, and, judging the future by the past, they will be created and will be created for the purpose of disposing of the very business which the gentleman wishes to get out of the Chancery Court.

MR. OATES—What past do you refer to?

MR. GRAHAM—I refer to the past in the State of Alabama.

MR. OATES—To what occurred sixty years ago?

MR. GRAHAM—No, sir; to what has occurred within recent years.

MR. OATES—There is nothing of that kind.

MR. GRAHAM (Montgomery)—There is a court, I am informed by reputable gentlemen, both outside of this Convention

and in this Convention, where there is a judge with a salary, I believe, of about $800 a year in Clay County, which has, as I am informed, only $800,000 of assessable property.

THE PRESIDENT—The time of the gentleman is up.

MR. GRAHAM—Mr. President, I had not closed my remarks, but I will make a motion.

MR. SAMFORD (Pike)—Mr. President——

THE PRESIDENT—For what does the gentleman rise?

MR. SAMFORD (Pike)—To obtain recognition. I desire to yield my time to the gentleman from Montgomery, upon gaining recognition.

MR. GRAHAM—I do not care for any more time. I move that the motion to reconsider be laid on the table.

MR. GRAHAM (Talladega)—I call for the ayes and the noes.

The call was sustained.

THE PRESIDENT—The question is upon the motion to table the motion to reconsider the vote whereby Section 7 was adopted.

MR. OATES—Permit me to say that this will be tantamount to a vote for or against the continuance of Chancery Courts.

THE PRESIDENT—The Chair presumes the delegates have followed the interesting discussion, and that they understand the issue.

Upon a call of the roll, the vote resulted as follows:

AYES

Ashcraft,	Espy,	Macdonald,
Barefield,	Ferguson,	Maxwell,
Blackwell,	Fletcher,	Merrill,
Boone,	Glover,	Miller (Marengo),
Brooks,	Graham, of Montgomery,	Miller (Wilcox),
Bulger,	Handley,	Norman,
Burns,	Heflin, of Chambers,	Opp,
Cardon,	Heflin, of Randolph,	Pettus,
Carmichal, of Colbert,	Henderson,	Reese,
Carnathon,	Inge,	Reynolds (Henry),
Cobb,	Jenkins,	Samford,
Davis, of DeKalb,	Jones, of Hale,	Selheimer,
deGraffenreid,	Kirk,	Sentell,
Duke,	Leigh,	Smith (Mobile),

Sorrell,	Walker,	White,
Stewart,	Watts,	Wilson (Clarke),
Vaughan,	Weakley,	
Waddell,	Weatherly,	

TOTAL—51

NOES

Messrs. President,	Graham, of Talladega,	Palmer,
Banks,	Grayson,	Pearce,
Bartlett,	Haley,	Phillips,
Beavers,	Hood,	Porter,
Beddow,	Hodges,	Rogers (Sumter),
Browne,	Howell,	Sanford,
Byars,	Jones, of Bibb,	Smith, Mac. A.,
Chapman,	Kyle,	Spears,
Coleman, of Walker,	McMillan (Baldwin),	Spragins,
Davis, of Etowah,	McMillan (Wilcox),	Studdard,
Dent,	Murphree,	Whiteide,
Foshee,	NeSmith,	
Gilmore,	Oates,	

TOTAL—38

ABSENT OR NOT VOTING

Almon,	Jackson,	Parker (Cullman),
Altman,	Jones, of Montgomery,	Parker (Elmore),
Bethune,	Jones, of Wilcox,	Pillans,
Burnett,	King,	Pitts,
Carmichael, of Coffee,	Kirkland,	Proctor,
Case,	Knight,	Renfro,
Cofer,	Ledbetter,	Reynolds (Chilton),
Coleman, of Greene,	Locklin,	Robinson,
Cornwall,	Lomax,	Rogers (Lowndes),
Craig,	Long (Butler),	Sanders,
Cunningham,	Long (Walker),	Searcy,
Eley,	Lowe (Jefferson),	Sloan,
Eyster,	Lowe (Lawrence),	Smith, Morgan M.,
Fitts,	Malone,	Sollie,
Foster,	Martin,	Tayloe,
Freeman,	Moody,	Thompson,
Grant,	Morrisette,	Willet,
Greer, of Calhoun,	Mulkey,	Williams (Barbour),
Greer, of Perry,	Norwood,	Williams (Marengo),
Harrison,	O'Neal (Lauderdale),	Williams (Elmore),
Hinson,	O'Neill (Jefferson),	Wilson (Washington),
Howze,	O'Rear,	Winn,

So the motion to table prevailed.

Section 14 was read as follows:

Sec. 14. The judges of such inferior courts of law and equity as may be by law established, shall be elected or appointed in such mode as the General Assembly may prescribe.

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

MR. SPRAGINS—I have an amendment.

Amendment to Section 14 by Mr. Spragins:

"Amend Section 14 by striking out all of the word 'elected,' in the second line and by adding in lieu thereof the following: 'By the qualified electors of the county or counties within the jurisdiction of such inferior courts of law and equity.'"

MR. SPRAGINS — That is in line with what has already been done in the election of Circuit Judges and Chancellors and Supreme Court Judges, making the Judges of the inferior courts elected by the qualified electors of the various counties.

Mr. Heflin of Chambers here took the chair.

MR. SMITH (Mobile)—We of the Committee had that matter under consideration, and there was considerable contention that the conditions of some particular counties was such that it would not be to the interest of the people to have the judges elected in those counties. It was thought that in certain counties, under certain circumstances, the power would be in hands unfit to select a judicial officer; that that had been the experience in the past in some of the counties, and that it might be in the future, and that the power should therefore be in the legislature to prescribe how the judges in the several courts should be appointed or elected. That was the purpose the committee had, and I presume there are gentlemen here from some of the counties where there would be very strenuous objections to the election of judges in those counties by the people. I simply state this that it may be understood why a different provision is made for the filling of these offices than for other judicial offices. I therefore move to lay the amendment on the table.

Upon a vote being taken the motion to table the amendment prevailed.

Upon a further vote being taken the section was adopted.

Section 15 was read as follows:

Sec. 15. Chancellors and judges of all courts of record shall have been citizens of the United States and of this States for five years next preceding their election or appointment, and shall be not less than twenty-five years of age, and, except judges of probate courts, shall be learned in the law.

MR. MACDONALD—I have an amendment.

The amendment was read as follows:

Amend Section 15 by striking out the words "except judges of probate courts" on the third and fourth lines of the section.

MR. MACDONALD—I do not suppose there is a lawyer in the sound of my voice who will disagree with me upon the principle of the amendment proposed. I cannot say that I have any hope that it will escape the fate that has befallen amendments to this article, as a general rule, but I would like to examine the mind and the conscience of each lawyer upon the floor of this house and ask him, and if I could get him out of this room, or at any place where his expressions would not be made public, he would agree with me. Every man knows that before these probate judges some of the most intricate and important propositions of law are brought; that in cases where the validity of wills are contested, and many other matters of the administration of the probate law of this State, a skilled lawyer is infinitely more required, as a rule, to occupy the seat of probate judge than in most any other court. Now we have all had that experience. Every man in this Convention who has practised law has had it, and yet, for some reason which might be very easily stated, but which never has been frankly stated, it has been the practice and the custom of the State of Alabama to except probate judges from the operation of the very salutary rule that all judges should be learned in the law. Why has it been? As I say, it has been known to all men, and I do not care to state it myself, but we all know it, and that very reason, it may be, Mr. President, will result in this amendment taking the ordinary course.

MR. ROGERS (Sumter)—What is the reason that exempted them from being learned in the law?

MR. MACDONALD — Because some of the very eminent citizens of the respective counties in this State considered it a very fat office, and there were more of them than lawyers in the counties.

MR. ROGERS (Sumter)—There are still more.

MR. MACDONALD—And there are still more. I say that is the reason that this amendment will probably take the course the other amendments have taken, but, if we are here to do what is just, right and proper, to do what our past experience as lawyers or as litigants—if there are any of that unfortunate class in this Convention shows to be the facts we will adopt this amendment. Why, we go before a judge of probate who has not attempted and does not propose to attempt to acquire any knowledge of law, and we submit to him questions relative to the construction of instruments, of wills, and the validity of wills, which I say requires technical learning of the very highest order, and lawyers gravely argue such propositions between Judges of Probate, who do not

know what they are talking about, and are not presumed to know. I say this without reflection on any of these eminent gentlemen who fill these offices, because it is no business of merchants or farmers to acquaint themselves with matters of this character.

Again, I made an effort this morning to strike from Section 11 the latter part of it, which prohibits any man who at any time gets to be a judge to take any office during his occupancy of the judgeship, and that included Probate Judges, so if an instance should occur where, by reason of some matters peculiar to himself, a Judge of Probate might resign (I do not say it is likely by any means that he will) the office of Judge of Probate, he cannot accept any office during the term for which he is elected. Why not? Let the members of this Convention be perfectly frank with themselves and the people of Alabama and adopt an amendment of that kind, which declares that the Probate Judge should be learned in the law as well as any other Judge. Now, these are the reasons that suggest this amendment, and I submit them to the Convention without much hope, but with an entirely firm conviction.

MR. DUKE—I agree with the gentleman that most of the lawyers in this Convention think that nobody but a lawyer should hold this office. A great many of the lawyers would like to keep this office of Probate Judge in the family, if they could, but, we are not here to represent ourselves as lawyers. We are here to represent the people of Alabama, and this office of Probate Judge is peculiarly an office of the people, and it is an office that every man thinks he has a right to aspire to, and we do not think it right to deprive him of the privilege of holding this office if he wants to. All over Alabama, we have Probate Judges who are not lawyers and they have made good officers, and I see no reason why a Convention composed of a large majority of lawyers should put it in the Constitution that nobody after this shall hold this office but us. Mr. President, I do not believe the lawyers of this Convention think that is right, and I therefore move to lay the amendment upon the table

MR. OATES — I appeal to the delegate from Chambers to withdraw his motion for a moment.

MR. DUKE—I will withdraw it for a moment.

MR. OATES—I want to say this, that this is one office that I am in favor of leaving to the people to elect, and in the amendment I offered I excepted this office for that reason, and that the Probate Judge has not frequently complicated questions to judge, but the largest part of his jurisdiction, as you may see, is of a domestic character—right down among the people with county matters, and I believe, as a rule, they do not make any mistakes in electing capable men to fill these positions. Now, I do not know

about all over the State, but you take all the southeastern part, Montgomery, Bullock, Barbour, Henry, Geneva, Coffee, Dale, Pike and Covington, and not a lawyer is Probate Judge in any of these counties, and yet I can say of my personal knowledge, that nearly all of them are very excellent officers, and I judge the balance of the State by them. Therefore, I oppose the amendment of my colleague, and renew the motion of the delegate from Chambers to lay the amendment upon the table.

Upon a vote being taken, the motion to table the amendment prevailed.

Upon a further vote being taken, the Section was adopted.

MR. REESE—I ask unanimous consent to offer a short ordinance which it will require but a minute to read.

Consent was given.

The ordinance was read as follows:

Ordinance No. 440, by Mr. Reese:

Be it ordained by the people of Alabama in Constitutional Convention assembled, That Section 18 of the Article on Suffrage and Elections be and and the same is amended by adding at the end of said Section the following words: Provided that after the year 1906 said poll tax shall be upon each male inhabitant of this State over the age of 21 years and under the age of 60 years, and provided further, such persons as are now over the age of 45 shall never be required to pay such tax.

Leave of absence was granted to Mr. Williams of Barbour for today.

THE PRESIDENT—The Clerk will read the next Section.

MR. WATTS—The next Section has three or four minority reports, and I therefore move that we adjourn.

Upon a vote being taken the motion to adjourn was carried.

AFTERNOON SESSION

The Convention met pursuant to adjournment, there being ninety-two delegates present upon the call of the roll.

THE PRESIDENT—The special order for this afternoon is consideration of the report on judiciary. We had under consideration Section 16 when the Convention adjourned in the forenoon. The Secretary will read Section 16. There seems to be two minority reports. The Chair will rule the first minority report be considered as an amendment to the amendment. The Secretary will read the section as reported by the committee, then the first

amendment, then the second amendment, which latter will be the subject before the house.

The Secretary read Section 16 as follows:

Sec. 16. Except as otherwise provided in this article, the Chief Justice and Associate Justices of the Supreme Court, Circuit Judges, Chancellors and Judges of Probate shall hold office for the term of six 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, division or county, in the mode or time of election.

The Secretary read the first minority report by Messrs. Watts and others as follows:

Sec. 16. In the year 1904, Judges of the Probate Courts, Judges of the Circuit Courts and Chancellors shall be elected by the qualified electors of the respective Counties, Circuits and Chancery divisions for a term of six years, and until their successors are elected and qualified. In the year 1910, and every four years thereafter, Judges of the Probate Court shall be elected by the qualified electors of the respective counties for a term of four years, and until their successors are elected and qualified. 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, division or county in the mode or time of election.

The Secretary read the second minority report by Messrs. NeSmith, Fitts and Duke as follows:

Sec. 16. Except as otherwise provided in this article, the Chief Justice and Associate Justices of the Supreme Court shall hold office for the term of eight years, and until their successors are elected and qualified. Circuit Judges, Chancellors and Judges of Probate shall hold office for a term of four years, except as otherwise provided in this article, and until their successors are elected or appointed and qualified. Provided, that this section shall not operate to abridge the term of any Justices of the Supreme Court, Chancellor or Judges of Probate now in office; And provided further, that the Justices of the Supreme Court, Judges, Chancellors and Judges of Probate elected in 1904, shall hold office for the term of six years, and until their successors are elected and qualified.

THE PRESIDENT—The question will be on the amendment to the amendment of the section reported by the committee.

MR. NESMITH—The purpose of the gentlemen who join with me in making this minority report is largely to carry out so

far as possible what seems to be the purpose of this Convention in holding an election every four years and to avoid elections between times or biennial elections. The plan as proposed by the majority of the committee in the next section will necessarily result in an election for Judges every two years as long as this Constitution may remain in effect by providing that a certain number of Supreme Court Judges shall be elected every two years. The minority for which I speak attempted to carry out that idea also in reference to the Supreme Court Judges by providing that that time shall be eight years, that as nearly possible one-half shall be elected every four years. As I understand the report of the minority of the committee headed by the gentleman from Montgomery, Mr. Watts, is in substance the report of the other minority report, except that it provides that the terms of Circuit Court Judges and Chancellors shall be eight years instead of four years as reported by us. The Convention is aware of the fact that the Executive Department has reported an article which has been adopted by the Convention providing for the election of Governor and other State officers every four years. The Legislative Department has proceeded along that line, and the Convention has adopted that report providing for the election of Senators and Representatives every four years. It will be said that we will have national elections every four years and that this election for judges may be held at the same time, to avoid the expense. Mr. President, for a great many years we have held our State elections separate and apart from national elections, and I am one of those who was opposed to the change at this time. However, that may be wise. We know not when, for some reason—from Federal interference, perhaps—that we will wish to change the election from November to some other time in the year. The Convention has provided for that by leaving it within the jurisdiction of the legislature so to do. In the event that it would be done we have a biennial election simply for the election of these judges. I have not been able to get the correct figures, but I am reliably informed that State elections cost about $35,000. Suppose that we were to save twelve or fifteen of these biennial elections by this method, it would result in a saving to the State of something like five hundred thousand dollars, and the interest accumulated on that would amount to much more. As to the term of the Supreme Court Judges, the gentleman from Chambers, Mr. Duke, and I took occasion to look into the Constitution of the majority of the States and we find that the terms of the Supreme Court Judges range higher than six years. It seems to be the wisdom of a majority of the leading States to have the terms six, eight, fourteen years, and some for life, or during good behavior, as you know that is the policy of the United States judiciary system. As to the term of circuit judges and chancellors it seems to me that four years is a proper term. About that though, I am not particular whether

that be four years or eight years. It may be said that four years is too short for a good man to give up his law practice and go upon the bench and get out of the practice. In answer to that I might say that so far as my observation goes the men that make good judges can hold their position, they will demonstrate within four years whether or not they are fit for the position, and if so be, returned without opposition as a rule, but should he be unfit to perform those duties we would be able to put in some one who is fit. I trust that the report will be adopted.

MR. WILSON (Clarke)—When the Committee on Judiciary struck this section of the article it found considerable embarrassment and difficulty in framing a section that would meet the views of a majority of that Committee, but after careful and mature consideration the majority of the Committee decided that it was better to leave the section just as it is in the Constitution of 1875, fixing the term of the judges including the Supreme Court, Circuit, Chancellor and Probate Judges at a term of six years. The very fact that the minority Committees could not agree on the same proposition emphasizes the difficulty that was in the way of the Committee and it seems to me that the position taken by the majority is the stronger position of the two. One of the minority reports suggests one proposition and another of the minority reports another proposition. Now, the only reason urged by either set of the minority reports for changing the term of the judges is to make the election of the judges come at the same time as do the elections for the other State officers at the general State elections. So in discussing the question it seems to me that the only matter that need be considered is whether or not we would gain as much by changing these terms to make them fit the regular State elections as we would lose by changing the terms of the judges from the terms they have been for very many years in Alabama. In the first Constitution adopted in this State in 1819 the terms of the judges were during good behavior. I think every lawyer who has had experience with the Federal Judges knows that it is wise for the State to change from that system and the State of Alabama did change in 1830 by the first amendment to the Constitution of 1819 from the life term, or the term during good behavior for the term of six years for all judges, and since the year 1830 to the present time the term of the judges in this State has been for six years. For seventy years the terms of office of the judges in this State has been as it now is. I do not argue that just because we have a certain state of affairs that it is always best to keep it, but I do insist that when it has been established for so long and has been acted upon and understood has been a part of our system for so many years, unless there is a good reason it is not worth while to change it.

Now, what are the reasons urged for changing the terms from six years to four years for Probate Judges? Both sets of the mi-

nority recommend four years for Probate Judges. A part of the minority recommend four years for Chancellors, Circuit Judges and other inferior court judges. The other part recommended eight years for Chancellors, Circuit Judges and Supreme Court Judges, but four years for Probate Judges. They all recommend four years for Probate Judges and part of them four years for the other judges and eight years for the remainder. The only reason given in the minority report for making that innovation is that these elections might come when the general State elections are held, and save the expense of an extra election; but, when you come to consider how few extra elections there will have to be, you will see that we will not be compensated for overturning this provision which has been here for seventy years for the benefit of the little saving we will gain. In the first place, both minority reports recommend that all of the judiciary officers be elected in 1904. That is the time their present terms will expire. You will remember that we have already fixed the time for the election of State officers in 1902; so you have an election for judges at which there will be no elections for State officers in 1904 if you adopt either minority report or if you adopt the majority report, so there is no difference on that proposition. We have an election for judges to start on in 1904.

MR. NESMITH — Isn't it probable that the Committee on Schedule or Harmony will arrange that so as to harmonize it?

MR. WILSON—I don't see how it will arrange it, unless this Convention undoes what it has done. It has provided that at the general election in 1902 all State officers shall be elected and hold for a term of four years, and the minority has recognized that proposition, because both minority reports recommend that Judges be elected in 1904 and hold until 1910, which is the time State elections will come on again—no, it is not the time, but four years from which would be the time that State election will come on again.

MR. NESMITH—That election will be in 1902, for four years. That will put an election in 1906, which will be for four years, which will make another election in 1910.

MR. WILSON—I will explain that. I would rather the gentleman would not interrupt me with an argument.

MR. NESMITH—I ask if this should not provide for 1910 to reconcile it?

MR. WILSON—Yes, sir; thereby recognizing the provision that we have already made, it seems to me, that we elect the State officers in the general election in 1902. I say under both minority reports and under the majority report, we will have this election for judges in 1904. They all provide that, so that it is not an ex-

tra election. If you adopt the majority report, you do not provide for an extra election in 1904, because they all provide for the election of judges in 1904. That is the time the term of the present judges expire. Then you would have an election for judges again in 1910 if the term is for six years, as the majority recommends in this report, and in 1910 you would also have an election for State and county officers, so you would have that general election at that time anyway. In 1914 you would have another election for State officers, but you would not have another election for judges until 1916. The next election for judges would be in 1922, and at that time all the State officers would be elected again. So then——

MR. NESMITH—In the next section, as reported by the majority, doesn't it provide for the election of one Justice of the Supreme Court every two years?

MR. WILSON — Every two years at the Federal election; but if the Convention is unwilling to trust the Supreme Court Judges to be elected at the Federal elections, it would make no increase in the number of election. They can leave them as these are here, which would be only one extra election every twelve years, less than eight extra elections in one hundred years, which, I submit, is not very considerable. Under the plan submitted by the majority, you will have an extra election for judges in 1916, 1928 and 1940. These are the only three extra elections you would have, which you would not otherwise have, in the next forty-six years; that is, until 1946, and I submit that is not any considerable amount of expense and will not amount to very much.

THE PRESIDENT — The time of the gentleman has expired.

MR. SAMFORD (Pike)—May I ask the gentleman a question?

MR. WILSON—I yield, Mr. President.

THE PRESIDENT—The gentleman's time has expired.

MR. SAMFORD (Pike)—I desire to yield the gentleman a portion of my time for this purpose. Isn't it a fact that the Convention has, since the framing of the report on the Judiciary, adopted a clause making the State elections come off in November, and, therefore, it is not necessary any longer for the elections as provided for in the minority report?

MR. WILSON—Since the adoption of the Article on the Executive Department, the Convention has adopted the Article on the Legislative Department, and in that Article they provide for the election of Representatives and Senators in November, and under this arrangement the General Assembly can put the election for

Judges as well in November as for Representatives and Senators. If it does that, there will be no extra election. But, conceding the General Assembly does not want to do that, but will let it stay as it is now, then we would have only three extra elections for Judges between now and 1946, and I say that is not any very considerable extra expense.

MR. WATTS—If this Convention desires to have this extra election for Judges every twelve years, as mentioned by the gentleman from Clarke, why, then, I don't care particularly about insisting on my minority report, but if the Convention desires to apply to Judges that same scheme or method which has been applied to other officers, then I think that we ought not to have special elections simply for the election of Judges of the courts. We ought to have all of the officers, judicial, executive and legislative, elected at the same election as far as practicable, and not to have off years in which only a couple of judges are to be elected, or a few judges of the Supreme Court. Now the only difference as I see it, or the only practicable difference between the two minority reports is this: The proposition of the gentlemen who unite with me in a minority report is that at the next election in 1904 all of the judges—Probate Court, Supreme Court and Chancellors—shall be elected for term of six years; that in the year 1910 the Probate Judges shall be elected for a term of eight years, and the provision is made in the following Section for the election of the Supreme Court Judges for a term of eight years, but at the first election for only four years so as to have a part of the court elected every four years.

MR. deGRAFFENREID—What is the reason for making an exception against the Probate Judges there, making their term four years and that of the other judges eight years?

MR. WATTS—None in the world except the concensus of opinion of the Committee seemed to be not to lengthen the term of Probate Judge to eight years.

MR. deGRAFFENREID—You shorten the Probate Judges two and lengthen the others two years. That is the effect of it.

MR. WATTS—Yes.

MR. deGRAFFENREID—As a matter of fact is it not the experience in the State that Probate Judges nearly always succeed themselves?

MR. WATTS—Yes, sir, and they can do so under the four year term.

MR. deGRAFFENREID—And if you gave them eight years would they not get the same they do now under the law?

MR. WATTS—But if they were reelected then they would get sixteen years?

MR. deGRAFFENREID—Yes.

MR. WATTS—I was about to state the difference between the two minority reports. Now the other minority report is substantially like the report submitted by myself and the gentleman who joined with me except that it provides for the Circuit Judges, Chancellors and Probate Judges to be elected every four years after 1910, so the whole thing before the Convention is just simply this, and I do not care to and will not take up the time of the Convention to argue the matter.

MR. WADDELL—Under your plan, isn't it a fact that Probate Judges are not affected at all until 1910?

MR. WATTS—Yes, sir, under all the plans they are not affected until 1910. Now the whole question before this Convention is simply this: Shall all of the judges of this State have six year terms, or shall we make the Probate Judges' term four years and the balance of them eight, or shall we make the Supreme Court Judges' term eight years, and all the rest of the judges four? Now there is the whole proposition in a nut shell. I do not care to take up the time of this Convention because it is a question I care very little about.

MR. DUKE—The minority report which was signed by Mr. NeSmith and myself recommends eight years for the Supreme Court Judges and four years for the Probate Judges, Chancellors and Circuit Court Judges. The majority report adheres to the six year plan for all of the judiciary, but they have a provision that every two years two Supreme Court Judges, I believe, shall be elected, thereby causing an election certainly every two years. Now that is in their report.

MR. WILSON (Clarke)—Is not that made the next succeeding Section and not that one?

MR. DUKE—I propose to argue both together and cannot argue one without arguing both. The seventeenth Section which follows the sixteenth in the majority report, provides that the Supreme Court Judges and certain of the others shall be elected every two years, thereby requiring an election in the State of Alabama for certain officers every two years. Now, the report which we bring in provides for an election every four years. It provides that the Probate Judge, the Circuit Judges, and the Chancellors shall be elected every four years and a given number of the Supreme Court Judges shall be elected every four years to hold for eight years; that is, at the first election in 1904, the Supreme Court Judges will be elected for six years, and all of the judiciary will be elected for six years in 1904. Then in 1910 all of the elec-

tions will come together in the State. Then it provides that these Circuit Judges, Chancellors, and Probate Judges, shall be elected the next four years for four years, the Supreme Court Judges shall be elected for four years, and they shall cast lots as to which shall take the four year terms and which shall take the eight year terms, and after that, each four years, a Supreme Court Judge is to be elected under this report, thereby having only an election only every four years for any kind of an officer in the State of Alabama.

Now we think that it is not a good policy to elect probate judges for eight years. We think that that would not suit the people of this country to elect a probate judge for that long. We think that it is better to elect the probate judge and circuit judge and chancellor for four years than to elect them for eight years. Why? If you get an incompetent probate or circuit judge or incompetent chancellor, you can dispose of him after the four years under the four year plan, but if you elect him for eight years, you have got to keep him eight years. If you elect him for four years and he turns out to be a good judge or chancellor, competent and qualified for the position, he will be re-elected at the next election. We believe this will better suit the country than to elect the chancellor, circuit judges and probate judges every eight years. Under the plan of the minority, you would have a democratic Convention and other Conventions, too, perhaps, for the nomination of these officers. That is something which the people of this country are tired of. It is as much worry and as much trouble to nominate and be troubled with the nominations of these officers as it is to have their election; while under the plan of the majority, you will have to nominate these Supreme Court Judges every two years, and under Section 17 of this Article and in voting upon Section 16 you are bound to consider Section 17. The people do not want to be troubled with these nominations except every four years. They are tired of it. As I said, it is as much trouble to them to nominate as it is to elect.

Replying to the gentleman who spoke for the majority report, he says that the election for Supreme Court Judges has been fixed to occur at the Federal election, and it would not be much additional expense. They have also a provision that it may be changed by the legislature and put at any other time. They fix also the election of probate judges at the same time they do the election of Federal officers. They fix the election of circuit court judges and chancellors at the same time they do these Federal officers. Suppose the legislature meets and says we are not satisfied with this, it doesn't work well to have it at the same time as the Federal election, we want to change this, and elect at a different time because it doesn't work well to have the Federal and State election at the same time, which I think will be the case.

Suppose they decide that and change these elections and have them at a different time of the year then what do you have. We have an election every two years in the State of Alabama and you cannot get around it because two of these Supreme Court Judges are elected every two years and you will have an extra election every four years instead of every six or eight years as argued by the gentleman from Clarke and so whenever we adopt the report of the majority we establish biennial elections in this State. We are bound to have it if we adopt the majority report. I would prefer the report of the other minority committee to the report of the majority. We provide for the election every four years. We fix the term of the offices and Probate Judges four years, Chancellors four years. Do you think that that would suit the people to elect Circuit Judges and Chancellor for eight years and Probate Judge for eight years and let them succeed themselves and hold for sixteen years, or what is a better argument, if you get an incompetent officer you have got to hold on to him for eight years. Oh, well, you may say that applies to the Supreme Court Judges. That is so. It would apply to the Supreme Court Judges, but you would not be apt to elect five incompetent Supreme Court Judges and there is the difference. This minority committee is not alone in its ideas as to the election of the Circuit Judges and Chancellors every four years. In Arkansas I see they elect their Circuit Judges every four years, North Dakota every four years, Iowa every four years, they elect them in Kansas every four years, in Georgia every four years, in Montana they elect them every four years, Nebraska every four years, New Mexico every four years, Texas every four years and in Washington and so on. Now when you come to the election of Supreme Court Judges——?

MR. OATES—In Mississippi?

MR. DUKE—Yes, Mississippi, too. Now when you come to the Supreme Court Judges of the State a vast majority of the States elect Supreme Court Judges for more than six years. There are a very few States of the Union but what elect their Supreme Court Judges for a longer period than six years. Arkansas elects them for eight years, Connecticut for eight, Delaware for good behavior, Florida has it six years, North Dakota six years, Iowa six years, Kentucky eight years, Maryland fifteen years, Mississippi nine years, Michigan ten years and so on down through all the States. They make a distinction between the term of office of the Supreme Court Judge and the Judges of the lower courts. In nearly all of these States you will find the distinction is made and in nearly all of them the Supreme Court Judges hold nearly twice as long as Circuit Judges and District Judges do. Some are not without precedent in our opinion in our report. Now I am not specially wedded to that, I am unalterably opposed to the report of the majority committee yes, your plan. I do not think that would

do at all. I much prefer the report of the other minority committee, but I think that this report giving the minor Judges, the inferior Judges, four years and the Supreme Court Judges eight years, is more consistent, and I think it will meet the wishes and desires of the people better, and above all gentlemen, we will have elections every four years and not oftener and under the majority plan we will have elections oftener than four years and the people of this State expect us to adopt a plan whereby they will not be worried with nominating conventions and elections every two years, and it has already popularized this Constitution in the fact that we have already adopted the four-year plan in the Executive and Legislative Departments.

MR. WALKER—I simply desire to say enough to make plain to the Convention the different propositions that are presented here by the majority and by the two minority reports. Under Section 16 as reported by the majority the terms of the Judges in this State for the Supreme Court, Circuit Court, Chancery Court and Probate Court are left just where they are now, six year terms. There are two minority reports upon this subject, the one signed by Mr. NeSmith and the gentleman from Chambers who has just taken his seat, provides for eight year terms for Supreme Court Judges and four year terms for all other Judges in the State. The other minority report signed by the gentleman from Montgomery, Mr. Watts, and other gentleman provide for eight year terms for Supreme Court Judges, Circuit Judges and Chancellors and for four year terms for Judges of Probate, and under both of those minority reports you will observe that the change that is proposed to be effected is not to be put into operation until 1910. Practically the present generation would not get the benefit of this reform and the only reason that has been suggested for this change from the custom which has prevailed for seventy years in this State, of having six years terms for the Judges is to obviate the possibility of additional elections at any time in the future. Well now as has been called to your attention by the gentleman from Clarke, the number of additional elections that would be involved in the course of the next forty years would be very small. Under the majority plan the terms of Judges is left just where it is at present and where it has been for seventy years. With the length of that term I have heard no complaint among members of the bar and among the people at large, and I submit that the only objection that has been made to this majority plan, viz: that of occasionally an additional election and very occasionally, is not sufficient to warrant a departure from the practice as it has prevailed in this State for so many years without complaint, so I understood. Now, in the subsequent section providing for an election of Judges for the Supreme Court, it is provided that as near as may be one-third of them shall be elected every two years at the same time that members of Congress are elected, unless the time of election is

changed by the Legislature. It does not occur to me that much additional trouble or much additional expense would be involved by that arrangement. We cannot get out of the fact that there will be every two years in this State as long as we are a part of the Union an election every two years. I doubt very much whether the people would be more satisfied with the Judges elected in the year in which the political offices in the State are filled than with the Judges elected in the off years. And I venture to say just as good Judges if not better would be elected in years in which they were not tangled up in politics. Now the three propositions before you and the majority report, keeping the terms of the Judges as they have been for seventy years past, one minority report providing for eight year terms for all judges in the State except probate judges. Another minority report providing for eight year terms for Judges of the Supreme Court and four year terms for all other judges of the State. I do not desire to do any more than state the propositions that are before you.

MR. DUKE—Will the gentleman allow just one question.

MR. WALKER—Yes, sir.

MR. DUKE—I want to ask if under your plan the State would not be bound to hold an election every two years for judges?

MR. WALKER—For the Judges of the Supreme Court?

MR. DUKE—Yes, sir.

MR. WALKER—Every two years.

MR. DUKE—Yes, sir.

MR. WALKER—It would be bound to hold an election every two years because of its relation to the Federal Union; it would not involve an additional election at all.

MR. DUKE—Now, another question. You state in your report that the legislature may change the time of electing the Supreme Court Judges?

MR. WALKER—Yes, sir.

MR. DUKE—Suppose they find that that does not go well and they do change the time then wouldn't you have an extra election every two years, wouldn't you have State elections every two years if you changed the time.

MR. WALKER—No, even under that there would be an additional election only once every four years.

MR. DUKE—But wouldn't you have a State election for State officers every two years if they change the time?

MR. WALKER—Still without an additional election for judges only once every four years—

MR. DUKE—And that would make an election every two years wouldn't it?

MR. WALKER—Yes, that is true. Now, Mr. President, I believe this matter has been discussed as far as the members care to discuss it and I move the previous questions on the amendments and sections.

THE PRESIDENT—The question is on the minority report signed by Messrs. NeSmith, Duke and Fitts.

Upon a vote being taken a division was called for, and by a vote of 26 ayes and 34 noes the amendment was lost.

THE PRESIDENT—The question recurs upon the amendment proposed by Messrs. Watts, Leigh, Graham and others, fixing the terms of all the judges except the probate judges eight years, leaving the probate judges four years.

Upon a vote being taken a division was called for and by a vote of 30 ayes and 46 noes the amendment was lost.

THE PRESIDENT—The question recurs upon the adoption of the section reported by the Committee.

Upon a vote being taken the section was adopted.

The Secretary read Section 17 as follows:

Sec. 17. 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, until the General Assembly shall by law change the time of holding such election. The term of office of the Chief Justice who shall be elected in the year 1904 shall be as provided in the last preceding section. The successors of two of the Associate Justices elected in 1904, shall be elected in the year 1906, and the successors of the other two Associate Jutices elected in 1904 shall be elected in the year 1908. The 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 and 1908, and until their respective successors are elected or appointed and qualified. The result of such determination shall be certified to the Governor, by such Associate Justices, or a majority of them, prior to the first day of January, 1905, and such certificate shall be entered upon the minutes of the Court. In the event of the failure of said 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. In the event of an increase or reduction by law of the number of Associate Justices of the Supreme Court, the General Assembly shall, as nearly as may be, provide

for the election each second year, of one-third of the members of said Court.

MR. WATTS—I am authorized by Mr. NeSmith to withdraw his minority report and I ask unanimous leave of the Convention to withdraw mine.

Unanimous consent was given and both minority reports were withdrawn.

MR. SANFORD (Montgomery)—I offer an amendment to Section 17.

The amendment was read as follows:

Amend Section 17 by striking out the second line of said section and a part of the third line to the words "Congress of the United States," and inserting the words "On the first Tuesday of May in the year in which the terms of such Justices shall expire."

MR. SANFORD (Montgomery)—I make that motion, Mr. President, and I hope that it will be considered by this Convention, and that it will not act upon it as they did upon the very wise suggestion of my eminent colleague from Montgomery, or of the proposition of the distinguished delegate from Hale, by laying it on the table. It seems to me, Mr. President, that the course of this Convention in moving to lay on the table and calling the previous question has been somewhat overworked. You are doing great injustice to the men who advocate the Constitution. Men who object to particular provisions reported by the Committee make an argument against it and then at the suggestion of some Committeeman or person with whom they have lobbied, they lay it on the table. The argument against it has not been answered, and the result is it goes before the people with a strong argument against adopting that particular Section of the Constitution which has been adopted by the Convention without having answered the men who objected to it and it is a great injury to the men who advocate the Constitution. Now this thing of calling the previous question, laying it on the table has become a matter of jeers, and sneers and laughter and ridicule of the Convention by the people. (Laughter.) So much so, that when you ask a little boy who beat in a game of base ball, they say "We laid him on the table." It is a matter of laughter and ridicule among the people of the community and of the State. These things should be answered. Over in Mississippi when they could not answer an argument they laid it on the table, and finally they were known as the "peanut politicians." We have no such men here, I trust. Now, the reason I offer this (the arguments of my friend from Montgomery and from Hale were not answered at all), in 1852 and before that, for the purpose of keeping the election of the judges free from political contests they elected the judges in May and the other officers of

the government in August and this system prevailed as late as 1861. It occurs to me if you do not take the two amendments offered by the gentlemen, the next best thing is to make the elections at different times so that politicians cannot trade off a judge for a clerkship in a Department, or trade off a Chief Justice or other Justice of the Supreme Court for some other little appointment about the Capital. I think, gentlemen, that you should adopt that amendment. It is proper and becoming. You did not provide for them selected by the appointment of the Governor and confirmed by the Senate or elected by the Legislature of the State. The next best thing is to separate the elections so that at distinct times they shall be chosen. Then there would be no such thing as swapping of votes, no bargaining, and no corruption. I hope you will adopt this suggestion so that we may have two distinct elections. Your judgment in your choice of them would be as pure as they have been pure hitherto in their conduct. Let us, my friends, adopt this amendment.

MR. PETTUS—I want to say that this brings about an election that the people of the State do not want, and I move to lay this amendment on the table.

Upon a vote being taken the amendment was tabled.

MR. PETTUS—I offer an amendment.

The Secretary read the amendment as follows:

Amend Section 17 by striking out the words beginning "The Associate Justice" in line eight, down to and including the words "such determination," in line four.

MR. PETTUS—The effect of the amendment is to strike out the part of the section which is to determine what judge shall hold the long term by lottery, and leaves it to the Governor to make the selection, just as is provided in the section, if judges do not take advantage of the lottery scheme. It seems to me that is better and wiser than the report of the Committee, and, in the language of the distinguished gentleman from Montgomery, I will say that I hope the Convention will not lay the amendment on the table.

MR. deGRAFFENRIED—The two gentlemen from Montgomery and myself need company, and I move that this amendment be also laid upon the table. (Laughter).

Upon a vote being taken, the amendment was tabled.

THE PRESIDENT—The question recurs upon the section as orginally reported by the Committee.

Upon a vote being taken the section was adopted.

The Secretary read Section 18 as follows:

Section 18. All judicial officers within their respective jurisdiction shall, by virtue of their offices, be conservators of the peace.

MR. SMITH (Mobile)—I move the adoption of Section 18.

Upon a vote being taken, the section was adopted.

The Secretary read Section 19 as follows:

Section 19. Vacancies in the office of any judges who hold office by election, 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 occurs, and until his successor is elected and qualified; the successor chosen at such election shall hold office for the unexpired term, and until his successor is elected and qualified.

MR. SMITH—I move the adoption of the section as reported.

Upon a vote being taken, the section was adopted.

MR. GRAHAM (Talladega)—I rise to a point of parliamentary inquiry in regard to the report of the Committee. In the third line it reads "hold his office until the next general election." Do I understand that that requires a special election shall be held?

MR. SMITH (Mobile)—No, sir; if the man is appointed, he holds office at least six months and until the next election; if the election comes before the six month, it would lap over until next election. If it comes after the six months, he will be elected at the first election.

MR. GRAHAM—I just wanted to know if it required a special election.

Section 20 was read by the Secretary as follows:

Section 20. Whenever any new circuit or chancery division is created, the judge or chancellor therefor shall be elected at the next election for representatives to the General Assembly for a term to expire at the next general election for Judges and Chancellors; provided, that if said new circuit or chancery division is created more than six months before the next election of Representatives to the General Assembly, the Governor shall appoint some one as Judge or Chancellor, as the case may be, to hold the office until such election.

MR. SMITH (Mobile)—I move that the section be adopted.

Upon a vote being taken, the section was adopted.

The Secretary read Section 21 as follows:

Section 21. If in any case, civil or criminal, pending in any Circuit Court, Chancery Court or in any court having the juris-

diction of a Circuit and Chancery Court, or either of them, in this State, the presiding judge or chancellor shall, for any legal cause, be incompetent to try, hear or render judgment in such case, the parties, or their attorneys of record, if it be a civil case, or the solicitor or 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 law, to act as a special judge or chancellor to sit as a court, and to hear, decide and render judgment in the same manner and to the same effect as a chancellor or as a judge of the Circuit Court, or of a court having the jurisdiction of a Circuit and Chancery Court, or either, sitting as a court might do in such case. If the case be a civil one, and the parties or their attorneys of record do not agree; or if it be a criminal one and the prosecuting officer and the defendant or defendants do not agree upon a special judge or chancellor, or if either party in a civil cause is not represented in court, the Register in Chancery or the clerk of such Circuit or other court in which said cause is pending, shall appoint a special judge or chancellor, who shall preside, try and render judgment as in this section provided. The General Assembly may prescribe other methods for supplying special judges in such cases.

MR. SMITH—I move that the section be adopted.

Upon a vote being taken, the section was adopted.

The Secretary read Section 22 as follows:

Section 22. The General Assembly shall have power to provide for the holding of chancery and circuit courts, and for the holding of courts having the jurisdiction of circuit and chancery courts, or either of them, when the chancellors or judges thereof fail to attend regular terms.

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

A vote being taken, the section was adopted.

The Secretary read Section 23 as follows:

Section 23. No judge of any court of record in this State shall practice law in any of the courts of this State, or of the United States.

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

A vote being taken the section was adopted.

The Secretary read Section 24 as follows:

Section 24. Registers in chancery shall be appointed by the chancellors of the respective divisions, and shall have been at least twelve months before their appointment, and shall be at the time of their appointment and during their continuance in office, resi-

dent citizens of the district for which they are appointed. They shall hold office for the term for which the chancellor making such appointment was elected or appointed. Such registers shall receive as compensation for their services only such fees and commissions as may be specifically prescribed by law, which fees shall be uniform throughout the State.

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

A vote being taken the section was adopted.

The Secretary read Section 25 as follows:

Section 25. The Clerk of the Supreme Court shall be appointed by the judges thereof, and shall hold office for the term of six years, and the clerks of such inferior courts as may be established by law shall be elected in such manner as the General Assembly may provide.

MR. SMITH (Mobile)—Before that is adopted I wish to ask unanimous consent to change the word "elected" in the third line and insert the word "selected." I think that was as originally intended, but there has been a mistake in the printing.

The unanimous consent was accorded.

The Secretary read the minority report signed by Messrs. Walker, Hood, Davis, Fitts, Jones, Asheraft, Leigh, Coleman and Kirk as follows:

Section 25. The Clerk of the Supreme Court shall be elected by the qualified electors of the State for a term of six years. Any vacancy in the office of such Clerk shall be filled by appointment by the Justices of the Supreme Court for the unexpired term. Said Clerk shall not, after the expiration of the term of the Clerk now in office receive to his use any fees, costs, perquisites of office or compensation other than a salary to be prescribed by law, which shall not be diminished during his official term.

MR. SANFORD (Montgomery)—I offer an amendment.

THE PRESIDENT—The Chair has recognized the gentleman from DeKalb, Mr. Davis.

MR. SANFORD (Montgomery)—I want to offer this substitute and make a statement to the Convention in regard to a subject upon which I am better informed than any man in it.

THE PRESIDENT—Does the gentleman from DeKalb yield to the gentleman from Montgomery?

MR. DAVIS—I decline to yield. Mr. President, representing the minority report in this matter it seems to me that the minority is right. From the best information I can get, and I have taken

the pains to investigate the matter, the office of the Clerk of the Supreme Court I dare say is the best office in the State. I think any office that is sufficiently attractive and of sufficient importance to induce a good man to run for it, a competent man to seek it, that office ought to be elective. It may be argued this office ought to be filled by appointment of the Judges of the Supreme Court, because it is an office peculiarly connected with that court, but why should that be? It seems to me that the people are competent to Associate Justices, why not the competent to elect the Chief Justice and the Associate Justice, why not be competent to elect the Clerk to that court? I can see no reason why that should not be true. Now in point of lucrativeness, my information is that this office pays more than any other office in the State, that is, any State office. It pays more than the Governor's office, and more than is paid to the Supreme Court Judges. Why not put him on a salary. Why should the Clerk to this court receive more money than any Judge of the court? These are my reasons for favoring this minority report. I think it is right that we should elect to this office, and I ask this Convention to consider it in that light. There are a number of members to this Convention that take the opposite view from that. Another thing in this report is that it should be put upon a salary. Why not do that? It seems to me that a salary to be fixed by the Legislature would be proper for this officer. I do not see why he should have a greater salary than the Judges. Why not put him upon a salary and let the perquisites, the fees, go into the State treasury, or relieve the litigants of it?

MR. SANFORD (Montgomery)—I wish to offer a substitute for Section 25.

The Clerk read the substitute as follows:

"The Clerk of the Supreme Court shall be appointed by the Judges thereof, and shall hold the office for the term of six years, unless sooner removed by the said court, and the clerks of such inferior courts as may be established by law shall be appointed by the Judges thereof and shall hold office during the terms of the Judge making the appointment."

THE PRESIDENT—Does the gentleman from Montgomery offer his substitute to the majority and minority reports?

MR. SANFORD (Montgomery)—To both. Mr. President, I made a remark just now which sometimes will occur from a slip of the tongue. I did not intend to say to this Convention that I knew more about the Supreme Court clerkship than anyone present, but perhaps it was the truth (laughter), for it so happened that by the courtesy and kindness of the Supreme Court I was tendered that office and held it for nearly twelve years and then resigned. During that time I know it was one of great labor, one of responsibility and requiring great fidelity in the discharge of its

duties. Great wrongs may be done by the appointment and the holding of that office by men not qualified to hold the place. It was that purpose which inspired the minority report that the income of the office is very large ranging from five thousand to eight and eleven thousand dollars per annum. All of that is an error. I suppose from what I have been informed that the income now would average about thirty-five hundred dollars. It requires all of the time of the Clerk of the court. His relations to the Supreme Court are so intimate he has often such confidential relations with the court that he ought to be selected by the Judges, as they alone control him absolutely. If he should be inefficient, or if he should be guilty of any offense which may not lead to an impeachment but still may cause his removal, or if he has vicious habits, he is responsible alone to them. Therefore I hope that this amendment, so far as the Clerk of the Supreme Court is concerned, will be adopted. It has stood that way ever since Alabama had a Supreme Court, and for fifty years almost that I have known the court, I have never known but one Clerk that was requested to retire from that position. They all seem to have given satisfaction to the gentlemen who appointed them, and therefore I can see no reason for having him elected by the people. When you cannot give a good reason for a thing, that is the very best reason in the world for your not doing that thing. There is no reason for changing the manner in which the Clerk of the Supreme Court is selected. So far as the inferior courts are regarded, the Clerks hold the same relation to the Judges that preside over them. I have rarely known or even heard of a Clerk of an inferior court being guilty of an act which required his removal, but if he were, the Judge has the power to do it, as the Chancellor has to remove the Register, and has the Supreme Court to remove the Clerk, and therefore I offer that substitute so that these Clerks shall be entirely under the control of the Judges or tribunals that appoint them. Elect the Supreme Clerk by the people and you cannot get rid of him except by a process of impeachment, and that would be by a long and tedious and expensive process.

MR. HEFLIN (Chambers)—Will the gentleman permit a question? Your amendment does not apply to Circuit Court Judges appointing Circuit Court Clerks?

MR. SANFORD (Montgomery)—No, because they are elected by the people.

MR. deGRAFFENREID—Some of us want to know the difference between your amendment and the majority report, and want you to explain it.

MR. SANFORD (Montgomery)—It is the latter part of the majority report. It says that clerks of inferior courts may be "elected." I wish to allow them to be appointed by the Judges in whose court they serve.

MR. SAMFORD (Pike)—May I interrupt the gentleman a moment. I desire to call your attention to the fact that the Chairman of the Committee asked unanimous consent to have the word "elected" changed to "selected"—as was intended.

MR. SANFORD (Montgomery)—The only point is that the selection may be by election. It dose not necessarily mean an appointment. A selection is simply the choice.

MR. WATTS—Your amendment simply adopts the law as it is in the Constitution of 1875?

MR. SANFORD (Montgomery)—As it is now, that is it, yes.

MR. WATTS—Your amendment is simply the Section as in the Constitution of 1875?

MR. SANFORD (Montgomery)—That is what it is, the same thing that we now live under.

MR. WALKER—The minority report contains two propositions.

MR. SANFORD (Montgomery)—I want to make a further statement with regard to the emoluments of that office. They are not so large as gentlemen have heard. When I was appointed to it twenty years ago they told me it was worth two or three times the amount which I realized. I simply want to make that statement.

MR. WALKER—I have heard general statements about that matter, and never heard a statement that did not make it greater than the salary of the Chief Executive of the State or the Chief Justice of that Court. As I was proceeding to say the minority report contains two propositions. One is that the clerk of the Supreme Court shall be elected as the other State officers are elected, by the people. The other is that the rule which prevailed in the Constitution as to the other State officers should also prevail as to the Supreme Court. Now I call your attention to the fact that in the Constitution of 1875 it was provided that the State Auditor, State Treasurer, Secretary of State—who prior to that time had received fees—shall not after the expiration of the term of those now in office receive to their use any fees, costs, perquisites of office, other than their salaries as prescribed by law. That provision in the Constitution of 1875 in reference to the other State officers is embodied in this minority report. Now is there any reason in the world why the Clerk of the Supreme Court should, in reference to his compensation, occupy a different and a higher plane than any other officer who is established here in the Capitol, and is there any reason why that officer should receive higher compensation than paid to any other officer domiciled in this building.

MR. REESE—Is there any clerk in the State who received a salary—Judiciary Clerk in the State who received a salary?

MR. WALKER—I see, the gentleman has been coached. I don't know whether or not, but if proper to be put on salary, they ought to be.

MR. BOONE—I rise to a point of order. I do not think it is parliamentary for the gentleman to refer to another gentleman on this floor as being coached, without he has the proof.

MR. WALKER—I withdraw the remark. I have heard the remark made so frequently that——

MR. REESE—I desire to say that not a human being on the face of the earth suggested the question to me. It occurred to me out of my own mind.

MR. WALKER—I regret that any such statement escaped me. The proposition before the Convention is whether or not this Convention will make a discrimination of this kind unless there is some reason for such discrimination.

MR. SANFORD (Montgomery)—Will the gentleman allow me to make a suggestion? The reason is that, that the Clerk of the Supreme Court has to employ men to copy the opinions, and aid him in the transaction of his business. The present clerk has one or two men aiding him, for which he pays himself. He does not call upon the State for his clerical force, and nobody pays the fees of the clerk except those who employ his services, and the fees have been reduced in the last ten years.

MR. WALKER—I have no doubt that same statement could be made in reference to those officers covered by this provision in 1875. Still, there is no reason why this officer should, as a matter of fact, under the system that now prevails, receive a compensation in excess of any other official in the Capitol. Now, this provision is so arranged, as was the provision in the Constitution of 1875, as not to effect the interest of the incumbent, and I am glad that that would be the case, because I and everybody else who have occasion to come in contact with him, realize that the gentleman who now holds the office holds it to the entire satisfaction of the bar and people of the State, and I would not make a change so far as the present incumbency is concerned. It is not a personal question. There can be no possible objection to the gentleman who now holds that office, but I submit that the fee system, as applied to offices, is one that should be abolished as far as this Convention can do so. It is a course of procedure that is followed in different States and in the United States. For many years, the clerk of the Supreme Court was compensated by fees, but it proved that it largely exceeded the compensation of the judges of that court. The result was that the Congress of the United States did

the proper thing by putting it upon a salary. I can see no possible reason for preserving and maintaining this kind of a provision in the Constitution.

MR. COBB—It is a matter of surprise to me that any lawyer familiar with the business of our Supreme Court, and more particularly so eminent a gentleman as the one who has just addressed you, should hesitate for one moment to recognize the fact that this is not an officer who should be elected by the people. There is no use for us to run wild on the question of election by the people—that is a proper system, one that ought to prevail, wherever it pertains to an officer dealing directly with the people, having the people's business directly in his hands, and with whom he is brought directly in contact. Such is not the condition, and not the position of the clerk of the Supreme Court. He has nothing to do as such. Of course, he transacts their business, but his business is directly with the lawyers and the court, and he has very little to do with anybody else. Not only that, gentlemen, but his relations to the judges of the Supreme Court are very peculiar and intimate.

MR. HOOD—What objection have you to putting the clerk of the Supreme Court on a salary?

MR. COBB—I have not got to that yet. As I was about to say, his relations with the judges of the Supreme Court is peculiar and confidential. We all know the great importance of secrecy on the part of the Supreme Judges in conducting their business. It would not do for the consultation room of the Supreme Court to leak. We do not want to know, and no man has a right to know, what is going on there until these eminent officers give out the result of their deliberations and labors. Great hard would come from it if that were the case. Now, the relation of the clerk to these men is an intimate one; he knows what it going on in the consultation room necessarily. They have to deal directly with him; he is the keeper of the records of all matters that come before the judges; they pass through the hands of the clerk, and he occupies this peculiarly confidential relation which makes it highly important that he should be a man peculiarly fitted for that position. Now, gentlemen, a political convention cannot determine these things; a political party cannot determine these things, and the people cannot well determine them. The Judges of the Supreme Court, knowing the importance of the manner in which that work should be conducted, alone know about these peculiar qualifications which fit a man for this confidential relation with them. They want a man that they can trust implicitly as they trust themselves, and there is no reason, as has been pointed out so forcibly by the gentleman from Montgomery, why we should change a system which has worked so well for so long. There is no better way presented, and unless you have a better way, let us keep to the old way, that

having been so satisfactory, and given such satisfactory results. So much, gentlemen, as to the manner in which the Supreme Court clerk should be elected. Now, so far as his being put upon a salary is concerned, you have had enough already presented. General Sanford has told you a pre-eminent reason why it should not be done. In the first place, he is on the same sort of pay that the other clerks are throughout the State and in the next place the Supreme Court Clerk must of necessity have assistance, he cannot do the work himself.

MR. SANFORD (Montgomery)—And his services do not cost the State a cent.

MR. COBB—And his services cost the State nothing. It comes out of the litigants, and he is compelled to have assistance, just how much he cannot tell.

MR. GRAHAM (Talladega)—I wish to ask the gentleman if he does not think that the fee system is excessive in the Supreme Court and against the people who have to pay these bills. I understood him to say a while ago that the people have nothing to do with it. I want to know if they do not have to pay the fees, and pretty high fees at that.

MR. COBB—It is true. I did not mean to say he had nothing to do with the people. The proposition is entirely correct. He has to transact the business of the people, that is a fact, and is paid by the parties litigant. Now, if his fees are too high, reduce them, let the legislature reduce them. I don't know whether they are too high or not. If they are too high, go before the legislature and say to that body that there is too much coming out of the pockets of the people and get the legislature to give a proper scale of fees. That is where your remedy is.

MR. SAMFORD (Pike)—If they do not do it, and he is paid a salary, the litigants do not get the benefit.

MR. COBB—And as suggested, if you put him upon a salary, why the fee system is to be maintained, these fees are to go into the public treasury.

MR. GRAHAM (Talladega)—Would it not be much easier to get the legislature to reduce the fee system if there was not a man behind the fees than it would if the man was on a salary?

MR. COBB—That brings up the old, old story. Still "harping on my daughter" and that is, that some man can go before one hundred and thirty-five legislators of Alabama and control them by his will. I don't believe it.

MR. BOONE—Isn't it a fact that the bill of costs in the Supreme Court now average only about $18.50, and $6 of that goes to support the State Library?

MR. COBB—That is true. When I say go before the legislature and reduce these fees I don't want to be understood as saying they are too high. The Supreme Court Clerk from the estimate that my friends suggest received not more than $10 or $12 on an average in each case.

MR. REESE—I will ask the gentleman if he thinks it would be right to public policy and the State of Alabama to pay these officers a salary, and then use the courts as a source of revenue in collecting these same fees. They ought not to collect more fees than it costs to administer justice.

MR. COBB—The gentleman is putting before you my idea better than I could do it myself. I don't think that would be wise, but I have not got through with this proposition. It is an absolute imperative necessity that the Clerk of the Supreme Court should have assistance, how much he cannot tell exactly. Put him upon a salary and you must of necessity put two or three other officers on salary to aid him in the conduct of his business.

MR. WATTS—Isn't it a fact that the legislature of two years ago, or at its last session, reduced the fees of this office?

MR. COBB—I believe they did. I believe you can depend upon the legislature of the State of Alabama to make a proper scale of fees whenever you fairly present to that body the matter of too much fees, I think you can, and if you do not they are misrepresenting the people and ought to be rebuked by their master—that is all about it. There is the reason why putting him upon a salary is not wise. You have got to increase the salaried officers of the State or you have got to give to these assistants of the clerk the fees which he now gets. You will find that you will not reduce the expenses of the State one iota. It cannot be too often repeated that the State of Alabama does not pay it. It is true it comes out of the pockets of the people, and I for one believe that no higher scale should exist in any of these offices than will give a fair reasonable compensation for the services rendered. I am not niggardly about these things.

MR. BAREFIELD—I would like to ask if the fees of probate judges and circuit clerks do not come out of the pockets of the people?

MR. COBB—Certainly, out of litigants, just as the Supreme Court Clerk, but they are quite different offices. As said here today about the probate judge, the most intimate connection exists between him and the people in the county. Different classes of officers have different duties to be performed. With reference to judge of probate, everything is open to the public, everybody knows what is being done, and have the right to know. It is not so here, and this cry about high salaries—why, gentlemen, it makes me sick. The "laborer is worthy of his hire" everywhere and on all

occasions, and I want to see the day come in Alabama when we will wake up to the fact that we ought to do justice to our officials. Do you know, gentlemen, that the most important department of government of the State of Alabama is the judicial, and do you know that the judicial officers in the State of Alabama are paid more meagerly than any other officer under the government, but the cry is always raised by somebody of too high salaries. It reminds me of an incident I once heard. This question was up in the legislature years ago before the war, and the cry was to reduce the salary of the Governor, and they were contending that you could get men to be Governor for little or nothing. One prominent old farmer got up and said: "Gentlemen, yes, let us reduce the salary of the Governor, my overseer will take it for $1,000 and he thinks he is as competent as any man in the State of Alabama. (Applause). Inasmuch as I believe that the majority is about correct in this matter, I move to table the amendments and the minority reports.

MR. GRAHAM (Talladega)—I move for a division of the question.

THE PRESIDENT PRO TEM—The question will be on the motion to table the substitute of the gentleman from Montgomery to the minority report.

MR. WATTS—I call for the ayes and noes on that question.

The call was not sustained.

The motion to table prevailed by a vote of 46 ayes and 12 noes on a division.

THE PRESIDENT PRO TEM—The question recurs upon the motion to table the minority report.

MR. GRAHAM (Talladega)—I ask, if possible, to have a division of that question. It says in substance that the clerk shall be elected by the people, and a salary paid him. I ask for a division of that question as to salary and election by the people.

MR. HEFLIN (Chambers)—I raise the point of order that it it not susceptible of division.

MR. ROGERS (Sumter)—Replying to the gentleman from Talladega, who asked for a division of the question, I beg to say that I have an amendment to offer when you have taken up the minority report that will meet the suggestion of the gentleman from Talladega.

MR. HEFLIN (Chambers)—I raise the point of order that a motion to table is not debatable.

THE PRESIDENT PRO TEM—It is the Chair's opinion that the question is not susceptible of division. The motion, therefore, is to table the minority report.

Upon a vote being taken, a division was called for, and, by a vote of 53 ayes and 11 noes, the motion to table prevailed.

MR. HOOD—I make the point of order that no quorum voted.

A DELEGATE—Too late.

MR. ROGERS (Sumter)—I desire to offer an amendment to Section 25.

MR. OATES—I rise to a question of order. I voted to table that proposition, but the point made by the delegate from Etowah does not come too late, that a quorum did not vote, and, with all due respect to point of order, was not made too late.

MR. ROGERS—You had recognized the gentleman from Sumter, who had offered an amendment.

THE PRESIDENT PRO TEM—The chair is not quite sure whether he had recognized the gentleman from Sumter or not. The Chair was of the opinion that he had recognized the gentleman from Sumter.

MR. HEFLIN (Chambers)—At that time I was asking for recognition myself, and, if my recollection serves me correctly, the Chair stated that he had recognized the gentleman from Sumter.

MR. OATES—Even though the Chair does recognize another gentleman, but before the Convention acts, and when it transacts no business, when a delegate makes the point that a quorum has not voted, the Chair is bound to take cognizance of it, because it is not a vote until a quorum has voted or is present.

PRESIDENT PRO TEM.—The chair does not wish to do injustice to any one, and, therefore, the motion will be put again.

MR. FERGUSON—I rise to a point of order. There was a quorum present.

THE PRESIDENT PRO TEM.—The Chair has not so ascertained.

MR. FERGUSON—The Chair must presume so in the absence of anything to the contrary.

THE PRESIDENT PRO TEM.—The Chair will not presume so in the absence of a vote that does not show a quorum.

MR. OATES—One of the greatest parliamentary battles ever fought on this continent was over that very question, whether, when there may have been a quorum present and did not vote,

it was a legal passage of the measure. It occupied many days in Congress, and never was overturned until Speaker Reed overturned it by deciding that he could count a quorum if present. So the vote itself, when short of a quorum will not be questioned if no point be made, but if the point be made, then the chair must either adopt Reed's rules and ascertain the presence of a quorum, or he may ascertain it by a call of the roll—a yea and nay vote, or a call of the roll, so as to ascertain if a quorum be present.

THE PRESIDENT PRO TEM.—The Chair agrees with the gentleman in part, but——

MR. FERGUSON—I move that the roll of the Convention be called for the purpose of ascertaining whether or not a quorum is present.

MR. BAREFIELD—I offer an amendment to let the clerk count those present. He can count them in two minutes.

MR. SMITH (Mobile)—If I understand the gentleman from Montgomery and the position he takes, unless a quorum is challenged by some gentleman and the Chair's attention called to it, the vote is valid and should be treated as a quorum. If it is challenged and the Chair's attention is called to it, then the vote must show a quorum. If it requires a challenge, then that challenge must be in proper time, and the gentleman's former position that the vote was void and that the Chair had not so declared at any time, is not well taken, and it goes back to the Chair's original ruling, that if he had recognized some one else to make a motion, then the question of no quorum was never raised.

THE PRESIDENT PRO TEM.—The Chair has decided to take the vote over again, in order that he may determine if a quorum be present.

MR. HOOD—I withdraw my point of order.

MR. ROGERS (Sumter)—I ask that the amendment be read.

The amendment was read as follows:

Amend Section 25 by adding at the end thereof, the following: "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 office or compensation, other than salary to be prescribed by law, which shall not be diminished during his official term."

MR. ROGERS—The difference that this makes in report of the majority and minority is this: That it leaves the selection of the Clerk to the Judges of the Supreme Court, but his salary is fixed by law. Now I can see why the Clerk should be selected by the officers under whom he has to serve. In the first place, be-

ing under them, and being selected by them, he would be more apt to give them better service than he would if he were independent of those judges, because he could very truthfully and rightfully say to them that you are not the judges of my action, and you must have me impeached if you want to get rid of me. On the other hand, if he is selected by these officers, they can turn him out whenever he is failing in any particular. There is another reason. The technical knowledge of the people of the State of Alabama at large, I do not believe is sufficient to permit them to discriminate between persons who might be candidates for this place. The people of the State of Alabama generally have not looked into this question of the clerkship of the Supreme Court, and the election of a man to that position would depend upon his popularity alone, or his astuteness as a politician rather than upon his fitness. So much then for the question of election. It has been stated that during an experience of over fifty years, there has been but one Clerk of that Court who was selected by the Court who failed to give entire satisfaction. It seems to me that argument is almost unanswerable. We have had more than one Governor in fifty years who failed by a great deal to give entire satisfaction to the people. So you see the judgment of the people is not always infallible in the selection of officers, indeed it is very fallible. This is not an argument against the election system generally. It is simply an argument against the election of this one particular person, whose dutes are ministerial and who owes his duty to the Judges of the Supreme Court.

Now in regard to the question of the fee system. We have established the Supreme Court of the State, and every officer of that court except this clerk is upon a salary. Why leave one member of that body operating under a different rule? Well, you say it is because it has always been the custom for clerks of inferior courts to receive fees, and therefore you should not take out this one particular person and discriminate against him. It is not a discrimination against him. Let us suppose for instance that the fees of the Clerk of the Supreme Court of the State of Alabama were less than one thousand dollars. Is there any man here that would say that the Clerk of that Court should receive only the fees? Why, no just person would be willing for a Clerk to serve for so little money. They would come here and advocate his receiving three thousand or perhaps thirty-five hundred dollars and rightly so. The pay of an officer should depend upon the Service he renders. Therefore the argument that we should not discriminate against the Clerk of the Supreme Court by putting him on a salary, falls on its own weight. There has been a great deal said about the size of the salary, whether it shall be greater or less. I submit this question, that the intense interest which the Clerk of the Supreme Court takes in this matter, and nobody blames him for that, to have this system remain as it is at present instead of

being changed, is answer enough to that proposition. I believe he gets five thousand or six thousand. I believe he gets it because he is unwilling to have his salary fixed. It is claimed he has to pay his assistants out of the salary he receives, but the very fact that he is so interested in keeping this system like it is, is positive proof to anybody of sense that he does get more than a just salary.

MR. GRAHAM (Talladega)—Have you been able to get any information as to just how much he does get?

MR. ROGERS (Sumter)—No, sir, and I haven't wanted it. The friends of the Clerk have approached me here, and they are friends of mine—and I would not think a man much of a friend who did not stick to me—that is perfectly legitimate, but then I do not permit any question of that sort, if I know it, to influence me. Of course, it influences everybody to a greater or lesser extent, but as a general proposition, I try to keep above personal influences If I had the management of this thing myself, and it was a matter of personal interest, perhaps I would be willing for it to go along as it is, but I want the Clerk of the Supreme Court put upon a salary. I want the fees of the Supreme Court reduced, reduced down to where it will not pay expenses, if possible, because we want to make the obtaining of justice in Alabama as cheap as possible. Suppose I am sued, and feel that I am unjustly sued, and I am brought before the court, and have to proceed up to the Supreme Court. It is unfair to have a large fee system fixed upon me and maybe I may lose by some technicality, and have to pay these fees. In the giving of justice, we ought to reduce all fees to the very lowest limit. I would be in favor of reducing the fee system down to the very minimum, and of putting all of these officers on salary, because, as I said before, the men who are brought into court are not brought there of their own free will, they are placed there by other people, and because they sometimes lose these cases, it is no reason why they should be mulcted.

MR. WEATHERLY—Haven't you just voted for Section 24, which provided for compensating Registrars in Chancery by fees?

MR. ROGERS—Yes, sir, I have done so.

MR. WEATHERLY—Why not pay them salaries?

MR. ROGERS—I have done so, and the reason I have is this: I do not know much about court system, but I expect there would be sixty-six of these Registers in Alabama, there are sixty-six counties, but anyhow I know that the compensation of these gentlemen taken upon the average would not more than pay them for their services. Now, if I could do so, and change the whole system, I would vote to change the whole system, but I am not going to refuse to take one right step in any direction, because I cannot go the whole course at once. This is a start. I want to go

that way; but I am not in favor of trying to do a month's journey in an hour. This is proceeding along the line I want to go, and simply because I cannot go all the way here, I am not going to refuse to take one step of that way. Now this is in line with the course of the Supreme Court of the United States. The Clerks of the Supreme Court of the United States is fixed upon a salary. It was for a long time six thousand dollars—a very large salary, they say—and I venture to say that the Clerk of the Supreme Court of the State of Alabama gets six thousand dollars, too. If you could ever find out he gets that much. I cannot argue these things because I haven't technical knowledge enough to do this, and I am trying to present a principle.

THE PRESIDENT PRO TEM.—The gentleman's time is up.

MR. MERRILL—Whenever we find in the State what might be a policy so considered, that policy should not be departed from unless there is good cause shown. Now, in the State of Alabama it has existed for years past, and so far as this Convention has gone it seeks to establish the policy of these ministerial officers receiving fees and not salaries. There is a Judge of Probate, on account of the ministerial part of his duties, who is placed upon fees. There are the clerks in the Circuit Courts, who hold their term for six years, they are placed upon fees. There is a Register in Chancery who receives fees, and then the Clerk we are now discussing is placed upon fees, and all the other inferior courts where the clerks are appointed or qualified, you will find that all of them, Mr. President, receive fees and not a salary. Therefore I say it is the policy of the State of Alabama to pay this character of officers fees and not put them upon a salary. Why should we depart from it in this instance. Why should it be changed from the old Constitution? Why should the clerk of the Supreme Court be placed upon a salary, when no other officer of like kind or character is paid that way. The trouble rises in the minds of some of the delegates because they believe that the clerk receives too much compensation for the service he renders. But th remedy is not to place him upon a salary, but to reduce the fees if they are too much. That is the way to reach it, and let the policy of the State be harmonious in regard to all officers. Now I myself have undertaken to ascertain by inquiry, but not by a thorough investigation, how this office pays, and I have only learned that it pays less than is the general belief of a good many delegates and of a good many of the people of Alabama. It makes no difference on this question, the view I take of it. If it be too much, reduce the fees and rates, and I am in favor of reducing the expenses of the litigants in the courts, not that the same fees should be collected, not that any part of it should go into the treasury, because I believe that is a departure from the policy of the State. I am in favor so far as I now know—and if I were in the Legis-

lature upon this question I would vote for a reduction of the fees, but I never would vote there or here to put an officer of that character upon a salary. What would follow? You would place the clerk upon a salary, and his subs in office would likewise be placed upon a salary. You could not pay them with fees if the clerk was not paid with fees, and the result would be that you would have three more salaried officers added to the officers in Alabama. Would the people of Alabama endorse that action? I think not. They are not desiring any law by which the treasury is to be called upon for the payment of the officers of the State of this character.

Now, Mr. President, I think the matter has been discussed pretty thoroughly, and I move to lay the amendment, or the substitute of the gentleman from Sumter, upon the table.

Mr. Ashcraft desires to be heard in that connection and I withdraw the motion with the understanding that he will renew it.

(There was objection.)

MR. SAMFORD (Pike)—I object. I raise the point of order that whenever a motion is made before this house it belongs to the house, and not to the gentleman who makes it.

MR. PETTUS—I rise to a point of order. Not until a motion is submitted to the house does it belong to the house. Until a motion has been submitted to the house by the Chair the gentleman has a right to withdraw it.

MR. SAMFORD—The chair has submitted the question to the house.

PRESIDENT PRO TEM.—The gentleman from Pike is mistaken. The chair had commenced to state the question, but had not stated it.

MR. SMITH (Mobile)—My recollection is I was out there smoking when the Chair announced it, and I broke and run to vote.

MR. ASHCRAFT—Mr. President and gentlemen of the Convention, I was in favor of the Clerk of the Supreme Court being elected by the people. I believe that if the people are capable of selecting the Chief Justices of this State by their suffrages that they are certainly capable of selecting the Clerk of the Supreme Court, but that question has been settled. I cannot conceive how any man can think that a merely clerical officer, charged with only ministerial duties, ought in common decency to be permitted to receive larger compensation from the people of this State than the Chief Justice of the Supreme Court, whom we are told it is his duty to serve. But we are told that the fee system has been established. True, it has, and, Mr. President and gentlemen of the Convention, you will understand that they never have wrested any

office from the fee system except after a great struggle. We are here today to make that struggle. We are here to make an effort for economy, and that is what the people want us to do. But they tell us we are not working for economy. I am informed that about 450 to 470 cases come to the Supreme Court annually. The friends of this measure say that the average cost does not come below $18.50 a case. If he collects fees for 400 cases it makes the fees of this office $7,400. Two thousand of that goes for a library, which leaves $5,400 for the Clerk. Suppose he has an assistant at $1,000, or gets $1,000 worth of assistance, that would leave him $4,400, just $800 more than the Chief Justice of Alabama receives. Such a state of affairs, I submit, is against the common conception of what is right, and this Convention ought not to act against what is usually conceded to be right.

MR. SANFORD (Montgomery) — Don't you know that in many cases where there are reversals he gets nothing, and don't you know that oftentimes when the cases are affirmed he gets nothing because they are insolvents?

MR. ASHCRAFT—It is very significant that notwithstanding that one of the hardest fights has been made here that has been made upon this floor, not one of the friends of this proposition brings us the figures here to show us what the truth is. If we are claiming they are too large they have got the records. Why don't they bring them here and show us what the figures are.

MR. SANFORD (Montgomery) — They didn't know the question was coming up.

MR. ASHCRAFT—Didn't know the question was coming up forsooth. Haven't they been fighting out yonder in the Committee night after night on this question? Hasn't the Clerk of this Court, (who is my friend, and I make no complaint against him for his activity) but hasn't he been busy upon this floor working upon this matter for weeks, and not a man brings a figure here to refute the proposition which we make, and it is even whispered that the average is much larger than his friends represent. If so, the fees are correspondingly high. But they say, why don't you pay the Clerks of the Circuit Court——

MR. BAREFIELD—Do you think that the Chief Justice of the Supreme Court of Alabama gets a large enough salary now.

MR. ASHCRAFT—I am not discussing it as to the justice of the salary of the Judges of the Supreme Court, but I do say that so long as the people of Alabama say that the very ablest lawyer that they select within the boundaries of the State shall serve as Chief Justice for $3,600 a year, they ought to say, and have the right to say that a man who is a mere ministerial officer ought to serve them for that much or less. They say, why don't you

advocate a salary system for the Registers, and Sheriffs, and Clerks of the Circuit Courts? That is not relevant to the issue, because the situation in the different counties—the varying conditions that exist, make it absolutely impossible, so far in our experience, to determine what would constitute a uniform and just rule; but today we have a just and proper ground upon which to base a uniform rule for the salary of the Clerk of the Supreme Court.

MR. MACDONALD—Can you state with any approximate accuracy how many cases are appealed to the Supreme Court every year, and is there any difference and uncertainty between the officer of the Supreme Court and that of a Registrar or Clerk or Sheriff, or any other officer of court, and how would you fix the fee or salary.

MR. ASHCRAFT—I dare say that if we put this proposition in here, the Legislature will fix the salary of the Clerk of the Supreme Court about like it fixes the salary of the Secretary of State or the Attorney General, or the Treasurer or Auditor or any other State officer. They receive fees but they go into the Treasury. It has been suggested that it would not be proper for us to collect fees and turn them into the Treasury. If we could find out the exact amount of fees that would cover the salary it might be proper to adjust it in that way, but there can be nothing improper in turning an excess of fees into the Treasury, besides, it doesn't take the fees from the litigants for other purposes, because the State already retains a judiciary by paying a salary, and the fees would be used in some sense to recompense the State for the salary it pays the Justices.

Mr. Jones (Hale) was recognized by the Chair.

MR. OATES—I hope the gentleman will suspend a moment. I wish to make a motion that will not consume any time. I move that the privileges of the floor of the Convention be tendered to the Hon. Lewis W. Turpin, who served with distinction for several terms in Congress.

The motion was unanimously adopted.

MR. ASHCRAFT — I was granted the floor on condition that I should yield it again to the gentleman to renew his motion to table, and I regret very much that I overlooked it and I request that he should have the floor.

Mr. Jones (Hale) was recognized by the Chair.

THE PRESIDENT PRO TEM.—The Chair has recognized the gentleman from Hale.

MR. JONES (Hale)—I have heard a great many silly arguments, but the silliest of all is that litigants are not people. Are

they not the people of Alabama? That is one argument, that litigants in Alabama in civil or criminal cases are not people. Why are they not people? And are they not interested in keeping down the fees as much as anybody else?

Then another argument has been used that the secrets between the Supreme Court and the clerk should be kept between themselves. Are we electing the Supreme Court Judges and the clerk to get up there and keep the Supreme Court secrets? What secrets have they between them? I would like to know, and the people of Alabama would like to know. I know of none. There are two arguments made against the election of the clerk by the people. How does it come that we elect the Supreme Court Judges, the Chancellors and all other officers, and yet we cannot afford to elect a clerical officer by the people? Why should we pay him in fees and emoluments three times as large as the Supreme Court Justice gets? It is an outrage, and I might say an injustice on the Supreme Court of Alabama to give the clerk three times as much

MR. SANFORD (Montgomery) — What is your authority for saying he gets three times as much as the Judge of the Supreme Court?

MR. JONES—My authority is Mr. Sterling Wood in Birmingham. I was a member of the Judiciary Committee and I was informed he received $9,000 a year while clerk.

MR SANFORD—I don't know what he got, but some of his fees, they said, were not proper.

MR. JONES—There may be lots of them that were not proper, but if you put them on a salary there will be no improper fees.

MR. GRAHAM (Talladega)—He got them whether they were improper or not.

MR. JONES—The idea is to cut down the fees of litigants in Alabama. And another thing is that we do not want any life time tenure of office. Under the plan adopted by the Judiciary Committee, where the majority holds over, when a Supreme Court clerk stands in with the majority of them (and don't you know the clerk stands in with them?), when are you going to oust them? You will never oust him in a lifetime. I hear a great deal of talk about the barefoot girl and the barefoot boy. Let the barefoot boy and the barefoot girl come up here and vote on this question. We don't want any lobbying here, but let them come up and vote on it. Why do you elect every body else? If you can elect a judiciary officer who passes on a legal question, why can't you elect a ministerial officer who writes out the votes and minutes of the court? I pause for an answer to that question. When you employ a clerk to work in your store, do you tell him, I will pay you a

commission or a salary? What do you tell him? What is the difference? I see no difference. I just wished to submit these few remarks in regard to what I think is the silliest proposition ever submitted to this Convention.

MR. SAMFORD (Pike)—The question as to the election of the clerk of the Supreme Court has already been settled.

MR. JONES—Yes, and I am going to make a motion to reconsider tomorrow.

MR. SAMFORD (Pike)—Did you vote in the proper way to do that? The question now before the Convention is whether or not the Constitution shall fix or shall prescribe that the clerk of the Supreme Court shall receive a salary. The only argument that has been advanced that has any force in it at all, is the bare statement by the gentleman in favor of the opposition that the clerk of the Supreme Court receives a greater compensation than one of the judges of the court. They fail to take into consideration the fact that he serves five judges, whose aggregate compensation is a great deal more than he could expect to get under the fee system. Now here is the proposition that the minority asks us to accept: They fix a salary for the clerk of the Supreme Court, so that the State of Alabama may receive a profit on his labors. The Legislature of the State has fixed a minimum fee for the work to be done by him. They have said that this is a reasonable charge for him to make. They have itemized each charge that he can make in his bill of cost, and they say that he shall not charge any more than that amount. Now, when, forsooth, the work accumulates to such an extent that he is receiving a fair compensation, perhaps a nice salary, or a nice compensation, for the work he does by reason of the fact that he is doing a considerable amount of work, and perhaps a great deal more than was anticipated when his fees were fixed, these gentlemen come along and say: You are receiving entirely too much, and the people of the State ought to receive the benefit of it. Who opposes it? If you put him on a salary and take away all the fees from the clerk of the supreme Court, and say he shall be a salaried officer and the people of the State shall receive justice at the hands of the Supreme Court without being charged for the clerk's services, then I am with you, but the litigants of the State pay the Supreme Court costs, just like they pay the costs in every other court. It is not the taxpayer. It is a different class of citizens altogether, and it doesn't redound to the benefit of the litigants—the unfortunate mass who have to litigate, when you place him upon salary, because you take it and make it a source of revenue, and put it into the general treasury. One gentleman who preceded me stated (which was a fact) that other clerical officers in the State are not paid salaries, and the question was asked, why don't you put them upon a salary? Gentlemen of the Convention, I will tell you they are not put upon a

salary, why it is not insisted that they be put upon a salary here. It is because of the fact that there is not one of them in Alabama that is receiving decent fair compensation for the time he engages in the work. But if you should find the fees of the Registers and Chancellors of this State piling up and making nice salaries, they would find some one jealous of them, who would want to put them down and put them upon a salary and let the surplus go into the State treasury. I think the question has been argued enough, and I therefore move to lay the amendment upon the table.

MR. ASHCRAFT—I demand an aye and no vote.

The call was not sustained.

Upon a vote being taken a division was called for and the motion to table prevailed by a vote of 40 ayes to 20 noes.

MR. GRAHAM (Talladega)—I make the point that no quorum voted.

MR. ASHCRAFT—I demand that the vote be verified by a call of the ayes and noes.

MR. SAMFORD (Pike)—I move that the roll be called for the ascertainment of a quorum.

THE PRESIDENT PRO TEM.—I think the gentleman's motion has precedence, and it amounts to the same thing.

MR. HEFLIN (Chambers)—I make the point of order that you cannot call the roll for the ayes and noes unless the call is sustained.

MR. OATES—I would suggest that under our rule, the gentleman had better withdraw his point of order, because it would take no longer to call the roll on an aye and noe vote than to ascertain if a quorum is present. If a quorum has not voted, you will have to take the vote over again unless you adopt the Reed rule and count them, and I do not know whether the present occupant of the Chair will do it or not.

THE PRESIDENT—The Clerk will call the roll.

Upon the call of the roll eighty delegates answered to their names, and the Chair announced a quorum.

MR. HEFLIN (Chambers)—I move the previous question on the section as reported by the Committee.

THE PRESIDENT PRO TEM.—The amendment was laid upon the table, and the question recurs upon the adoption of the section as reported.

MR. HEFLIN (Chambers)—And on that I move the previous question on the adoption of the Section as reported.

MR. PETTUS—I rise to a question of parliamentary inquiry —I would like to know the status of the amendment.

THE PRESIDENT PRO TEM.—As the Chair remembers, the amendments have all been tabled.

MR. OATES—I rise to a question of order. I voted to table the amendment, and it is not in that interest at all, but wholly in the interest of a correct parliamentary principle, and I think that if we establish a wrong precedent, it may return to plague us before we get through this Convention. The point was made that a quorum had not voted, and the Chair ordered a call of the roll, and ascertained that a quorum was present. Now the Chair announces that the motion was carried to table. It was not carried by the requisite vote—not by a vote of the quorum. Now, the Chair announcing that there is a quorum present, it don't follow that a quorum was present at the time of the vote, and even if it was, the Chair would have to count the members present in order to make that quorum legalize the vote in that way. That requires the same rule. We have got no rule like unto that known as the Reed rule, which authorizes the Chair to count the number of members present to see whether there is a quorum, and to vote a quorum, when a quorum, had not voted and to declare the measure carried, which ever way it was. Now there is no rule of this Convention as I understand it, which authorizes the Chair to count a quorum when the point is made that the quorum is not present. So it recurs to the vote again a quorum being present the former vote was an illegal vote unless the Chair is authorized by some rule to make a quorum present, but the vote would have to be taken over.

MR. ROGERS (Sumter)—I would like to know, Mr. President, how a vote of 60, I believe, leaving 20 more to vote, how the Chair knows whether those 20 would vote for the tabling of the amendment or against it, I cannot understand. The Chair has no right to presume or any one present, as to how many voted.

MR. SMITH (Mobile)—We may presume twenty were paired.

MR. OATES—That is the reason I made the point on the call of the roll for the ayes and noes, that is a verification of the vote, and determines it.

MR. COBB—I do not of course know what the views of the Chair are upon this matter, and I just want to say in answer to my friend from Montgomery that it is the universal law of common sense that in any body if one man votes and there is nothing against it, that is carried, because we all know every silent man, every man who remains silent is presumed to vote in the affirmative. That has always been the rule and it is the rule today and it does not matter whether a quorum votes or not if a quorum is

present the thing is carried, and I want to say one thing about what you call the Reed rule.

MR. OATES—He states the rule correctly unless the point be made that there is not a quorum and then it requires further action to be taken to ascertain a quorum. You cannot presume it in that way in the absence of the vote.

MR. COBB—Now let's see about that. I think the Chair did wrong in having this last call. It was one way to ascertain a quorum but it was not the proper way in my opinion. You cannot make men answer that they are here, but you can count them. Now whatever may have been said about the Read rule and of the men who fought it, knowing all the time that he was right, it is general parliamentary law. The gentleman says that we have no rule. It is within the power of the Chair under general parliamentary law to ascertain for himself whether there is a quorum or note, and long before the Reed rule was heard of, no less a man that David Bennett Hill enforced the rule in New York and the Democratic Congress that followed Reed's ruling adopted it as soon as they met. Where there is no doubt about it in my opinion.

MR. OATES—Did not the House of Representatives have to make a rule to authorize it?

MR. COBB—That is all I want to say.

MR. HEFLIN (Chambers)—I make this point of order. The gentleman from Lauderdale demanded an aye and nay vote. There were only one or two that stood. The Chair was about to order the aye and nay vote, I understood. I made the point of order that an aye and no vote could not be had unless a requisite number rose and stood, the number of thirty. The Chair ruled the point of order well taken. The gentleman from Pike as I understand it, asked that the roll be called to ascertain whether or not a quorum was present. It was found that a quorum was present. The Chair announced that a quorum was present before any member on this floor rose and asked to have a verification of that vote. The Chair announced that a majority had voted in favor of tabling the amendment and it was so ordered, it was done and there was no appeal taken from that ruling of the Chair. Now I make this point of order that as soon as the Chair announced that a quorum was present then it was the duty of some gentleman who favored the amendment to ask that the vote be verified or put to this Convention, but they did not do it and in the absence of that the Chair announced it tabled.

MR. OATES—In reply to that, there never was a case yet where the point was made "No quorum," that a vote of no quorum was void when a quorum was ascertained to be present, they took the vote over invariably, and that has not been done; it has

simply been announced by the Chair that the motion was carried on the former vote against which the point of order was directed.

MR. HEFLIN (Chambers)—I want to make this point of order. I intended to make this point before I took my seat. I then move the previous question on the Section as reported by the Committee before this point was made.

MR. SMITH (Mobile)—I rise to a point of parliamentary inquiry. If sixty people vote on a question and forty paired in the House, can there be said to be no quorum. There are 100 here, and forty pairs. Only sixty were at liberty to vote. Will the Chair declare no quorum and that we can proceed.

MR. OATES—I wish to say to the gentleman from Mobile in reply——

MR. SMITH (Mobile)—It seems to me that the gentleman from Montgomery has been up four times——

MR. OATES—I am addressing the Chair. If the Chair does not wish to hear me any more, I shall take my seat, of course.

THE PRESIDENT—Does the gentleman from Mobile yield to the gentleman from Montgomery?

MR. SMITH—No sir.

THE PRESIDENT — The gentleman from Mobile has the floor.

MR. OATES—I do not care to interrupt him, I merely wish to set myself straight. When a gentleman is addressing a parliamentary question he is not confined to one time nor to forty times, but as often as the Chair will hear him.

MR. SMITH—And it makes no difference who is speaking.

MR. COBB—Mr. President——

THE PRESIDENT—The Chair will recognize the gentleman from Mobile is through.

MR. SMITH—I rise to ask what the ruling was. I can not conceive of any parliamentary rule whereby any such condition could exist, whereby there could be a number of gentlemen present or participating in the result, but merely bound by pairs so they could not vote and that the business of the Convention should be stopped. I am not a thorough enough parliamentarian to deny that the gentleman says, but I am inclined to think he was talking about what they do in Congress. I have read the parliamentary authorities, but I did not come across this proposition. I think I did come across it in the rules or in the practice of the house of Congress, and I am inclined to think though I am not sufficient

authority to say, that the gentleman from Montgomery has got the United States Congress on us again.

MR. OATES—I would like to ask a question. Do you know of any case where a man's pairing keeps him from voting in order to make a quorum——

MR. SMITH—I know of no case where he can honorably vote after pairing.

MR. OATES—He can make a quorum.

MR. ASHCRAFT—When the point of no quorum was made, I instantly demanded that the vote be verified by a call of the house. Now, I am not a parliamentarian, but if this is the rule, and it seems to me common sense, it would meet the proposition of the gentleman from Mobile. If it is verified by the call of the roll, then those persons who are paired——

MR. HEFLIN (Chambers)—I made the point of order and would like to hear the ruling of the chair.

THE PRESIDENT—The Chair is now hearing from members on that point of order.

MR. BAREFIELD—I make the point of order there is nothing before this Convention, as the Chair has already ruled——

THE PRESIDENT—The point of order is overruled.

MR. WADDELL—I rise to a point of order. What is before the house?

THE PRESIDENT—A point of order.

MR. WADDELL—What point of order, Mr. President.

THE PRESIDENT—If the gentleman will sit down and listen, he will catch it.

MR. COBB—I think that the Chair has ruled upon the question and there has been no appeal taken from the ruling.

THE PRESIDENT—The gentleman is out of order. The gentleman from Lauderdale has the floor.

MR. GILMORE—I move that the Convention do now adjourn.

THE PRESIDENT — The gentleman is out of order. The gentleman from Lauderdale has the floor.

MR. REESE—I desire to make an inquiry. How many times can a man speak upon the same point of order?

THE PRESIDENT—What was the question?

MR. REESE—How many times can a delegate speak upon a point of order?

THE PRESIDENT—It is only limited by the patience of the Chairman.

MR. GILMORE—I make a motion to adjourn.

THE PRESIDENT—The gentleman from Lauderdale has the floor.

MR. ASHCRAFT—It seems to me, Mr. President, that I had the right to have the vote verified. I did not demand the ayes and noes as the gentleman from Chambers stated, but I demanded that the vote be verified by a call of the roll. I think now that this is a thing which we are entitled to. Now that a quorum is ascertained to be present, we are entitled to have the vote verified by a call of the roll.

MR. HEFLIN (Chambers)—I would like to interrupt the gentleman.

MR. KNOX—It seems to me that a gentleman could not obtain an aye and no vote. I merely rise to speak to that proposition because it has been raised several times. If a delegate could secure an aye and no vote, although the right has been denied him, when he appeals to the Convention because thirty did not sustain him, if he could get an aye and no vote by merely questioning the correctness of the vote, why fillibustering would be without limit.

THE PRESIDENT—The Chair has so ruled. The Chair is of the opinion that the motion or point of order made by the gentleman of Montgomery came too late. The question had been put before the house. A vote had been taken upon it and then the question of a quorum was raised and a demand was made for the call of the roll of the house in order to ascertain whether or not a quorum was present. That call resulted in ascertaining that there was a quorum present. Now in the opinion of the Chair all the gentlemen in the house need not vote, but they acquiesce in the vote of the majority. That is simply the opinion of the present occupant of the chair, but the gentleman made the point that the vote ought to be taken over, the Chair had already announced that the motion to table had carried, had recognized the gentleman from Chambers, who had called for the previous question, and therefore it was too late to raise the question. The question is now shall the call for the previous question on the adoption of the section as reported by the committee be sustained.

The main question was ordered upon the section as reported by the committee.

MR. HEFLIN (Chambers)—I move its adoption.

Upon a vote being taken the section as reported by the committee was adopted.

MR. deGRAFFENREID—I move that we adjourn. I ask consent to withdraw it I thought we adjourned at 6:30.

Objection was made to the withdrawal of the motion.

MR. WADDELL—I renew the motion.

Upon a vote being taken a division was called for, and upon a vote of 39 ayes and 39 noes the motion was lost.

MR. REESE—I call for the regular order.

The Secretary read Section 26 as follows:

Sec. 26. Clerks of the Circuit court shall be elected by the qualified electors in each county for the term of six years and may, when appointed by the Chancellor, also fill the office of Register in Chancery. Vacancies in such office of Clerk shall be filled by the governor for the unexpired term.

MR. NESMITH—In view of the action of the Convention in fixing the terms of judges at six years, I respectfully beg leave to withdraw the minority report.

There being no objection the minority report was withdrawn.

MR. HEFLIN (Chambers)—I move the adoption of the section.

MR. OATES—I desire to offer an amendment.

The Secretary read the amendment as follows: "Amend Section 26 by striking out of lines three and four the word "Governor" and inserting in lieu thereof the words "The presiding Judge of such court.'"

MR. OATES—I will state briefly why I offer this amendment. Of course there is nothing like so many occurrences of this kind per annum as there are elections in election year, but occasionally a clerk of court dies, very seldom do they resign, and then petitions usually are brought and representations made in favor of several rival candidates for appointment, to the Governor of the State. As a rule the Governor does not know the applicant, and he has to appoint a man upon the representations of those who are friends of the respective candidates, not knowing who is the best qualified to be appointed to fill the unexpired time. I know something, sir, of that kind of trouble, and I know furthermore than any man who serves as Governor of this State has my sympathy on account of experience I had when in that office. Out of curiosity the day before I left, I had the Private Secretary to go over the record and see how many appointments to office, great

and small, I had made during my incumbency of two years. It was a little over two thousand, a little over one thousand a year. That is enough to perplex, and politically ruin almost any man in the world who occupies that office. Now, sir, who is better qualified to make the appointment than the Governor. Who is better qualified, I say, to make the appointment than the Governor? It is the Judge of the Court.

MR. WALKER—Wouldn't you get the judge into a great deal of trouble?

MR. OATES—Well the judge is there to have that kind of trouble. He knows more about it. It is the court, and the clerk is the most important officer to him, for a prudent judge will look and see that the clerk writes up his minutes correctly and that he executes his office in the main properly, and is not the judge of the court more competent and better informed as to who could fill that unexpired term well, than the Governor, who, perhaps, hundreds of miles away depends entirely upon the representations of friends favoring the one or the other of the rival candidates? I believe it is better, and I believe that, as a rule, better men would be selected to fill the unexpired term when we leave it to the presiding judge, than to the Governor, and that is the sole object of the amendment I offer.

MR. COBB—I want to say, Mr. President, that the Committee were not unanimous on this question, and so far as I am concerned, I am in favor of the amendment offered by the gentleman from Montgomery. I believe the appointment ought to be made by the judge, I think he is the best officer to do it, and I hope that this Convention will accept that amendment.

The reading of the amendment was called for and it was again read by the Clerk.

MR. COBB—I will ask that not the "presiding judge" of such court but that the "Judge of the Circuit Court" be substituted.

MR. OATES—You see it may be a City Court or a County Court. It would give it to the Circuit Court Judge.

MR. SMITH (Mobile)—The section only applies to circuit clerks and does not apply to city clerks at all.

MR. REESE—I think it is a very wise and timely suggestion. I do not think anyone can possibly imagine a person better qualified to properly fill the vacancy of a clerk than the judge who presides over that court, and I can not possible imagine any objection to it, and therefore, Mr. President, I move the previous question on the amendment and the section, and I hope it will be adopted.

MR. COBB—I hope the gentleman will accept my suggestion. It only applies to the circuit clerks, and to prevent any mistake, I think it should say "judge of the Circuit Court" instead of the "presiding judge."

THE PRESIDENT—Does the gentleman from Montgomery ask unanimous consent to make the amendment?

By unanimous consent the amendment was ordered.

Upon a vote being taken the main question was ordered.

The question being put, the amendment offered by the gentleman from Montgomery was adopted.

The question recurred upon the adoption of the section as amended.

Upon a vote being taken the section as amended was adopted.

MR. BLACKWELL—I move that we adjourn.

Thereupon the Convention adjourned.

CORRECTIONS.

In remarks of Mr. Banks on sixty-second day, first page, fourth column, middle of page, read: "And negroes are inspired with antagonism."

In remarks by Mr. Knox on sixty-first day, fourth page, fifth column, strike out sentence: "It is not from want of confidence," where it first appears, and insert at end of that sentence where it is repeated, the words: "I would call that not generalship but foolhardiness."

SIXTY-FOURTH DAY

MONTGOMERY, ALA.,
Tuesday, August 6, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by Rabbi Messing, as follows:

Almighty God, Maker of the heavens and of the earth, Creator of all men, Father of all spirits, we thank Thee this day as the source of all benefits and blessings; we thank Thee for our life, for our republic, for our homes, which are the foundations of the republic; for our schools and churches, and for all the moral forces

which have helped to shape the nation of which we are a part. We thank Thee for the traditions of freedom and justice, for that tolerance that knows neither sect nor creed; for the mutual trust and generous impulses which have made possible this gathering of men led together in holier service to the commonwealth. We pray Thee to remit the guilt of all, that in our deliberations thus far for which we are responsible, through our ignorance of the bounden duties of a lofty patriotism. Soften Thou the bitterness of partizanship and subdue our hearts to the amenitites of love. May the people's representatives discharge the people's trusts without fear, without favor and without hope of reward. We pray Thee that Thou wilt guide all who have come here this morning conscious of doubts and difficulties, and whose souls are troubled herewith. Give them the light they need. Pour Thou the balf of Thy consolation into the bleeding heart of our distinguished brother who has twice within these legislative halls been called to the highest office within the gift of the State, but who today is called to darkness, to cares and to great heart troubles. In the communion of a common grief, we would life up our voices unto Thee who doeth all things for our best, and repeat with our brother, in humble, yet unfaltering, courageous trust, "Father, Thy will be done on earth, as it is in Heaven." Amen.

Upon a call of the roll 78 delegates responded to their names.

Leaves of absence were granted as follows:

To Mr. Bartlett, indefinite leave on account of sickness; to Mr. Case, indefinite leave on account of sickness; to Mr. Jones of Wilcox, until the afternoon session; to Mr. Morrisette for yesterday and today on account of sickness; to Mr. Moody of Jackson, for Monday, Tuesday and Wednesday; to Mr. Davis of DeKalb for Tuesday, Wednesday and Thursday.

MR. HOWZE—In the stenographic report of July 6th in the report of the Committee on Exemptions, my attention has been called to the fact that it is reported as allowing 18 acres as exempt, and I want that corrected. I apologize to the President of the Convention for not having read this report. I do not often fail to read them. My attention was called to it this morning by an outside party and I would like to have it corrected and let it read 80 acres instead of 18.

THE PRESIDENT — The Chair will call the attention of delegates to the difficulty we have had for a day or two in securing a quorum. It seems to the Chair that concerted action will have to be taken on the part of delegates to be here in time and to reduce leaves of absence except in case of sickness. It is absolutely necessary that we get along with the business of the Convention, which is now near an end, and the Chair hopes that all of the delegates will co-operate to that end, so that we may bring the business of the Convention to a speedy conclusion. We are losing time in

the morning session and also in the afternoon session on account of being unable to procure a quorum.

The Committee on Journal reported that the Journal for the sixty-third day had been examined and found correct, and the report was adopted.

MR. BOONE—I move that the regular call of the roll for the introduction of resolutions and ordinances and the call of the standing committees be dispensed with and a suspension of the rules for that purpose.

Upon a vote being taken the motion was carried.

MR. SAMFORD (Pike)—I ask unanimous consent to introduce a short resolution, and desire to call attention to the fact that I shall move to suspend the rules and put it upon its passage.

The resolution was read as follows:

Resolved. That no leaves of absence be granted except on account of sickness.

MR. SAMFORD (Pike)—Upon reflection, I ask that that be referred to the Committee on Rules.

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

The special order this morning will be the consideration of the report of the Committee on Judiciary. When the Convention adjourned on yesterday afternoon we had under consideration Section 27. The secretary will read Section 27.

MR. HEFLIN (Randolph)—I ask unanimous consent to call up the report of the Committee on Schedule and Printing for passage this morning. It will only take a few minutes.

Consent was given.

The report was read as follows:

Report of Committee on Schedule, Printing and Incidental Expenses.

Mr. President, the Committee on Schedule, Printing and Incidental Expenses have instructed me to make the following partial report, viz.:

The committee has audited the accounts hereto attached and find that the State of Alabama is indebted to the Brown Printing Company of Montgomery, Ala., in the sum of $68.75.

We find that said State is indebted to William H. Carrigan of Montgomery, Ala., in the sum of $3.

We find that said State is indebted to Robert Hasson, doorkeeper in the sum of $6.23.

We find that said State is indebted to Ed. C. Fowler Company of Montgomery, Ala., in the sum of $20.

We find that said State is indebted to J. W. Terry of Montgomery, Ala., in the sum of $5 for rent of typewriter up to July 24.

We find that said State is indebted to Ed. C. Fowler Company of Montgomery in the sum of $5.46.

All of the above amounts for printing done, for articles furnished State of Alabama, for use of Constitutional Convention, and all of the above amounts are itemized as shown by the bill hereto attached. Total amount $108.38, 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 the adoption of the report, and that the President of this Convention be authorized to draw his warrant on the State Treasure in favor of the parties for the amounts due them.

Upon a vote being taken, the motion was carried.

Section 27 was read as follows:

Section 27. The Clerk of the Supreme Court and Registers in Chancery may be removed from office by the justices of the Supreme Court and by the Chancellors respectively, for cause, to be entered at length upon the minutes of the court.

MR. WALKER (Madison) — There is a minority report to that section. It is there was a substitute offered by the minority, and it conforms to the substitute which was offered to Section 25, and that substitute having been rejected by the Convention, this being a substitute to Section 27, there is no use of it being offered to the Convention, and we ask consent of the Convention to withdraw it

Consent was given, and the minority report withdrawn.

Upon a vote being taken, Section 27 was adopted.

The Secretary read Section 28 as follows:

Section 28. A solicitor for each judicial circuit, or other territorial subdivision prescribed by the General Assembly, shall be elected by the qualified electors of such circuit or other territorial subdivision, 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 or other territorial subdivisions, for whch he is elected, and whose term of office shall be for four years; Provided, that this article shall not operate to abridge the term of any solicitor now in office; and, provided, further, that the solicitors elected in the year 1904 shall hold office for six years, and until their successors are elected and qualified.

The Secretary read the minority report to Section 28 as follows:

Section 28. A Solicitor for each Judicial Circuit or other territorial subdivision prescribed by the Legislature shall be elected by joint ballot of the Legislature, who shall, at the time of his election, and during his continuance in office, reside in the circuit or other territorial subdivision, for which he is elected, and whose term of office shall be for four years; and who shall be paid a salary to be fixed by law, and which shall not be increased or diminished during the term for which he is elected; Provided, that nothing in this article shall operate to abridge the term or emoluments of any solicitor now in office.

MR. SAMFORD (Pike)—I desire to offer an amendment for the minority report; which was inadvertently left off.

The Secretary read the amendment as follows: "That the Legislature may when necessary provide for the election or appointment of county solicitor."

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Pike. The gentleman from Pike will be entitled to the floor, if he desires to discuss it.

MR. SAMFORD (Pike)—I do not desire to argue that just at this time. I will yield to the gentleman from Jefferson.

MR. FERGUSON—I have an amendment.

THE PRESIDENT—The Chair would suggest to the gentleman from Jefferson that there are already two amendments pending, and an additional amendment would not be in order at this time.

MR. FERGUSON — I understand, Mr. President, that the amendment I offer, will be excepted by the gentleman from Pike.

MR. SAMFORD (Pike)—I would ask unanimous consent to add the amendment and incorporate the same in the recommendation of the minority report.

THE PRESIDENT—The gentleman from Pike asks unanimous consent of the Convention to add the amendment and incorporate the same in the minority report.

Leave was granted.

MR. FERGUSON—I wish now to offer my amendment.

The Secretary read the amendment as follows: "Amend the minority report of Section 28 in line two after the word "Legislature," by adding the words: "who shall be learned in the law," and amend the same in line four by striking out the word "four," and inserting in the place thereof, the word "six."

THE PRESIDENT—The question will be upon the amendment to the amendment.

Upon a vote being taken, a division was called for.

MR. GRAHAM (Talladega)—Owing to the confusion, I failed to hear the reading of the amendment.

The Secretary again read the amendment to the amendment.

Upon a vote being taken, on a division, there were 47 ayes and 22 noes, and the amendment to the amendment was adopted.

THE PRESIDENT—The question recurs upon the minority report as amended.

Upon a vote being taken, a division was called for, and a further vote being taken, there were 58 ayes and 30 noes, and the minority report as amended was adopted.

THE PRESIDENT—The question will recur upon the majority report as amended.

MR. NESMITH—The amendment to the amendment which was adopted provides for the election of solicitors every six years by the Legislature. This Convention has already ordered that the Legislature should meet once in every four years. That would result in an election two years in advance or two years thereafter. I now move to reconsider the vote whereby that amendment fixing the time at six years was adopted.

THE PRESIDENT — It is moved to reconsider the vote whereby the term of solicitors was fixed at six years. It is not in order as the Convention has adopted the amendment. It would be necessary to move to reconsider the vote whereby the minority report as amended was adopted.

MR. NESMITH—I make that motion.

MR. deGRAFFENREID—I move to lay that motion on the table.

MR. ASHCRAFT—A motion to reconsider is not in order this morning. It goes over until tomorrow.

THE PRESIDENT—Where it relates to an amendment, it seems to the Chair that it would be in order under the rule, a motion on an amendment could come up at this time.

MR. GRAHAM (Talladega)—I give notice that in the morning I will move to reconsider the vote by which the amendment to the minority report was adopted.

MR. SAMFORD (Pike)—I ask the gentleman how he voted.

MR. GRAHAM—I did not vote at all.

THE PRESIDENT—The question is to reconsider the vote by which the amendment was adopted. The question is on the motion to table.

A vote being taken, there were 43 ayes and 24 noes, and the motion to table prevailed.

THE PRESIDENT—The question will recur upon the adoption of the section as reported by the committee and as amended.

MR. SPRAGINS—Would it be in order to offer an amendment at this time?

THE PRESIDENT—Yes, in order until the previous question is moved.

MR. SPRAGINS—As I understand it, Mr. President, there is a provision that the Circuit Court solicitors shall be paid a salary. The amendment by the gentleman from Pike provides that solicitors be appointed by the Governor, with no provision as to whether he shall receive fees or salary. It seems to me that they ought to be in harmony and that the solicitor should also receive a salary and that is the amendment I have sent to the clerk's desk.

The secretary read the amendment as follows: By adding "who shall be paid a salary to be fixed by law."

MR. SPRAGINS—The Circuit Court solicitors are not in there under the amendment by Mr. Samford.

THE PRESIDENT—The amendment should relate to the section as amended.

MR. SPRAGINS—I will ask the clerk to change it so as to make it read that way.

MR. SAMFORD (Pike)—I would like to call the attention of the gentleman from Madison to one fact in relation to his amendment. I have no objection to it in the world, but it does not seem to me to be expedient in view of the fact that there are a great many county solicitors in the State, in small counties, who do not make over $150 or $200 a year, and there are a great many

who make a great deal more than that, and I will state that the general law fixes a limit to their salary.

MR. SPRAGINS—Does not the law provide that over $150 or $200 should go for the benefit of the public schools?

MR. SAMFORD (Pike)—I call your attention to the fact that that is the general law of the State, that has been the general policy of the Legislature. There is no objection in the world that I have to it personally.

MR. deGRAFFENREID—In Hale county, we have a law that fixes the salary of the solicitor at so much, with a provision that if he makes that much he can have that salary, if he does not make that much he shall have what he makes, if he makes more than that, it goes into the county treasury. Would not that meet your objection?

THE PRESIDENT — The gentleman from Madison asks unanimous consent so as to make it relate to the section as amended.

MR. SAMFORD (Pike)—I will state to the gentleman from Hale so far as my knowledge goes with reference to the laws creating county solicitors over the State, where they are created, that that is the law, fixing the limit to the amount that they can make, but it occurs to me that this amendment of the gentleman from Madison will necessitate the General Assembly making a fixed salary which would come either out of the county or State treasury, and that it would be a very difficult matter to make a general law to cover that sort of thing, and as the General Assembly has already adopted the idea of the gentleman from Madison in passing the laws for solicitors over the State. I see no reason why it should be changed from the old Constitution, and I will state to the Convention that the provision that I introduced there is in the exact words of the present Constitution. It is suggested that I move to table the amendment of the gentleman from Madison, but if he desires to discuss it. I won't do it.

MR. SPRAGINS—I desire to discuss it. I presume there will be some inequalities about the thing, no matter how we fix it. For instance, take a large county, and the solicitor will make twice or three times as much as he would be willing to take as a salary fixed by law, and the surplus, of course should go into the public treasury. It is true that possibly in some of these smaller counties, that a salary fixed by law would have to be very small, but the Legislature certainly, under the local legislation, the legislature could certainly pass a general law based upon the assessed taxable values of that county and upon the population of that county, and considering the business that so far has been done in that county. The question of whether the officers in this State should receive fees or should receive salaries has been threshed

over on yesterday. It seems to me that the Convention has decided in favor of the fee system to some extent, and there is no further use at this time of going into that question. My own private and personal judgment is that all officers should be upon a salary, and without that they should make sworn reports at least twice a year and the surplus over and above those salaries should go into the treasury for the use of the public schools or for the use of the roads of the county. Not only the clerk of the Supreme Court should be upon a salary, but as a matter of abstract justice, the probate judge and clerk and sheriff of each county should be upon salaries. It is true that those officers are officers of the people who will appoint the inspectors for this election for the ratification of this Constitution. There is no sense in mincing words over this matter, but where we have a chance and where it is safe, so far as this Constitution is concerned, to carry out that principle, it seems to me it is our duty to do so. There is one further reason, so far as the solicitor is concerned, that he should be placed upon a salary, and that is, in my judgment, that no man should have a monied interest in the conviction of the defendant. All lawyers and business men who have seen the workings of the old fee system will concur with me in the statement that they have often seen frivolous cases in which defendants were compelled to line up and pay their fines and the costs when under a salaried system, those cases would never have been brought. It seems to me, Mr. President, they are open to some inequalities somewhere. Now, the question is whether or not in the small counties the State shall pay these solicitors a little more than they are entitled to, and receive from the larger counties a surplus that will out balance what the State has already paid in these smaller counties. It is a step in the right direction and it seems to me that the Convention should certainly adopt an amendment of this sort.

MR. HEFLIN (Chambers)—I move the previous question on the section as amended.

MR. BAREFIELD—I would like to request the gentleman to withdraw that motion for the previous question for a moment.

THE PRESIDENT—The question, gentlemen, is a call for the previous question upon the amendment offered by the gentleman from Madison and the section as amended.

MR. HEFLIN—I withdraw for a moment, if he will renew it.

MR. BAREFIELD—I am heartily in favor of the amendment offered by the gentleman from Madison, except, Mr. President, I fear that the amendment goes a little too far. Now, the question of county solicitors might be construed by the Supreme Court to mean a deputy solicitor. I think that it is all right where it would apply to such counties as Mobile, Montgomery and Bir-

mingham, but I do not think that a county like mine or some of the smaller counties that the county solicitor should be paid a salary. Now, as we all know that nearly all of the counties throughout Alabama especially the smaller counties, have what is called a deputy solicitor. Now, the Supreme Court might construe the word "solicitor" to mean a county solicitor, and if it means county solicitor, why then they should not and ought not to be put upon a salary. Therefore, I offer an amendment to the amendment.

The Secretary read the amendment as follows: "That this section shall not apply to deputy solicitors."

MR. BAREFIELD—I move the previous question.

MR OATES—I rise for the purpose of making an inquiry which I would like to hear answered in behalf of the Committee on Judiciary in regard to this question of solicitors. I wish to occupy only a minute to propound a question.

THE PRESIDENT—The gentleman from Monroe has the floor.

MR. BAREFIELD—I yields to the gentleman from Montgomery to ask a question and ask that he will renew the motion for the previous question.

MR. OATES—I will yield the floor back to you. Mr. President, it seems to me that the retention of the circuit solicitor system and the system of the county solicitors makes the thing entirely topheavy and we are fixing it in the Constitution so that this State is to be overwhelmed with solicitors. Why not, if it be necessary to establish and maintain county solicitors, why not abolish circuit solicitors and have county solicitors. It seems to me it would be economy. It looks like it is demonstrated a county solicitor is necessary for they have deputies everywhere, and why not then have county solicitors and at the end of the term dispense with circuit solicitors? I would like to hear from the Committee on Judiciary in answer. It is incurring a great deal of expense to the people of the State, much greater than is justified. I merely call for an explanation.

MR. BAREFIELD — I am requested by the gentleman who offered the amendment to request unanimous consent to accept my amendment.

THE PRESIDENT — The gentleman from Madison asks unanimous consent to accept the amendment offered by the gentleman from Monroe.

MR. BAREFIELD—I yield to the gentleman from Talladega.

MR. HEFLIN (Chambers)—I move to lay both amendments on the table.

MR. GRAHAM (Talladega)—The gentleman from Monroe yielded to me before the gentleman from Chambers made his motion, and he cannot take my time to do it.

THE PRESIDENT—The gentleman from Chambers had the floor and yielded to the gentleman from Monroe. The gentleman from Monroe seems to parcel his time very much to his own notion. Now, who does the gentleman from Monroe desire to be recognized? (Laughter).

MR. BAREFIELD—Mr. President, I have no favoritism. You may recognize whoever you please.

MR. REESE—I rise to a point of order that the gentleman from Chambers has moved to table both amendments.

THE PRESIDENT—The only motion that has been made was the motion for the previous question upon the previous section as amended and pending amendments, and the gentleman from Monroe seems to have withdrawn that in some way. It was made by the gentleman from Chambers, Mr. Heflin. My agreement with him was that he would renew it before he yielded the floor.

MR. REESE—I rise to a point of order. I desire to state it. The gentleman from Chambers, after the gentleman from Monroe parcelled out the floor and abandoned the floor as the Chair ruled, the gentleman from Chambers made a motion to table both amendments, and I insist upon that motion.

THE PRESIDENT—The gentleman did not get recognized to make that motion because the gentleman from Monroe yielded to the gentleman from Talladega, and the Chair recognized the gentleman from Talladega.

MR. GRAHAM (Talladega)—I do not know the exact status of this question now with the minority report adopted and several amendments pending to that, but I do know one thing, gentlemen, there has not been during the whole session of this Convention such an open and outrageous attempt to push down the report of the committee on a proposition. There has been no time allowed for debate.

MR. FERGUSON—I rise to a point of order. The gentleman's remarks are not germane to the subject before the Convention.

MR. GRAHAM—They may certainly become so if the gentleman will wait.

THE PRESIDENT—It does not seem to the Chair there has been anything irregular that has occurred. But when the question was before the Convention, the Chair desired to know if any gentleman wished to discuss the question, and no gentle-

man arose. The Chair asked if the Convention was ready for the question; a call was made for it, and the question was submitted.

MR. GRAHAM—I was on my feet at the time. I was not on "the schedule" to speak at that time, if we are going into secrets. I got on my feet, but the Chair was looking in the other direction.

THE PRESIDENT—The Chair recognized some gentlemen here, I think, because it was because you made a motion to table, or something of that kind.

MR. GRAHAM—Who made a motion? I am not blaming the Chair, but am calling the attention of the Convention to the fact that there is a report of the majority of the committee here, a minority report that has been adopted against the report of the majority of the committee without discussion, and I say that is unusual; and that there should be some chance given on an important matter like this for discussion, no matter how it may go hereafter.

MR. SAMFORD (Pike)—I rise to a point of order.

MR. GRAHAM—I do not yield.

THE PRESIDENT—State the point.

MR. SAMFORD—The gentleman has no right to lecture to this Convention on how it shall act. If he fails to get the floor it is his own lookout.

MR. GRAHAM—I think I am as much in order as a lecturer, as the distinguished gentleman from Pike; if anybody has lectured this Convention incessantly it has been the gentleman from pike (Laughter.)

We have had a number of platform lectures in this Convention who have lectured on all topics until it came to one where they happened to be on the other side, and then they grew quiet, for the first time in the Convention. (Applause). I apprehend that it is now pertinent to discuss this question, as it stands before the Convention with reference to the amendment to the minority report, as it would apply to the original proposition. There are a great many delegates on this floor that are at least in favor of the discussion, whether they are in favor of the proposition to elect solicitors by the people or not. (Applause). I believe that the people of the State want an opportunity to select their solicitors. I do not believe that any lobby of present or prospective solicitors in this Convention should defeat the will of the people on this proposition. (Applause). Ever since yesterday morning there have been men abusing the privileges of this floor, that had no right on earth within this circle, and what for? This precipitate vote this morning shows you, Mr. President, what for. I submit

as a fair proposition, that if the people are competent to elect the judges who control the courts of this country, they have a right to elect the solicitors who work largely under the supervision of the judges. It is a matter of common knowledge that the people of a particular circuit have no voice in who shall be their solicitor, but it has come to pass that the Mobile circuit can dictate to the Huntsville circuit, and the Opelika circuit can dictate to the Marengo circuit. It is not a question of the man who is suited for the place, or the man whom the people desire to serve them in a specific locality but it is a matter of how it can be traded with some other section of the State. I want it to come back home and let the people attend to this matter. We heard a good deal the other day about heredity in the right and privilege of suffrage. I want to say that the solicitorships in this State are not hereditary on that line, but they are hereditary on the line that if men whose fathers or brothers or friends are men of political influence in the State, and they happen to say that a certain man shall be put upon the slate for a solicitorship, he goes upon it without reference to qualification or whether the people want him or not. I call upon this Convention to halt, and consider the matter seriously, and say whether the people who select the judges may not also select the solicitors. They say there will be trading in the circuit. Well, it will be trading at home, and be limited to that particular circuit and not involve the thirteen circuits of the State. They say there may be corrupt and evil influences used. I say to the solicitors who are here lobbying in this matter, are you afraid of the corrupt and evil influences upon yourselves? If not, get out of this Convention, and let the delegates vote upon it as they think is right, unbiased by your influence. My observation has been that the moral influence and conscience of the people will direct matters right in the end, because the majority rules, and I do not believe it is a violent presumption to say that the moral sentiment and power of the people is always in the majority. If you are afraid of that majority then show your hand and say it in the Convention, and do not bid for a perpetuation of trades and doubtful practices in the selection of these officers, upon the people of this State.

If I have seemed over zealous in the discussion of this question, I want to say it has been provoked by the apparent desire of friends of this minority report to precipitate it and force it upon this Convention before a discussion has been had. I hope you will come out in the open and meet us face to face in the discussion of this matter. Do not suddenly become economical along the line of time when your supporters have been perpetual and perennial speakers in the past history of this Convention. Come out and speak some more. Now, gentlemen, I have managed to get in a few remarks on this proposition, and I hope the gentlemen of the minority report will answer and give us an opportunity for a gen-

eral discussion of this subject, and that no more motions will be made to table. I will not make it on you, if you will not make it on me.

Give us time to discuss it, and then after a fair discussion of it, if the sober judgment of the Convention is with you I will do as I always have done, yield to the majority, and go to the people to ratify what you have done.

MR. HEFLIN (Chambers)—The gentleman from Talladega has displayed a great deal of earnestness here in this discussion. He squirms here this morning, Mr. President and groans as if his toes had been pinched, and the gentleman was suffering from a severe blow just made upon him by this Convention, not upon him personally because we all like him personally, we all like the handsome distinguished and eloquent gentleman from Talladega, but we do not like, Mr. President, a display of that spirit that the gentleman has just exhibited to this Convention, because forsoothe, this Convention did as it had a right to do, substituted the minority report for the report of the majority. If delegates, Mr. President, have gone into any schemes or trickery to bring this about, I challenge the gentleman to name those men and tell where and when it was done.

MR. GRAHAM—I did not complain that the minority report had been substituted for the majority report at all. I was complaining that it had been done without any opportunity for discussion. That was the sole complaint and I have made no charge of any fraud or anything of that kind.

MR. HEFLIN (Chambers) The gentleman used the word fraud in his speech. I am sorry he made that charge, or that he did not remember just exactly what he was saying at the time, but the word "fraud" was used and I put it down when it fell from the gentleman's lips. This Convention has a right from day to day to come into this hall to respond to roll call, and to respond when they are called upon to vote on any question, and when the President deliberately asked this deliberative body if they were ready for the question, and nobody responded to speak, the Convention ordered the question, and the Convention passed upon the question, and the majority voted for the minority report. The gentleman favored, it is true, the election of solicitors by the people. There are those of us who do not believe the man who goes with the grand jury into the various precincts of this State, and hunts out the criminal and brings up the violator of the law, indicts him, and prosecutes him before the petit jury, ought to have to go back to that same people and beg them for re-election to office. We believe it ought to be removed as far as possible from them. Put it in your legislative body. Let the members of the legislature who come up here from the various counties in the

State, select the solicitor for that circuit away over yonder. Then he is independent. He does not feel that he must rely upon the people whom he has prosecuted. It differs from the case of the Circuit Judge, he has nothing to do with the criminal until he is indicted, and brought before the court, and he has to pass upon the questions of law; but the solicitor goes with the grand jury into every nook and corner of Alabama, and he hunts the man who openly violates the law and brings him up and says you must face the law that you have violated, and he sits with the grand jury and says, this man ought to be indicted; he prosecutes him vigorously and when he goes back to those people, possibly some prominent man who has relatives all over the county and who has been prosecuted will say: "You prosecuted me vigorously and I am going to try to attend to you when the election comes off." On the other hand, frequently a great pressure is brought to bear on the solicitor to prosecute a man vigorously whom he believes in his heart is an innocent man, and if he has the manhood and courage to say, I will not prosecute this case, he has offended the people who are in favor of that prosecution; but when you give the power to the legislature to select, it does away with all that, and when the solicitor comes to be judged by the people all over the State for serving in Mobile County or the Mobile Circuit or any other circuit or county in the State, he is given a fair hearing. Why, our indictments as has been suggested to me, do not read that "Montgomery charges" or that "the first Judicial Circuit charges." They read that "The State of Alabama charges," and the solicitor is a State officer. Chambers County has no right to select that officer. It ought not to select him because he would have to pander oftimes to the people that elected him and whom he had prosecuted.

MR. HOOD—Do you insist that the criminal laws of Alabama are better and more effectually enforced than in three-fourths of the States of the Union.

MR. HEFLIN—More vigorously?

MR. HOOD—Yes effectually.

MR. HEFLIN—Enforced?

MR. HOOD—Yes.

MR. HEFLIN—Now?

MR. HOOD—Now. I say do you insist that the criminal laws of Alabama are more effectually enforced and that criminals are brought to justice to a greater extent in Alabama than they are in three-fourths of the States of the Union?

MR. HEFLIN—I have not from the time I took the floor down to splendid present made any such charge as that and I never

expect to. I will ask the gentleman if he believes they are not as vigorously prosecuted as in some of the other States.

MR. HOOD—Not any more so than they are in Georgia, New York, Pennsylvania and some other States where the solicitors are elected by the people.

MR. ROGERS (Sumter)—I move that the privileges of the floor be tendered to the Hon. F. S. Moody of Tuscaloosa.

PRESIDENT PRO TEM—Does the gentleman yield for that purpose.

MR. HEFLIN—Yes sir.

MR. PETTUS—I move to amend by adding the names of Mr. Morrow and Mr. Arrington.

The amendment was accepted, and upon a vote being taken, the privileges of the floor were tended to the gentlemen named.

MR. deGRAFFENREID—I rise to a question of parliamentary inquiry. I want to see where we are at? My recollection is that the House adopted the minority report, which provided that solicitors should be elected by the Legislature; that there was a motion made to reconsider that vote and a moment was then made to table the motion, and the motion to table prevailed; so I wanted to inquire of the Chair if that question was now before the House which is being discussed?

THE PRESIDENT—The question was upon the adoption of the section as reported by the committee, as amended, and thereupon the gentleman from Madison moved to amend further and the immediate question now before the Convention is the amendment offered by the gentleman from Madison, fixing the salary for county solicitors.

MR. HEFLIN (Chambers)—I have but a word or two more to say. I have been interrupted. The gentleman's suggestion, I think, is very well taken. The minority report has been substituted for the majority report, and the election of solicitors by the Legislature has been fixed by this Convention, but the section has not yet been adopted.

I do not desire to detain this Convention with any further discussion of this question. The law now fixes the salary of county solicitors. In our county they cannot make over $500. All above that goes into the county treasury. In some counties they do not make over $150. I am informed, and that matter is already fixed by the law and I believe this Convention is ready to vote on this question, and I therefore move the previous question on the section and amendments.

MR. WALKER (Madison)—I desire to ask the gentleman from Chambers to withdraw that motion. The committee has not had any opportunity to be heard one way or the other.

MR. HEFLIN—I will withdraw it if the gentleman will renew it at the conclusion of his speech.

MR. REESE—I object to its being withdrawn on those conditions.

MR. WALKER—I desire to appeal to the gentleman's idea of fairness The committee ought to have a right to be heard whether they lost that opportunity by their own act or not.

MR. HEFLIN (Chambers)—I withdraw it.

MR. MERRILL—I suppose I am somewhat to blame for the failure of the Committee to have what they greatly desire, a discussion of this matter. I was selected, Mr. President, by the committee to open the argument on this question, and it was my expectation as it has been the custom of the Convention, that when the minority report came up, some one supporting that minority report would open the argument, and that then those who desired to follow, could do so, and excepting that, I failed to pop up in time, and I regret it very much, because the committee charged me with a failure to discharge my duty, and Mr. President, this is a question that ought to be discussed. In the committee there was more discussion of this question than any other one, or as much as any other question that arose before it. It was a friendly discussion. There was no unpleasantness among any of us. We discussed it as friends, Mr. President, there is nothing in me now, except the most pleasant feeling for every gentleman that opposes me on this proposition. It was the desire of the committee to put the solicitors in the same place with the other officers of the State, to put their term at four years. Suppose that this amendment now of six years goes on and goes into the Constitution. Here will be the Legislature to elect these solicitors, and they will only meet every four years, and they will have to elect the solicitors two years before they go into office. Is that in accordance with the desire of the people of Alabama that these solicitors all over the State should hold these offices two years before they go in and exercise the functions of the office?

MR. DUKE—I rise to a point of order.

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

MR. DUKE—I think the point of order should have been made on the delegate from Talladega and the delegates from Chambers. This discussion before the house is the amendment of the gentleman from Madison, and that is to fix the salary of the county solici-

tors. This Convention has adopted the minority report as an amendment to the majority report, and the question is on the adoption of the amendment of the gentleman from Madison, which is to fix the salary of county solicitors, and any discussion as to these other matters is entirely out of order.

THE PRESIDENT—It seems to the Chair that the question before the Convention now is the amendment offered by the gentleman from Madison, fixing the salaries of the county solicitors, and that the general discussion would be in order when the proposition comes before the Convention on adopting the section as amended.

MR. WATTS—Speaking to the point of order, it seems to me when a minority report is before the Convention, and somebody offers an amendment to that minority report, we have a right to discuss the whole, the main proposition and the amendment, too, and that we are not confined to the question whether or not this particular amendment should be adopted; non constat. the Convention might refuse to adopt the minority report as amended.

A DELEGATE—It has been adopted.

MR. WATTS—No sir, as a substitute for the majority report —I hope that this Convention will refuse to adopt the minority report.

MR. MERRILL—That was the question I was addressing myself to.

THE PRESIDENT—The Chair has not heretofore been very strict in confining the remarks to direct point in issue and as the gentleman's time is so limited, having only ten minutes, the Chair will overrule that point of order and allow the gentleman to proceed.

MR. MERRILL—The Committee, as I have said, after a thorough discussion of the matter fixed the term of the solicitor at four years for the purpose of making it harmonize with the balance of the Constitution, and putting it in a place where the number of elections would be reduced even though they are by the Legislature. Even if that part of it goes into the Constitution, they ought not to hold their terms for longer than four years. Now, let us go to the other proposition, whether or not they ought to be selected by the people or by the Legislature. Now, that is an important question. The people are the source for which all power arises. It is their duty——

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

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

MR. FERGUSON—I regretfully rise to a point of order—the Convention has passed upon that question as to how they shall be elected.

MR. MERRILL—They have not adopted the section as amended yet.

THE PRESIDENT—The Convention has not adopted the section as amended. It has incorporated in the section as reported an amendment, but the question of adopting the section as amended has not been submitted to the Convention.

MR. MERRILL—The people, Mr. President, are the sources of all power, and it is peculiarly their duty to select the officers who are to serve them in the various branches of the State. If you say that the people are incapable of selecting any officer, or filling any office then, Mr. President, you make a direct thrust at republican form of government, because when they cease to be capable of selecting the men to serve them in the offices, they cease to be capable of self government, and the form of a republican government is a failure. Now, that is admitted. They say that although this power to elect belongs in the people, and it is their duty to exercise it, that they ought to delegate this power to their agents, the legislature, to serve for them. I say, Mr. President, there is no argument in that. The fact that the principal is incapable of discharging the duty and must appoint the agent to do the thing, is an absurdity upon its face. Why is it that the Legislature, the servants of the people, can elect their officers better than the people, the principal itself. Now, let us go further. It has been the policy of this Convention to cut off from the Legislature everything except the discharge of the duty for which they were elected, that is, the performance of general legislation. We have cut off everything we could, we have pruned it, and we propose now to take the solicitor business away from them and prevent their being harassed by a duty which the people ought to perform at home. We leave the Legislature in a condition where they can discharge their great trust, and hereafter you will hear no more criticism of the Legislature because their duty will be plain and simple, and they will have the time and the inclination to discharge it.

MR. ASHCRAFT—I offer a substitute for the section and the amendment.

The Secretary read the substitute as follows: The solicitor in each county shall be elected by the qualified electors therein every four years, whose salary shall be fixed by law according to the requirements in each county. The office of circuit solicitors shall cease at the termination of the term of the present incumbents."

MR. ASHCRAFT—We are told by the distinguished member from Chambers that the Legislature is not affected by certain disqualifications for the election of solicitors which the people themselves are affected by. I beg to call the attention of the Convention to the fact that they are affected by infinitely worse disqualifications. It is true that the members of the Legislature are not to be affected by the course of conduct pursued by the solicitor in the county, but according to the observation and experience of those of us who are here, I am sure, we will concur in the opinion that they have been effected by other influences very largely. Now sir, the day has passed in America when any man can stand up and with self-respect affirm that the people of the State in the respective localities are incapable of selecting those persons who shall discharge the public duties. The necessity for the election of circuit solicitors by the Legislature has long since passed, the people have felt it, and a great force comes up here, Mr. President, asking that they be rehabilitated with the right to elect their officers. We met the mailed hand of the lobbyist. Mr. President, we cannot go back to the people of this State and say to them that we have discharged faithfully the trust that has been reposed in us, that we have fully performed the duty reposed by the people, if we fail to fulfill their wishes and I do not believe that a member on this floor but would say that if the people, unembarrassed and free, would say that it was not better that they should be allowed to elect their solicitors. If that is a fact, if the people do have faith in themselves, why should we not repose the same faith? Now, the amendment proposed by me, under its provisions, it is not required that the salaries of the solicitors in the respective counties shall be uniform, but it does require that the legislature shall fix those salaries according to the work which is to be performed in each county. Of course the solicitor in Clay County would not be required to perform the arduous duties, nor to possess the great skill which would be required of the solicitor in Jefferson County, and therefore the amendment provides that the Legislatures shall fix these salaries according to the requirements in the several counties. Now, in many of the counties that have county solicitors, we have circuit solicitors covering those same counties, there is a lapping over and doubling up of the expense. This will provide for the doing away with all of that. It gives us an opportunity of saying to the people, we have rid you of a large expense, and we have freed the legislature from perhaps the most corrupting influence that enters into its body. The solicitor being in the county, will do more thorough work, because he will be familiar with all the affairs, with all the transactions, with all the circumstances. He will know the people, he will know the witnesses, he will be able to act intelligently, he will be able to respond quickly to the demands. I think, Mr. President, that all the arguments against home rule are relatively speaking very weak.

MR. PITTS (Dallas)—I rise to support the substitute. Let us take a common sense view of the matter. Of what good is a circuit solicitor, now? I submit that in every county in this State there is a county solicitor, and he does most of the work except prosecuting the case immediately before the court. As a general thing, the deputy solicitor performs all the work done before the Grand Jury, and as a general thing the deputy solicitor is as well qualified to perform the duties of the office as the circuit solicitor. He is certainly more thoroughly acquainted with the facts and the witnesses. The circuit solicitor goes into the county with the judge, he knows nothing in the world about the offenses committed in the county, he goes before the Grand Jury, if he does not send his deputy before him, and there he hears the testimony for the first time, and he knows nothing about the offenses committed in the county. Now he gets a salary of $3,000, the deputy solicitor or county solicitor gets a salary of say $500 to prosecute the cases. Now, why not let the county solicitor go before the Grand Jury and get the salary? Another thing, Mr. President, I believe that when a law is upon the statute books, that it ought to be enforced —of course. There are trivial cases coming before a Grand Jury that it will ignore, but I say the circuit solicitor knows nothing in the world about the offenses in the county unless where he resides, until he gets in the county. What is the use of paying $30,000; why not save $45,000 or $50,000 a year if it is to be saved, and if not give it to those who labor and work for it. Another thing, if the people in a county want the law enforced they are going to elect a good man there, and they will uphold his hands. It is objected in this case; they say in some counties they have not good solicitors, have not men who are qualified. In nearly every county in the State you will find good lawyers who will enforce the law, and it makes no difference whether learned in the law at a particular time or not, they will soon qualify themselves to prosecute effectively all the violations of law. I do not think that the people of this State are tired of circuit solicitors; there is no necessity for them.

Now, about the election—I think there are objections both ways. If elected by the people, and one of his friends or those active in having him elected is brought before the Grand Jury he necessarily leans toward him, and if those who are opposed to his election are brought before the Grand Jury he is necessarily prejudiced against them; but the Grand Jury is there, the Grand Jury will always develop if there is any prejudice on the part of the solicitor as they do if there is any prejudice on the part of a witness. Now, about the election by the Legislature. We know it is a fact, Mr. President and delegates, the way solicitors are now elected is by trading and combination. There is no use in disguising the fact. I can come to the Legislature with the support of the delegates from Jefferson county, and I can trade for my

office, although I might not be able to get a single vote in my county. Why? Because the delegates from Jefferson come here not only in the interests of their friends, but they are supposed to support those who will support their candidate. The delegates from Jefferson will ask, if my candidate is qualified and being answered yes, they will support him, so the solicitor is elected not according to the will of the people, but according to the will of the majority of those who combine together. I am heartily in favor of the substitute, and I think it will give general satisfaction to the people.

MR. SAMFORD (Pike)—It is always unfortunate in the discussion of any question from delegates to have their feelings too strongly involved in the outcome of the question before the body. We ought to discuss this matter as was suggested by the gentleman from Barbour, in a dispassionate way and see if we can arrive reasonably at what would be for the best interests of the State of Alabama. The question before the House is the substitute of the gentleman from Lauderdale, and I will address myself to that substitute briefly. I will begin by remarking that since 1819 when this State was admitted into the Union, it has been under the control of the Democratic party, except during the reconstruction period. During all that time from 1819 to the present hour, with the exception of the time when the Republicans and scalawags had control of the State, the solicitors have been elected by the General Assembly. We have had circuit court solicitors, and the only party that ever attempted to elect county solicitors by the people and to put them in direct contact with the people whom they prosecute, were the Republicans and the scalawags. That was their methods and modes of electing solicitors; and it proved a woeful and a howling failure, so I am informed, though I was not old enough at that time to remember it. Shall we follow in the lead of Buckley and his gang of negroes, or shall we follow the time-honored customs of the Democratic party if they are reasonable? Now, as has been said here, the policy or the manner of electing solicitors either by the people or by the Legislature, is not a perfect system by any means. It seems to me that we must choose the lesser of the two evils. If they are elected by the General Assembly, it is said that they go into combinations, cliques and slates, which is entirely objectionable and ought not to be. I do not know anything about that, because I have never been into one of them, and I do not know anything about combinations. I suppose that is the fact, because American politics is American politics, and that is the only explanation of it, and yet, if you elect them by the people, the practice has been to hold all the conventions in Montgomery, or nearly all of them, including the conventions for the nominations of the judges of the different circuits and the different circuit officers. That being the case when the Convention to nominate State officers is called for the nomination of

chancellors, of judges and of solicitors, it will be called to meet here in Montgomery at the same time, and if they are so smooth that they can get up their cliques in the General Assembly, and so manipulate the General Assembly as to bring reproach upon it, I submit to this Convention when they are here, they will swap everything from the Chief Justice of this State down to the lowest officer in order to accomplish their purposes. There is about equally bad results following either mode. You say it is bad to trade in the legislature. I ask you if it is not just as bad to trade in a convention as it is in the legislature. They are both but the representatives of the people, that is all, one happens to be paid four dollars a day, and the other is paid nothing at all. They are both agents of the people. You talk about the people selecting their officers, why the people of Alabama have not selected an officer in twenty-five years—it has been done by their agents. The people have sent their agents to the city of Montgomery year after year and they have nominated the candidates for office by making combinations for twenty-five years, and I suppose it has been going on ever since it has been a State, and it will continue to go on as long as we are a republic. As long as you have nominating conventions, the people will not nominate them, it will be by the agents. This is not a pure democracy, we are too large and spread over too large a territory to meet at Mars's Hill as did the people of Athens, and transact the business. Of necessity we do it through our agents, and the question is, which agent is the best, and select him or them. On the other hand, when you elect them, you let the people vote upon them directly after having agents to select them. The other party comes in and they put up a man, and it is a question sometimes between two evils, the nominee of the party, or the nominee of the other, and they go before the people and they begin to scrap and to go into the slums, dives and barrooms and to the low elements of the cities that largely control the policies of large cities, and I will ask the gentleman from Lauderdale who will elect the solicitors?

MR. ASHCRAFT—Will the gentleman permit me to answer?

MR. SAMFORD—Yes, if you will do it right away.

MR. ASHCRAFT—We will nominate the candidates in the primaries, and the man that goes into saloons and dives will be laid upon the shelf, sir.

MR. SAMFORD—Oh, glorious time in Alabama, as pictured by the gentleman from Lauderdale, but it is only in his vivid imagination. I pray to God that the time will come that he describes, but it is not here yet, and I am afraid he will never live long enough to see it. Now, Mr. President, just a word with reference to county solicitors, and I am done. So far as I am personally concerned, I desire to state to the Convention I have been a deputy solicitor for some time, and I am yet, and it would redound to my

advantage to have a salary fixed for the county solicitor—I desire to put it that way—but it is not at all practicable to do it. In some counties, as I stated, the earnings would be about one hundred and fifty dollars, and in some counties they would run considerably over two thousand dollars, and I hardly see how it would be managed.

MR. MACDONALD—Mr. President—

MR. ASHCRAFT—I will ask the gentleman to yield a moment.

MR. MACDONALD—Very well.

MR. ASHCRAFT—I desire to ask unanimous consent to strike out the words "elected by the qualified voters therein," and insert "selected as may be provided by law."

THE PRESIDENT—The gentleman asks unanimous consent.

MR. WATTS—I object.

THE PRESIDENT—There is objection.

MR. ASHCRAFT—Will the gentleman from Montgomery yield for a moment?

MR. MACDONALD—The gentleman can make his motion after I get through. I won't take much time. Now, Mr. President, I will address myself briefly, to which might possibly be called a question of privilege. I have heard a great deal of talk about the lobby of the Convention and the results of the lobby made upon members of the Convention on various matters that came before it. I have been grossly neglected in that particular. The lobby, whoever they are, have not been about me, and I don't think I ought to be ignored in that kind of way, and I wish to serve notice on the lobby that if I am treated in this way any more, I am going to get as mad as the gentleman from Talladega.

MR. BROWNE—Which one?

MR. MACDONALD—I allude, of course, to Mr. Graham, as I have not seen you display any wrath lately. Like the gentleman from Talladega, we get mad sometimes, but when we do get mad, we stay mad all the time. We are Scotchmen. Now, my mind has been very much confused in the course of the various arguments before the Convention by the assertions in reference to what the people of Alabama want. Every man seems to think that he knows what the people of Alabama want; that he is the sole custodian of the interests of the people of Alabama, and the only man who knows their desires. I can only speak for myself and partially for the county I represent, and I have heard no howling demand from anybody in my county or anybody from any other county for a change in the existing law in reference to the appointment of

solicitors. But we are told that the people want it. One man says all the people want it, and all the people expect it and demand it, and another man says all the people expect it and demand it, and another man says all the people do not want it, and all of them deny that they will have it. Along with the question of what the Legislature is, the character, quality and conduct of the Legislature, those are two mysteries to my mind which I think will never be solved. One man speaks about the Legislature as if it were a gang of convicts or lunatics, and another man speaks as if they had all the wisdom of the Roman Senators in the palmy days of the republic, a kind of Jeckyll and Hyde business. Sometimes they are infamous and sometimes they are respectable, according to the man who speaks of them. Now in regard to the people of Alabama, to return to that abstruse question again, technically, I suppose we are the people, and incidentally in the words of Job, "Wisdom will die with us," but actually as said by my distinguished friend from Macon the other day, "There are others," as a matter of fact, no matter what may be the law. Now what is here suggested by the gentleman from Lauderdale? He says the county solicitors shall be elected by the people, and therefore he says we are bound to have purity in the source of their election. Well, I am not going to tell any tales out of school, gentlemen of the Convention, but I know something about county politics, and I know something about the swaps and exchanges in County Convention and in county primaries. I defy the record even of the Legislature, treating the Legislature as some gentlemen treat it, as the acme of all infamy, I defy even the Legislature to show a grosser instance of trading and swapping of votes, and furthermore the buying of votes than you can find in the primaries, and sometimes in the Conventions.

MR. GRAHAM (Talladega)—I will ask if your experience in politics is not limited to Montgomery County, and that is what you have in mind now?

MR. MACDONALD—I am afraid not. I have no reason to suppose that this condition is limited to Montgomery County and my information is direct to the contrary. We have them as I understand in the other counties, and you have them in Talladega. The history of the primaries in Talladega you know more about than I do, but it does seem to me, Mr. President, and gentlemen of the Convention, that we might rely, at least to some extent, upon the wisdom of the framers of the Constitution of 1875. They had an object lesson before them at that time. They provided that the solicitors should be elected by the Legislature and there is nothing in the history of this State that shows any wisdom in departing from the ways suggested by that Convention. Now what has been said here? That the people of the county are better qualified to judge of the capacity and the integrity of the county solicitor than

the Legislature is. That the body of any particular county, in other words, must of necessity have more wisdom in reference to the character of a lawyer, ability of a lawyer and integrity of a man than the Legislature has. Well, I do not think that can be true. Certainly the people of the State of Alabama are presumed to select able men for the Legislature who are sent here to do that duty, not for one particular section, but for the entire State, and whose action in reference to the selection of solicitors, must be for the benefit of the entire State. It is well known and cannot be denied that a large number of people occasionally and frequently enough change the result of an election in the rank and file of voters, will endeavor to secure the election in the county of the man who will best subserve their interests and for that reason the Convention of 1875 adopted this clause, and there has been no change in the civilization of this country, which would justify a departure from it.

MR. OATES--My colleague who has just taken his seat and myself, locally, have no right to complain about the solicitor or the system of solicitors, so far as this county is concerned. Our colleague, Mr. Lomax, is the solicitor of Montgomery County, and a very able and efficient one, but in regard to the substitute proposed. Since the amendment of the Section as reported by the Committee, I am in favor of the substitute, and I will state briefly why I am. Now sir, in the Constitutional Convention of 1875, as the Chairman of the Committee on Judiciary, I suppose I am more responsible than any other delegate in the Convention for the Circuit Solicitor system. I brought it forward and urged it and advocated it until it was adopted. Why so? The County Solicitor system as has been stated, had been inaugurated and tried at that time had in a large number of the counties proven a failure, at least, it was very unsatisfactory, but why so, Mr. President? Is there not a vast difference existing between the conditions in the State today and then. Why at that time, a good many of the solicitors were not such men as would today be elected, either by the people or by the Legislature, to the position of County Solicitor. In very few of the counties would the same men be reelected and put in that position. Now what we want is the establishment of that system which is the best in securing officers to prosecute the guilty vigorously, and contribute in that way as much as possible toward putting down crime. Now the question is which is the best system at this time? The Circuit Solicitor system was good, but the times change and we change with them, and it may not be the best now. The Circuit Solicitors, I believe, as a rule, throughout the State are officers of ability, and I know that the one who resides in the same town with my friend the delegate from Pike, Mr. Parks, the Solicitor of the Twelfth Circuit, I know from having come in contact with him, and having seen the way he prosecutes for the State, is a most excellent and able Solicitor, but, sir, that

does not answer the question. It is as to what is best for the people, for the public, and what will be the best not only now but in the future. Now, sir, it is impossible for a Circuit Solicitor to attend to the duties of his office in every county and the consequence is under the present system, he has a deputy in every county and is that for the best interests? Would it not be better that there be a permanent officer of County Solicitor whose duty it would be, and I think probably it would be well for the public, that his eligibility to more than two terms should be limited and he should be prohibited from the practice of the law, so as to require his whole time and attention in the performance of the duties of his office. I think with such a system, as that, and I would say I believed the Legislature should have power to do it, that the County Solicitors should not begin prosecutions in misdemeanor cases, but leave that for some one else. That was the defect with the old system. Some of those were unrestrained, would get up prosecutions themselves and get up frivolous cases in order to make fees, and that was one great abuse of the office that led to its abolition. But it is an easy matter for this Convention if it sees proper to establish the County Solicitor system, and to so hedge about and guard that office, as to make it a most excellent one and a very useful one. Now, sir, it is simply a question as to whether that is a better system than the present Circuit Solicitor system. The Circuit Solicitors may be very efficient, and are good men as a rule, but how can they go to this county and that and the other to attend to every case that comes up. They cannot do it. Frequently a Circuit Court is being held in one part of the circuit, and there is a necessity for a Solicitor in another county. Then he must depend upon some deputy, he cannot be there to do it, and the deputy is not of the people's selection, nor is he selected by the Legislature. He is a man selected by the Solicitors, as a sort of assistant to him, and it seems to me that if any change is to be made at all in the circuit Solicitor system, and return to the County Solicitor system, with guards around it to prevent abuse and to make the officer efficient, would certainly be economy, and an improvement in the administration of justice.

MR. TAYLOE—Mr. President, the motion now before the Convention is one that I earnestly insisted upon in the Judiciary Committee. In the first place, the first point to which I wish to call the attention of the Convention is this: In the last fiscal year, we spent on the Circuit Solicitors $29,840. All of them got a salary of $2,400 except in the 13th District and he received $600, and there was some little of that paid on the preceding fiscal year. In addition to that, we paid in commissions $2,282.60, making in round figures, nearly $32,000 that we paid to Circuit Solicitors. In addition to that, we have a system of Deputy Solicitors in sixty-six counties, and in almost every one of them, there can be a Deputy Solicitor who is allowed to make out of the fees $500 a year. In

round figures, it amounts to about $30,000 more. The whole trend of recent years has been towards County Solicitors. Starting at the northern tier of the State, we find a County Solicitor in Madison. I do not know really what salary is paid him. We find one, I believe, in Jackson county. We find one in Talladega; we find one in Anniston; we find one in Walker; we find three in Birmingham; we find one in Tuscaloosa; we find one in Hale; we find one in Montgomery and we find one in Mobile, and in addition to that, there are three criminal courts, I believe, each of which has a Solicitor, so that, gentlemen, you can easy enough see that this question——

MR. GRAHAM (Talladega)—You left out Etowah in your call of the list.

MR. TAYLOE—Yes, sir, Etowah.

MR. OATES—I desire to ask the gentleman a question. I do not desire to break the continuity of his discourse, but it is a matter I forgot to mention when I was on my feet. I will ask you if that is not the case in view of the retention of the circuit in accordance with the report of this committee, and the action of this Convention thus far, will it not be in many cases to continue to pay the salaries now given to Solicitors? Would it not be practically a useless expense of money.

MR. TAYLOE—To Circuit Solicitors.

MR. OATES—Yes, sir, with the number of the circuits reduced so greatly, with the number of Solicitors.

MR. TAYLOE—Now, gentlemen, we can easily enough see that in one branch of the criminal law we spend in the neighborhood of $100,000 to get 66 counties represented. The whole trend has been toward County Solicitors. For twenty years it has been in the direction of County Solicitors and a County Solicitor is necessarily the coming thing. We can get them for less money than we are now paying for competent men under the present system of Solicitors. Putting it simply on the question of economy, we all know that almost in all the places, the fees of the Solicitor go into the treasury to help pay the expenses of the criminal system, and that they are a tax in some measure upon the people. At any rate, the fees now go to a certain extent to relieve the taxation of the people. The point I want to make is the question of economy. We can have a Solicitor in each county of the State with that system. We will follow up what is the development in the present day towards County Solicitors. I say furthermore that the County Solicitorship is a matter that should belong to the bar of each particular county, and to the people of that county. I call attention to another fact that frequently in some of these cases, I believe it was in the county of Walker, the Solicitor gets all the fees he is entitled to in that county. Now I call attention to an-

other fact that before the committee, it developed that there were only two counties in the State in which there was probably not a lawyer who could fill the requirements of the place. I did not agree with the proposition, one of them was said to be Baldwin county, but I am inclined to think that there is a very competent man there to attend to the County Solicitor's business. I do not know about Winston county. Those were the only two counties that I heard mentioned, and I heard that it did not make much difference about Winston any way, as the people are law abiding, and there is very little criminal business. Now the other sixty-four counties in the State have competent lawyers and the people are competent to attend to their business, and are just as competent to elect the Solicitors as they are anywhere else, and I venture to say that the system of County Solicitors will give us just as good ones as we have now, or have any prospect of getting in the future. Now, gentlemen, there is one paramount question above every other, that induces me to advocate that system. The most important Legislature that we will have for years will be the one elected in 1902. That one elected in 1902 will have to elect these Solicitors if we elect them by the Legislature. We want that an able body of men, we want them to come here with patriotic principles; we want them to come here so that they can devote their attention solely to these local laws, and we do not want them mixed up with electing 25 Solicitors. It has been said that Legislators, and I have been a member of the Legislature, as soon as the Solicitors' offices were filled, the Legislature was through; that they had either lost or won, and there was nothing else in the Legislative Department for which they cared; in other words, men are already probably elected to hold over in senatorial positions for the solicitorship in 1902, or 1904. They are there to lay their pipes for election, and other people are going to be elected for no other purpose than to get the solicitorship.

MR. ROGERS—I do not know that I can add anything to the able arguments that have just been made on both sides of the question, but I want to call attention to a statement made by the gentleman from Montgomery, Mr. Macdonald, and the gentleman from Pike, Mr. Samford, in reference to the change of the law in the Constitution of 1875, which abolished county solicitors, and gave to the State of Alabama, the District or Circuit solicitors. At that time, gentlemen of the Convention, we were just coming through the throes of carpet-bagism, scallawagism and negroism in Alabama. A scene was pictured and vividly described by Lord Byron, at the siege of Corinth: "We saw the lean dog beneath the wall hold o'er the dead their carnival."

Republicanism in its worst form. Negroism in dastardly form had been holding over the dead of Alabama their carnival. We had been enabled by the concerted action of the white people of

the North and a few of the Northern part of the State, and a few of the black belt counties, to overthrow this system in the State of Alabama, but notice the distinction. We had overthrown it in the State of Alabama, but not in all the counties of Alabama. In many counties of the State at that time, those scenes were being continued, and the able and patriotic men who sat in the Convention of 1875 wished to give to the people of the State of Alabama at large, competent and honest men as their solicitors, and they apportioned the State of Alabama into different districts so that the Democratic party would control each district and give to the people competent and able solicitors. It seems to me that is an answer absolutely to the argument that we should follow the precedent of 1875 and continue the district solicitor. Another proposition is this: So far as I am concerned I am perfectly willing that these solicitors shall be selected in the manner prescribed by law, whether it be by the election of the people at different times, or whether by the vote of the legislature, because it is perfectly reasonable to suppose that the counties of the State of Alabama will do about their solicitors as they do about other things. They will submit it to the primary of the county as to who is the choice of the people, and then any member of the legislature who comes here will be bound to support this man. Now as to the combinations that have been made, I suppose there is no question. Whether these men have a right to make these combinations or not is a question for them to answer and I suppose they will answer it satisfactorily that all is fair in love and war, and politics, but you go upon the proposition when you deny the right of the county to select its solicitors that the county is not capable of taking care of its own affairs. Why don't you say that the members of the county and the different districts shall be selected by the district and not by the county. Some gentlemen object to this on the ground that there will be fourteen or fifteen solicitors in Alabama who are Republican. Now this is not a question of Democracy, of Populism or of Republicanism. We have upon the floor of this body some twelve or fourteen men who are opposed to the Democratic party, and while I am a Democrat myself, I say these men have deported themselves decently and respectably and have gained the highest respect of this Convention. It would not, perhaps, be a bad thing if some of the counties in this State should be controlled by the present order of Republicanism. It would institute a comparison. We are not here to uphold the Democratic party. We are here for the Democratic party to uphold us in the right. It is not a proposition of holding up one party or tearing down another. But the proposition is, whether we shall be upheld by the people of Alabama in doing the best we can for the people of Alabama. Now take the great county of Jefferson. It has its county solicitor, and the County of Montgomery, and others as mentioned by Mr. Tayloe. That shows the tendency of the growth of the sentiment for county solicitors,

and if you will notice the wording of this substitute, it says that the salaries shall be fixed according to the requirements of the county. Now do not get it in your mind that we are going to pay in the county of Geneva $2,500. We will pay the sum justified by the amount of law business that is done in that county. And so on throughout the State. The system as at present has cost the State of Alabama $10,000 more than it brought into the State in the way of fees. That would be done away with. I thank you, Mr. President and gentlemen of the Convention. I have nothing more to say.

MR. BLACKWELL—I desire to say that I made the question of selecting county solicitors one of the issues in the campaign that I made before the people as a candidate for delegate to this Convention. I made a speech in every precinct in the county except two out of twenty-two precincts, and at each of those precincts I advocated the abolition of circuit solicitors, and advocated the selection of county solicitors, and I want to say that there was not a man, so far as I am informed in the county that attended these meetings, or who expressed himself on this question, but said to me that they were in favor of the abolition of the circuit and the institution of the county solicitors. The people could see a necessity for circuit solicitors in 1875, because many counties were then under Republican rule, and the legislature was expected to be Democratic, and could make them all Democratic solicitors. They could remove the carpetbagger that had so robbed and fleeced us. Now the county solicitor does the greater part of the work, and the circuit solicitor is practically a fifth wheel that is largely useless expense for which the people derive no particular benefit that would not come to them by simply having county solicitors. My opinion is there is no reason under the plan and provisions of this article as reported that we have already adopted. There will be probably twenty counties in the State of Alabama that have population enough to have for themselves a separate court for that, particular county which will require the solicitor for that particular court. That will remove another of the necessities for having Circuit Solicitors making these separate courts in probably twenty counties of the State of Alabama. It seems to me that if the same object and purpose can be obtained by having the sixty-six County Solicitors which so far as my county goes and expressions I have heard from the people, the people want, and we can have law maintained and can abolish the thirteen Circuit Solicitors, we will save that much money to be used for other needy purposes in the State of Alabama, and will bring the administration of the affairs of the people nearer to them. As has been said, and sufficiently, probably there is no question but what the County Solicitor is more familiar with what is done in the county and knows better how to look after the administration of the law where he stays constantly than a man who lives somewhere else, or have

his time divided. For these reasons, knowing my people are practically unanimously in favor of this matter, I favor the substitute offered by the gentleman from Lauderdale.

MR. SANFORD (Montgomery) — Many of the gentlemen have remarked upon the idea that the circuit system of solicitors was established to get rid of the County Solicitors under the domination of the Republican Party. Is it not a fact that the system of Circuit Solicitors existed long ago before the Republican Party had an organization?

MR. BLACKWELL—Yes, sir, I think that is so.

MR. SANFORD (Montgomery)—It is an old system that we have always had.

MR. LONG (Walker)—I desire to make a parliamentary inquiry. The Journal says that Section 28 and the minority report was adopted as amended. I want to know what is before this Convention. Notice was given by the gentleman from Talladega that on tomorrow he would move to reconsider a vote by which Section 28 of the minority report was adopted.

MR. GRAHAM (Talladega)—I did not make that statement.

MR. LONG (Walker)—The Journal is the best evidence.

THE PRESIDENT—The Chair recollects that the minority report, there was first an amendment offered by the gentleman from Jefferson to amend the minority report. That was adopted or accepted. The Chair does not remember which. Thereupon the minority report was substituted for the majority, but the Section has never been voted upon by the Convention.

MR. LONG (Walker) — Well, the Journal says differently, and my recollection is different.

THE PRESIDENT—The Journal is wrong. The Chair has never submitted to the Convention the question on the adoption of the Section as reported by the Committee as amended.

MR. WALKER—The situation of this matter as I understand it is that the amendment proposed by the minority was adopted so that to put before this Convention the proposition that the Circuit and County Solicitors should be elected by the Legislature for a term of six years, then amendment as proposed by the gentleman from Madison, and while that was pending the gentleman from Lauderdale proposed as a substitute for the amendment proposed by the minority and for all pending amendments, a proposition to make County Solicitors elected by the people and that they should be compensated by salary alone. Now I submit that as between these two propositions, the Convention certainly should hesitate before in the first place they adopt a proposition to make

all solicitors in this State elected by the Legislature for a term of two years, and that hesitation should have in view the fact that we are to have quadrennial sessions of the Legislature, and this provision would, of necessity, require the election of these solicitors at least every two years before their duties shall commence. Now is this Convention ready to put that provision in the Constitution. Do you think that would be satisfactory to the people, to require that every session of the Legislature, solicitors over the State should be selected for a term commencing at least two years from the time of the session of the Legislature. Now I submit that we should also consider this proposition in view of the circumstances, that as the population of this State increases, solicitors will, in the course of time, be established for each separate county in the State—that is inevitable unless our growth and development is stopped that in a few years, every county in the State will have its own separate solicitors, and that official of the county is not to be elected by the people of the county, but in the Legislature here. Now let every man in this Convention consider which is better to pass upon the fitness and qualification of the several candidates for this Convention, the members of that county, or the members of the Legislature, sixty-five counties being represented by strangers, who are strangers to the county. Now is that local self-government? Do the reasons which induced the Constitutional Convention of 1875 to establish this system of Circuit Solicitors exist now. The reasons for that were that at that time this State had not been entirely reclaimed from the domination and possession, in certain localities of the power in politics as prevailed eight years before. And that was done in order that throughout this State these officials should be controlled by the dominant parties. That condition of affairs has passed away. The people have long since come to their own, and one of the things they ought to own is control of their local affairs. The reason for arresting and stopping the power of the people to control their own local affairs that existed in 1875 do not exist now in any part of this State, so far as I am concerned. Unless this Convention is of the opinion that the powers of local self-government have been paralyzed in this State, and that the several localities need guardians to look over their interests, I cannot see how they would hesitate as between the two propositions that are now before us.

MR. OATES—I understand you would be in favor of the substitute or as at first presented by the County Solicitors to be elected by the people in the counties.

MR. WALKER—I would state to the gentleman I would prefer a proposition that would read thus, as between the two propositions I favor the substitute. I would prefer a proposition which is embodied in this Section which will be offered if opportunity is present. Section 28.

Sec. 28. A solicitor for each judicial circuit, or other territorial subdivision prescribed by the Legislature, shall be elected by the qualified electors of such circuit or other territorial subdivision, 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 or other territorial subdivision, for which he is elected, and whose term of office shall be for four years; and who shall receive no other compensation except the salary provided; provided, that this article shall not operate to abridge the term of any solicitor now in office.

MR. OATES—That is probably much better than the section as amended, but I understand the gentleman to say that the time is not far distant when there would be a solicitor for every county in the State.

MR. WALKER—That is true. This provides for that. My proposition is this. To fix it so the system for a circuit solicitor shall not be made rigid in this State but whenever the growth and development of the State has reached so far that county solicitors in each of the county in the several circuits is required by local demand, such solicitor can be provided, but pending that development, circuit solicitors where they met the existing requirements shall be retained until the counties have been so developed that county solicitors may be eliminated.

MR. KIRKLAND—I think the question has been discussed sufficiently before the Convention, and that the delegates have made up their minds as to how they desire to cast their votes, and I therefore move the previous question upon the amendments and upon the section.

MR. HEFLIN (Chambers) — I move to lay the pending amendments and all upon the table.

MR. WATTS—And upon that I demand the ayes and noes and a division of the question as to the amendments.

MR. ROGERS—A division of the question is asked for.

THE PRESIDENT—A division of the question is asked for, and the Chair will submit the question to table in the inverse order in which amendments were offered. The pending question will be the substitute offered by the gentleman from Lauderdale to the section as amended, and the amendment offered by the gentleman from Madison.

MR. ROGERS—I ask for a reading of the substitute.

MR. SPRAGINS—With unanimous consent I will be glad to withdraw my amendment.

Unanimous consent was given and amendment was withdrawn.

THE PRESIDENT—The question will be upon the substitute of the gentleman from Lauderdale. The ayes and noes have been demanded to the section as reported by the committee as amended.

The call was sustained.

Upon the call of the roll the vote resulted as follows:

AYES

Messrs. President,
Banks,
Browne,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Cobb,
Coleman, of Walker,
deGraffenreid,
Duke,
Ferguson,
Foster,
Glover,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Howze,
Inge,
Jackson,
Jenkins,
Kirk,
Kirkland,
Knight,
Long (Butler),
Long (Walker),
Madonald,
Opp,
Reese,
Reynolds (Henry),
Samford,
Searcy,
Selheimer,
Sentell,
Stewart,
Vaughan,
Weatherly,
Whiteside,
Williams (Marengo),
Williams (Elmore),
Wilson (Clarke),

TOTAL—44

NOES

Ashcraft,
Barefield,
Beavers,
Beddow,
Blackwell,
Boone,
Brooks,
Bulger,
Byars,
Chapman,
Cofer,
Cornwall,
Craig,
Davis, of Etowah,
Dent,
Espy,
Fitts,
Fletcher,
Freeman,
Gilmore,
Graham, of Talladega,
Grayson,
Henderson,
Hodges,
Howell,
Jones, of Bibb,
Jones, of Hale,
Kyle,
Lowe (Lawrence),
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Maxwell,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Mulkey,
Murphree,
NeSmith,
Norman,
Norwood,
Oates,
Palmer,
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pitts,
Porter,
Rogers (Sumter),
Sanders,
Sanford,
Sloan,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spears,

Spragins,	Waddell,	Weakley,
Studdard,	Walker,	White,
Tayloe,	Watts,	

TOTAL—65

ABSENT OR NOT VOTING

Almon,	Hinson,	Parker (Cullman),
Altman,	Jones, of Montgomery,	Pillans,
Bethune,	Jones, of Wilcox,	Proctor,
Burnett,	King,	Renfro,
Case,	Ledbetter,	Reynolds (Chilton),
Coleman, of Greene,	Leigh,	Robinson,
Cunningham,	Locklin,	Rogers (Lowndes),
Davis, of DeKalb,	Lowe (Jefferson),	Sollie,
Eley,	Martin,	Willet,
Eyster,	Moody,	Williams (Barbour),
Foshee,	O'Neal (Lauderdale),	Wilson (Washington),
Grant,	O'Neill (Jefferson),	Winn.
Greer, of Perry,	O'Rear,	

PAIRS

AYES	NOES
Graham, of Montgomery,	Hood,
Lomax,	Smith (Mobile),
Burns,	Bartlett,
Morrisette,	Thompson,

So the motion to table was lost.

MR. NESMITH—I move the previous question.

THE PRESIDENT PRO TEM.—The previous question has already been moved. The question is on ordering the previous question on the substitute and the section as amended.

THE PRESIDENT—The gentleman from Chambers anticipated the motion of the gentleman from Madison by a motion to table which took precedence of the motion of the previous question. The question is, shall the main question be put?

MR. LONG (Walker)—I ask the gentleman to withdraw that motion a moment.

(Expressions of dissent).

The main question was ordered.

THE PRESIDENT — The question will be first upon the substitute offered by the gentleman from Lauderdale.

MR. HEFLIN (Chambers)—I rise to a question of parliamentary inquiry. Was the gentleman from Lauderdale allowed to accept the amendment?

THE PRESIDENT PRO TEM.—He was not.

Upon a vote being taken a division was called for, and the substitute of the gentleman from Lauderdale was adopted.

While vote was being taken——

MR. deGRAFFENREID—Is this on the motion to adopt?

THE PRESIDENT PRO TEM.—Yes, sir.

MR. deGRAFFENREID—I vote for it for the purpose of moving to reconsider tomorrow.

The vote was 72 ayes and 32 noes.

MR. deGRAFFENREID—I desire to give notice that on tomorrow I will move a reconsideration of the vote whereby the amendment was adopted.

THE PRESIDENT—The question recurs upon the section as amended.

MR. WALKER (Madison)—I desire to offer a substitute.

MR. SAMFORD (Pike)—I rise to a point of order, the previous question has been ordered.

THE PRESIDENT — The previous question has been ordered.

Upon a vote being taken the section as amended was adopted.

MR. WILLIAMS (Marengo)—I want to give notice that I vote aye in order that I may move for a reconsideration of the vote by which the section was adopted.

THE PRESIDENT—The Secretary will read the next section.

Section 29 was read as follows:

Sec. 29. In each precinct not lying within, or partly within, any city or incorporated town of more than twenty-five hundred inhabitants, there shall be elected, by the qualified electors of such precinct not exceeding two justices of the peace and one constable. Where one or more precincts lie within or partly within, a city or incorporated town having more than twenty-five hundred inhabitants, the General Assembly may provide by law for the election of not more than two justices of the peace and one constable, for each of such precincts, or an inferior court for such precinct or precincts, in lieu of all justices of the peace therein. Justices of the peace, and the inferior courts herein provided for, shall have jurisdiction in all civil cases where the amount in controversy does not exceed one hundred dollars, except in cases of libel, slander, assault and battery and ejectment. The General Assembly may

provide by law what fees may be charged by justices of the peace and constables, which fees shall be uniform throughout the State. The right of appeal from any judgment of a justice of the peace, or from any inferior court authorized by this section, without the prepayment of costs, and also in the term of office of such justices, and of the judges of such inferior court, and of notaries public, shall be provided for by law. The Governor may appoint notaries public without the powers of a justice of the peace, and may, except where otherwise provided by an act of the General Assembly, appoint not more than one notary public with all of the powers and jurisdiction of a justice of the peace for each precinct in which the election of justices of the peace shall be authorized.

The minority report was read as follows:

"Strike out the word 'except' and strike out the word 'otherwise' in the last paragraph of Section 29."

Mr. Pettus here took the chair.

THE PRESIDENT PRO TEM.—The minority report will be treated as an amendment to the section. The question is upon the adoption of the amendment.

MR. JONES (Hale)—I think the minority report should meet the judgment of every delegate of the Convention. You just take the majority report and cut out the two words. The reason of the former law was that certain counties in the State were under negro domination, and as Coke says, "The reason of the law is the life of the law, and he that knoweth the law without knowing the reason thereof, has very insufficient knowledge." The State now is under Democratic rule, and there is no necessity of having these officers.

We have a justice of the peace who does all this work, and the idea of having a notary public was that in some counties where the negroes had control, the Governor might appoint the officer, but this is a judicial officer and it is against the spirit of the times to have a Governor appoint a judicial officer. It is also such a small office that he is sometimes appointed without due consideration. Some man, probably a Justice of the Peace, gets up a petition to have himself appointed, and sends it up and there being no opposition, because it is a small office, he is appointed.

Another thing, this officer is not like a Justice of the Peace. He is not responsible to any one. The Justice of the Peace has to be re-elected. This officer, being appointed by the Governor, has nothing behind and just acts according to his own good will, and I hope the Convention will not make perhaps forty or fifty that do not want this office, to be excepted, but will require the counties that want this office created, to come in and ask for it.

Do not make the counties that want to be excepted come here and ask for it, but make the counties that want it come to the Legislature for it.

MR SMITH (Mobile)—So far as the Section is concerned, it was molded largely to suit, as the Committee understood it, the varying conditions of the several counties and municipalities in the State. As the gentleman will notice, it makes the Justice of the Peace a constitutional officer in the counties, but not in cities and towns having 2,500 inhabitants or more. In cities and towns of that size the Legislature has the right, though it is not made compulsory, to create an inferior court to exercise the jurisdiction that Justices of the Peace would otherwise exercise in such cities or towns as the Legislature may create these inferior courts, and abolish the office of Justice of the Peace. In the provisions, so far as the Notary Public is concerned, it is left just as it was in the old Constitution, authorizing the Governor to appoint the Notary Public with powers of Justice of the Peace in each precinct, except as otherwise authorized by law. So far as we could learn in the Committee, there was but one county there represented that did not want the Notary Public with the powers of Justice of the Peace. That was the county of Hale. The gentleman from Hale now desires that all the other counties should have acts passed in order to authorize the Governor to appoint a Notary Public with the powers of Justice of the Peace, so as to save the county of Hale the necessity of passing that act. So far as we could learn, there are sixty-five counties that want it, and one that does not want it, which is the county of Hale, and the Committee therefore said that the county of Hale could get exempted from it. But the gentleman from Hale says, no, that burden ought not to be put upon Hale; the other sixty-five counties ought to get an act passed for their benefit. He thought there were more of them, and they could pass more acts, and he thought it was fair that they should pass these acts and that is the only controversy between the majority and the minority. I therefore move to lay the report of the minority upon the table.

MR. MACDONALD—Is it the purpose of the majority to allow the Legislature to provide for inferior courts in each precinct of a town such as described in the Section?

MR. SMITH—No, sir.

MR. MACDONALD—That is the phraseology; just read it.

MR. SMITH—I have read it and discussed it a great deal.

MR MACDONALD—Permit me to read it to the gentleman.

MR. SMITH—You are welcome to read it.

MR. MACDONALD (reading)—"In each precinct, not lying within, or partly within, any city or incorporated town of more

than 2,500 inhabitants, there shall be elected by the qualified electors of such precinct not exceeding two Justices of the Peace and one Constable. Where one or more precincts lie within, or partly within, a city or incorporated town having more than 2,500 inhabitants, the General Assembly may provide by law for the election of two Justices of the Peace and one Constable for such precincts, or an inferior court for such precinct or precincts."

That is the phraseology of it. I merely want to know if it is the purpose of the majority to put upon the county or State, an inferior court with all its machinery, in each precinct?

MR. SMITH (Mobile)—It is not the purpose, nor is it so expressed, in my opinion.

Upon a vote being taken, the motion to table the minority report presented.

MR. WILLIAMS (Marengo)—I desire to offer an amendment.

The amendment was read as follows:

"Amend Section 29 of the report of the Committee on Judiciary by striking out in the eighth line the words 'and the inferior courts herein provided for,' and by inserting after the word 'ejectment,' in the tenth line, the following, 'and the inferior courts herein provided for shall have such jurisdiction as may be conferred upon them by law."

MR. WILLIAMS—Just a word of explanation to the Convention on the amendment as offered. The Section, as reported by the Committee, provides for the abolition of the courts of Justices of the Peace and the establishment of an inferior court in the precinct wherever the court of the Justices of the Peace may be abolished. But it goes further and limits the jurisdiction of all civil cases in these inferior courts by saying that it shall not exceed $100, except in cases of libel, slander, assault and battery and ejectment. My amendment only goes to this extent, that whenever that Justice Court is abolished, and the inferior court established, that the court so established shall have such jurisdiction as may be conferred upon it by law; in other words, here we have got two Justices of the Peace in a precinct; their offices are abolished and an inferior court established. What is the object of giving to that inferior court only the jurisdiction that the Justices of the Peace had?

MR. WALKER (Madison)—Do you mean under your amendment to leave it so that the Legislature can confer upon such inferior courts the jurisdiction of the Circuit or Chancery Court?

MR. WILLIAMS—I think they might have more extended jurisdiction than Justices of the Peace, and this is the principal

reason: When you abolish Justices of the Peace, I presume you propose to put that judge of the Inferior Court on a salary. What salary are you going to give him? If he is only going to have the jurisdiction of the Justice of the Peace, you could not give him much salary. If you don't give much salary you can't get a good lawyer, and if you can't get a good lawyer, you can't have a good judge, and if you don't get a good judge you are going to have these courts in the same fix they are in now, presided over by inferior men, and in an illegal manner, to differ from the Supreme Court decisions. The object in my opinion, to be reached, by Section 29 is to have inferior courts in towns havng 1,500 or 2,500 people, which courts will be some good to the people in that particular locality. What is the great kick against Justice of the Peace? The inferiority of those who preside over them, the fact that they decide question of one hundred dollars down which decisions are not satisfactory to the people and it gives rise to appeals, while if you had those courts presided over by fairly good lawyers with fairly good salaries, which you could get by giving them some increased jurisdiction, you would have fewer objections and fewer appeals. Who is going to be the first man who presents himself for election to inferior court judgeships? It will be some justice of the peace who now presides over these courts, and the object of the section will not be obtained. I hate to see the absolute jurisdiction given provided by the amendment, but how else can you reach it, and you must not, for the hundredth time to repeat what other learned men have said here on the floor believe that our legislators are going to be a set of fools, but they are going to have some sense, and that they are going to apply to the various precincts of which they create these inferior courts, some judgment as to how much discretion they are going to give these judges. It might be different in one town of 1,500 or in one town of 2,500, and let there be some elasticity about it, and lets get rid of justices of the peace absolutely and totally, and get for a presiding judge of that particular court some good man who will expedite justice, and who will give out justice in a judicial manner, that is the object of my amendment.

MR. COBB—I am in accord with the gentleman who has just addressed the Convention in part. I am not in favor of erecting these courts with the general jurisdiction which his amendment would give them, but I do believe that if we erect these courts at all they ought to have some jurisdiction above that conferred upon a justice of the peace. The Convention will observe the object of this proposition embraced in the Committee's report. There is a complaint all over the State of Alabama with reference to justices of the peace. They are sometimes said to be nuisances. While I do not go to that extent, because the office of justice of the peace is an important office, and it is frequently filled by men who are valuable officials in their section of the country. That is undoubt-

edly true, while it is equally true that this office is often filled by men who have no consideration for anything except the amount of fees that may be made out of their official position, and wherever that is the case, then they become troublesome citizens of the section in which they reside, they encourage instead of suppress litigation, and they get up a great many trifling and unimportant matters to the harrassment of their neighbors. Now, to meet that condition of things, it is the object of the Committee here to provide. I might observe further, that this complaint to which I have referred with reference to action of the justice of the peace obtains more specially and greviously in the cities, in Montgomery, Mobile, Selma and these large and growing places, especially in cities where they are surrounded by a certain class of our population who more than any other class of citizens are subject to these annoyances and indirectly their employers.

Now, then, in order to remedy this in part at least, and as far as we feel justified in going, it is provided in this report that in certain places, having as many as two thousand five hundred inhabitants, there may be an inferior court with a judge of qualifications and better character it may be, and a man having more regard for the public interest than the ordinary justice of the peace as he is represented to be, should be established, and wherever that is done, at the instance of the people (because it will only be done at their instance), then the office of justice of the peace within that jurisdiction should be abolished, and in place of two justices of the peace, you have got one responsible officer, more responsible than the justices are deemed to be, before whom you can go with these little matters of litigation and who will be supposed to be above encouraging litigation among any class of people. That is the object of the Committee.

Now, then, the Committee has limited the jurisdiction of such a court as this, if established, to the jurisdiction of the justice of the peace. I believed and so did some of the Committee, that wherever the circumstances authorize the establishment of such a court as this, while we would not give him a general jurisdiction, you might increase the jurisdiction somewhat above that of justices of the peace, and have provided here by amendment that you give him jurisdiction in civil cases of $250, and I offer that amendment.

MR. WILLIAMS—I would like to accept that amendment.

MR. OATES—Before your amendment is ready, why not confine these inferior courts to those misdemeanors, under the law that justices of the peace have a right to dispose of now? I have heard more complaint in respect to that class of misdemeanors than anything else, and why not confine them to that court?

MR. COBB—I have no objection to that if you think it is wise. I don't know if you could not safely allow him to have control of this business, but I think the Legislature can deal with it if they see proper to do so. I think it better not to put too much in the Constitutional provision. Leave it to the Legislature in their wisdom, if they have any wisdom, and I think they have, notwithstanding the abuse which has been heaped upon them.

The substitute offered by Mr. Cobb to the amendment of Mr. Williams was read as follows:

Amend by striking out the words, "And the inferior courts herein provided for," in the eighth line of the original Section, and by adding after the word "law" in the fifteenth line, the following: "Such inferior courts shall have the jurisdiction of Justices of the Peace, except that in civil cases they shall have jurisdiction where the amount involved does not exceed $250."

MR. WILLIAMS (Marengo)—I ask unanimous consent to accept that substitute for my amendment.

MR. WATTS—Mr. President and gentlemen of the Convention, this matter in reference to the Justices of the Peace and in reference to this inferior court occupied many hours of consideration by the Committee on Judiciary, the final result after very much discussion and hearing the idea of all persons connected with that Committee, was the Section, which has been presented, the objection of this Section is simply this: that instead of having in towns of 2,500 inhabitants, several Justices of the Peace exercising their jurisdiction, the Legislature should have the power to create an inferior court to take the place of all of the Justices of the Peace, within such a town. Now, mark you, that the policy of this Committee, and I may say the policy of this Convention, because they have adopted that much of this Committee's report, is that there shall not be established by the Legislature of this State inferior courts in counties which have less than 20,000 population and $3,500,000 of taxable property, so that the Committee in recommending this inferior court to take the place of Justices of the Peace and Notaries Public with powers of the Justice of the Peace, meant to simply engraft an exception upon this first Section which is contained in their report, and the object was not to give the Legislature the right to establish in every town that had 2,500 inhabitants an inferior court with general jurisdiction, or with the jurisdiction either in equity or at law, but the intention of the Committee was to simply substitute for a lot of Justices of the Peace and Notaries Public with powers of Justices of the Peace, one person, who should be learned in the law, and who throughout the towns and throughout the precincts which were partly within and partly without the town, exercise the same jurisdiction that the collective Justices of the Peace would otherwise exercise. I do not think it would be a good idea to say that the Legislature should

give this inferior court such powers as they might see proper, because if we adopted that amendment, that would in effect nullify the first Section of this report. I do not think that it would be right to the State to say to the Legislature, you may establish an inferior court in each of these towns and give them what jurisdiction you please, because that would be giving the Legislature the right to multiply the very evil which the first Section of this report condemns, therefore the amendment of the gentleman from Marengo should not be adopted.

Now, the gentleman from Macon says give them jurisdiction to the extent of $250. Then you would have this state of affairs: You would have a lot of inferior courts established in towns of 2,500 people which would have concurrent jurisdiction with the Circuit Court of all amounts up to $250, except in cases of libel, slander and ejectment. Now, that is not the object of the Committee.

MR. WILLIAMS (Marengo)—I would like to ask the gentleman from Montgomery if they are to take the place of the Justices of the Peace, if these inferior courts would not be subject to the jurisdiction of the Circuit Court? If they are simply put in the place of Justices of the Peace, why should they not be subject to the jurisdiction of Circuit Courts, that is what Section 29 says, and——

MR. WATTS—I will answer the gentleman if he will let me. Because now the Justices of the Peace have jurisdiction up to $100, and the Circuit Court has jurisdiction about $50, and yet every lawyer knows that Justices of the Peace and the Circuit Courts have concurrent jurisdiction for amount over $50, although you can appeal from the Justices.

MR. COBB—Can't you appeal here.

MR. WATTS—There is no provision made for appealing here.

MR. WILLIAMS—Yes, there is, if you will put it in.

MR. WATTS—Let us keep to the question. The simple question is this: Shall we substitute an inferior court for all of the Justices of the Peace and all the Notaries Public with powers of justices of the peace within towns of 2,500 inhabitants. Now the committee say that we agree to that provided the jurisdiction of this inferior court shall be what the jurisdiction of those justices would have been. All of this matter that these gentlemen are discussing here was discussed in the committee. It was proposed in the committee to make this very amendment offered by the gentleman from Marengo. It was well considered, and it was voted down as unwise. Why, then, if we are going to open the gates, if we are going to establish these inferior courts of such jurisdiction

as the Legislature may give them, or with $250 jurisdiction, should we adopt the first section of this article limiting the power of the Legislature to establish these courts.

Something was said about criminal jurisdiction. We don't want to put into the Constitution anything about criminal jurisdiction. It never has been there, and we don't want to recognize in this Constitution the jurisdiction of these justices of the peace or these inferior courts in criminal matters. The Legislature had power before to give justices of the people criminal jurisdiction in a certain manner, and we propose to leave that untouched so that hereafter the Legislature can do what they please in that matter. I do not think either of these amendments should be adopted, unless we go back and say the gates are wide open and the Legislature may establish inferior courts with plenary power to every cross road in Alabama.

MR. WILLIAMS—Did I understand you to say the right of appeal was not provided for in these inferior courts?

MR. WATTS—I do not know what you understood. If I said so I made a mistake.

THE PRESIDENT PRO TEM.—The question is upon the adoption of the amendment.

MR. VAUGHAN—I have a substitute to offer for the section and amendment.

The substitute of Mr. Vaughan was read as follows:

"There shall be elected by the qualified electors of each precinct in the counties, not exceeding two justices of the peace and one constable. Such justices of the peace 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 of the peace the right of appeal without prepayment of costs shall be secured by law; provided that within incorporated cities and towns of two thousand inhabitants or more, the General Assembly may provide an inferior court of record for such city or town in lieu of all justices of the peace therein, such inferior court shall have the jurisdiction of a justice of the peace. Appeals from such inferior courts may be taken to the Circuit or City Court. Provided, further, that the Governor may appoint one notary public for each election precinct and for each ward in cities of over 5,000 inhabitants, with the jurisdiction of a justice of the peace and the term of such notary shall be prescribed by law.

MR. VAUGHAN—That substitute is very much like the section of the Constitution as it stands now, except that it permits the creation of these inferior courts in cities or towns of 2,000

inhabitants or more. I don't think that it is wise to abolish justices of the people altogether, but I do think it is wise to abolish them in some localities. I think in all probability in cities and towns of two thousand inhabitants it is best to abolish justices of the peace for this reason: That in towns of that size justices of the peace are apt to abuse the powers that they have in a good many cases, and they trade around among themselves and manufacture cases. In that way they abuse the power conferred upon them and I think it is necessary to have an inferior criminal court to supply their places.

Now as to the jurisdiction. We need the justice of the peace in the country and we need courts of that same jurisdiction in town. We need little courts to attend to small matters, and I think that the jurisdiction ought not to be increased, as provided in some of the other amendments to $250. If it is necessary to have a case of that size, it may be brought in any court. It can be brought in the Circuit Court, and I think that all cases of that sort probably ought to be brought in the Circuit Court. The substitute as offered by myself, I think embodies a good deal of the merit in both the section and the amendment offered by various parties.

MR. GRAHAM (Montgomery)—The purpose of the committee, as has been stated to you by my colleague from Montgomery (Mr. Watts) was as far as possible to do away with the annoyance to litigants brought about by incompetent and ignorant justices of the peace throughout the State of Alabama, particularly in the larger towns of the State. Those of us who reside in those towns fully understand and appreciate the situation. The amendment offered by the gentleman from Dallas is very nearly the same as the report offered by the committee, hence I think it is unnecessary, and the report of the committee, or the conclusion reached by the committee which is embodied in its report, was after long and mature consideration.

MR. VAUGHAN—I want to suggest to the gentleman from Montgomery that my substitute abolishes ex-officio justices of the peace.

MR. GRAHAM—Yes, sir, I understand, and the report of the committee abolishes exactly the same thing.

Now, Mr. President, the amendment offered by my most excellent friend from Macon, confers a dignity greater than was anticipated or expected would be conferred upon a court of this character. He creates it with jurisdiction in civil cases to the extent of $250. In my humble opinion, a court of this character, possessing no more dignity than is conferred upon it by this Constitution, should not have the power and authority to try cases to that extent, particularly as it is anticipated that this will not be

a court of record. It is true that if a man does not desire to bring his suit in this court, he would have the right to go into the City Court, or court of similar jurisdiction, or into the Circuit Court, but that was not the purpose of the Committee, and it should not be the intention of this Convention to create courts without number, conferring upon them jurisdiction entirely out of proportion to their merits. The whole purpose was to establish in cities and towns a court which would take the place of the number of Justices of the Peace who were carrying on the business of the administration of justice. In view of the situation, as I understand it, and believing that the report of the committee is the best that can be had under the circumstances, I move to lay the substitute, the amendment of the gentleman from Macon, and the amendment of the gentleman from Dallas upon the table.

MR. WILLIAMS (Marengo)—I ask for a division of the question.

MR. REESE—I desire to make a parliamentary inquiry. I understood the Chair to state that there are three amendments now pending.

THE PRESIDENT PRO TEM—The Chair did not so state, and the gentleman misunderstood the Chair.

MR. REESE—I understood the Chair to state that there was an amendment offered by the gentleman from Marengo and a substitute offered by the gentleman from Macon, and also an amendment offered by the gentleman from Dallas.

THE PRESIDENT PRO TEM—The understanding of the gentleman from Dallas is at fault. The chair said that there was an amendment offered by the gentleman from Marengo, a substitute to that amendment offered by the gentleman from Macon, and Mr. Vaughan offered a substitute for the pending section and the amendment, and the gentleman from Montgomery moves to table the substitute and the amendment of the gentleman from Marengo. The question is, shall the substitute of the gentleman from Dallas be laid upon the table.

Upon a vote being taken, the motion to table the substitute prevailed.

The question then recurred upon the amendment offered by the gentleman from Marengo, and upon a vote being taken, the motion to table the amendment prevailed.

MR. REESE—I desire to offer an amendment.

The Secretary read the amendment as follows:

"Insert after the word 'libel,' in the tenth line, the words, 'and the jurisdiction of such inferior court shall extend over and include all precincts next contiguous thereto."

MR. REESE—The purpose of this amendment is this: That this provides for the establishment of the court which, in the opinion of the Committee, will be a much better court than the courts at present organized under the Justice of the Peace system. The purpose is to get a man who knows something about law, and the character of the judge over this court, than are in the country beats. In every town of 2,500 inhabitants, it is the postoffice and place of business of a number of beats that are next contiguous to that town. It is the most convenient where litigants can try cases. In counties where there is a town of 2,500 inhabitants, all the lawyers live in those towns. In the event of having to obtain the services of a lawyer, it is much cheaper for litigants to obtain them by attending the court in the town than to have to go out in the country. In my opinion this would establish a court in a town of 2,500 inhabitants, and it would be to the advantage of litigants in the adjacent beats where the town was their headquarters, and would furnish those people with an intellient class of officers. Another thing: It would give a man in a beat who did not happen to enjoy the confidence and good will of the justice of the peace in his beat an opportunity to get a convenient and fair tribunal to try his case. I hope very much that this Convention will adopt that amendment. I think it will result in very great good and it will leave it to the Legislature.

MR. HOOD—May I ask the gentleman a question? What does your amendment propose to do with the justices of the peace in those contiguous precincts?

MR. REESE—I had not gone that far. The amendment does not go so far as to abolish the justice of the peace in the beats where the courts were established.

MR. HOOD—What good will it do if you do not abolish the justice of the peace in those precincts?

MR. REESE—It will do this much good: If a party had a case that he desired to bring before a party where the jurisdiction lies in one of the beats contiguous to the court, should he desire a fair and uncorrupted and intelligent judge, he would have a right to bring it in the inferior court. In other words, this amendment is to give this inferior court concurrent jurisdiction with the Justice of the Peace residing in that beat.

MR. deGRAFFENREID—Is there anything in here to prohibit the General Assembly——

MR. ESPY—I yielded to the gentleman from Etowah, Mr Hood, to ask a question, but I did not yield the floor.

MR. REESE—I would like to make a parliamentary inquiry. I got the floor, and it has been taken away from me, but if anybody

is deprived of the floor, I do not want to trespass further on his time.

THE PRESIDENT—The gentleman from Dallas will be protected in his right to the floor.

MR. deGRAFFENREID—Is there anything in this Section prohibiting the Legislature from conferring jurisdiction on inferior courts?

MR. REESE—I am inclined to think there is not. For the people in the Black Belt counties I think this would be a good amendment, and it does not deprive the Legislature.

MR. ESPY—It is not the intent of the Committee to interfere with the Justice of the Peace in the rural districts more than absolutely necessary. The amendment of the gentleman from Dallas would virtually destroy the jurisdiction of Justices of the Peace in the rural districts. I move the previous question on the amendment and the Section.

MR. FITTS (Tuscaloosa)—I have an amendment to offer.

MR. deGRAFFENREID—I want to offer an amendment before the previous question is called.

MR. ESPY—I will call for the previous question on the amendment only, then

A vote being taken, the previous question was ordered.

MR. WADDELL—I have an amendment to offer.

The Clerk read the amendment as follows: Amend by adding the following at the end of the Section: Provided, that Justices of the Peace shall not have final jurisdiction in criminal cases."

THE PRESIDENT—The question will be upon the amendment of the gentleman from Russell.

MR. FITTS—I will ask the gentleman to yield for a moment.

MR. WADDELL—I will yield for a moment.

MR. FITTS—I just want to say that my amendment can be discussed at the same time with your amendment.

The Secretary read the amendment offered by Mr. Fitts as follows:

"Provided, that the inferior court shall be established at all places where there is a sorry lawyer who wants a job with a good salary."

MR. DUKE—I call for the reading of the amendment. We cannot hear in this part of the hall.

The amendment was read again.

THE PRESIDENT—The Chair will rule the amendment out of order.

MR. BURNS—I desire to offer an amendment.

THE PRESIDENT—The Chair recognized the gentleman from Russell as entitled to the floor.

MR. WADDELL—It seems that this Committee has recognized the fact that there was a good deal of evil existing in the office of Justice of the Peace and they have attempted to correct that evil in the cities of the State, without giving any relief to that part of the State which needs it the most. In the rural districts of the State is where this evil exists in its greatest extent. I have known Justices of the peace to grant divorces. There are sections in this State where they have absolutely established a convict system, and run it. Under our law they are not allowed to sentence a prisoner for costs, but they go and make special arrangements with farmers whereby they take the prisoners and pay the costs and work them as convicts on farms in the State.

A DELEGATE—Where do they do that?

MR. WADDELL—I have heard of several instances of that sort related in this Convention on this floor. One instance was in Tallapoosa County, and that is not a Black Belt county. I say that the evil should be corrected, and that Justices of the Peace should be deprived of final criminal jurisdiction. They have not the power under law to sentence for costs, and they exercise improper jurisdiction in that direction. They deprive persons of the right granted to them under our Constitution of a fair and impartial trial. They have no trial. They take them up and try them for felony. In numbers of instances I have known this to be the case. Mr. President, I now move the previous question on my amendment.

MR. GREER (Calhoun)—I move to lay the amendment offered by the gentleman from Russell on the table.

A vote being taken the motion to table was adopted.

MR. deGRAFFENREID—I have an amendment.

The Secretary read the amendment as follows: "By striking out in lines two and five thereof the words 'twenty-five hundred, and inserting in place thereof the words 'fifteen hundred.'"

THE PRESIDENT—The question will be upon the amendment of the gentleman from Hale.

MR. deGRAFFENREID—As far as I am personally concerned I have no interest in the amendment. I offer it in order

that some towns that are situated near where I live may get the benefit of this provision in the Section. You take such towns as Uniontown in Perry County, where they have 1,500 inhabitants, if not more, Livingston in Sumter County, and Gainesville in Sumter. A great many of these counties would, I presume, get the benefit of this particular Section. I have been requested by a delegate who resides in one of those towns to introduce this amendment in order that his town at least might be able to get the benefit of it. I trust that the Convention will adopt this particular provision.

THE PRESIDENT—The question is on the adoption of the amendment on the gentleman from Hale. Does the gentleman from Dallas (Mr. Burns) desire to offer his amendment?

The delegate from Dallas did not respond to the interrogation.

A vote being taken, a division was called for, and a further vote being taken, the amendment was adopted by a vote of 45 ayes to 27 noes.

MR. SAMFORD (Pike)—I move the previous question upon the section.

A vote being taken, the previous question was ordered, and a further vote being taken, the section, as amended was adopted.

The Secretary read Section 30 as follows:

Section 30. The Attorney General shall be elected by the qualified electors of the State at the same time and places of election of members of the General Assembly, whose term of office shall be for four years, and until his successor is elected and qualified. After his election, he shall reside at the seat of government, shall be the law officer of the State, and shall perform such duties as may be required of him by law.

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

MR. COLEMAN—I believe that the section provides that he shall reside at the capital. I presume it means during his term of office, and cannot intend that he should reside there always. I move to amend by stating during his term of office.

MR. REESE—I desire to ask the Chairman of the Committee a question. Is not this section almost a repetition of Section 3 of the Article on Executive Departments?

MR. SMITH—I did not compare them. I think so. If there is any question about what it means, we have no objection to accepting the amendment offered. It is copy of the old Constitution.

THE PRESIDENT—The question is on the amendment of the gentleman from Greene.

MR. HARRISON—I desire to ask the Chairman of the Committee if that is not exactly the language of the old Constitution?

MR. SMITH—Yes, sir, and besides says he must be an officer of the State. He would not be an officer of the State after his term expires.

MR. COLEMAN—I think we ought to correct the oversights of our predecessors. It says after election. He does not go into office until November. Heretofore, he went into office in August. If it said he shall reside in Montgomery during his term of office, that would cover everything.

The Secretary read the amendment offered by the gentleman from Greene, Mr. Coleman, as follows: "Amend the section after the word 'seat' of government, the words 'during his term of office.'"

A vote being taken the amendment was adopted.

MR. WALKER—I would suggest that the amendment of the gentleman from Greene ought also to strike out the words "after his election" and I move that those words be stricken out, and that the words offered by the gentleman from Greene be substituted in their place.

THE PRESIDENT—The amendment of the gentleman from Greene has been adopted. Does the gentleman offer another amendment

MR. WALKER—Yes, sir, that the words be stricken out.

A vote being taken, the amendment was adopted, and a further vote being taken the section as amended, was adopted.

MR SAMFORD (Pike)—Just at this point I would like to introduce an amendment to come before Section 31. It comes in at that place, and it will not be objected to by the Committee, as I understand it, however if the Chair thinks better, I will keep it and offer it afterwards.

THE PRESIDENT—The Committee on Harmony will probably place it. It has not been our custom to interrupt the consideration of these reports and add sections until the consideration of reports was completed.

MR. SAMFORD (Pike)—Very well.

The Secretary read Section 31, as follows:

Section 31. The style of all process shall be, "The State of Alabama," and all prosecutions shall be carried on in the name

and by the authority of the same, and shall conclude, "Against the peace and dignity of the State."

MR. SMITH—I move the adoption of that section.

A vote being taken the section was adopted.

MR. SAMFORD (Pike)—I move to amend the Article by adding Section 32.

Secretary read Section 32 as follows: "Nothing in this Article shall be so construed as to affect the term of office of any officer now in office."

THE PRESIDENT—The question is on the adoption of the amendment offered by the gentleman from Pike.

MR. SAMFORD (Pike)—I do not desire to discuss it, but to call the attention of the Convention to the fact that there is no provision made in here with reference to the terms of some of the city judges throughout the State that have already been fixed by the legislature heretofore, and I move the adoption of that section.

MR. BURNS—I have an amendment to the amendment.

The Clerk read the amendment as follows: "Amend by adding Section 32. No judicial officer shall be interested in the termination of any criminal cause which may be tried before it."

THE PRESIDENT—The question is on the amendment.

MR. BURNS—I thought, perhaps, the gentleman from Pike would accept that. A blind man can see what that section or amendment means. There is a cry all over the State against justices of the peace, and their process and mode of enforcing the collection against the poor of the State. That word "fees" has done more harm than any other word in the English language. The very fact that the justice of the peace or any other officer is interested in the termination of a case before him to the amount of perhaps fifteen dollars would affect and does affect in proportion to three railroad passes upon any other class of people. Now twenty-six years ago, on this same article, a justice of the peace from one of the black beats from this State rose from his seat and offered an amendment in the Constitutional Convention of 1875, when General Oates was chairman of the Judiciary Committee, and such men as Pugh and Hood were there, and it was accepted and placed in the Constitution and it is in this article today. Another justice of the peace, perhaps the same one, twenty-six years afterwards, offers another amendment, and an amendment against which no man can rise and make a speech and tell the truth, not a man here but what will say to himself in his own heart, no judicial officer should ever be interested in the termination of a criminal cause.

MR. REESE—Will my colleague permit a question?

MR. BURNS—Two of them.

MR. REESE—I will ask my colleague if he does not think a judicial officer should be permitted to take an official interest in a question pending before him?

MR. BURNS—No, sir, not any interest mixed with duty. His only interest in any cause should be to do his duty, and I doubt, gentlemen, whether any man can do his duty when there is a fee held out, or a free pass in his pocket.

MR. SAMFORD (Pike)—Under the amendment offered by the gentleman from Dallas, while it has considerable merit, it is not germane to the section offered, and I therefore move to lay it upon the table—to be taken up at a more appropriate time.

A vote being taken, the motion to table prevailed.

MR. SAMFORD (Pike)—I move the adoption of the amendment.

MR. ASHCRAFT—I have an amendment.

The Secretary read the amendment as follows: "All fees in excess of a salary to be fixed by law collected by the Clerk of the Supreme Court shall be by such court turned into the State treasury to the credit of the general fund of the State."

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Lauderdale.

MR. ASHCRAFT—I have already expressed my views on the subject of this amendment. On yesterday, the question when it appeared before the Convention was involved with the idea of the election of the clerk by the people. The Convention decided that the people were incompetent to elect their clerk, and therefore they voted that measure down, but I feel sure that when we contemplate the spectable of the clerk receiving such an exhorbitant salary in comparison with the judges of the court, that we cannot refuse to say that he ought to be limited to a reasonable salary. The Convention here this morning, a great many members of this Convention evinced great faith in the Legislature to do that which is right We are perfectly willing to trust the Legislature to say what is a just and reasonable compensation for the clerk of the Supreme Court, and I am utterly at a loss to understand how any man who comes here representing the free people of Alabama——

MR. HEFLIN (Randolph)—I rise to a point of order. Under the rules the time for adjournment has passed.

THE PRESIDENT—The point of order is sustained. The gentleman will conclude his remarks at the afternoon session.

Leaves of absence were granted as follows:

To Mr. Altman for today and tomorrow; to Mr. Lomax for today.

Thereupon the Convention adjourned.

AFTERNOON SESSION

The Convention met pursuant to adjournment, there being eighty-nine delegates present upon the call of the roll.

THE PRESIDENT—When the Convention adjourned in the morning we had under consideration the report of the Committee on Judiciary, consideration of an additional section proposed by the gentleman from Lauderdale. The gentleman from Lauderdale had the floor.

MR. ASHCRAFT—Mr. President and gentlemen of the Convention: I was about to say as we adjourned for dinner, that we sat here in a representative capacity, and that upon us is laid the responsibility to see that the administration of public office is administered in the wisest and most economical way. If we should fail to put this provision in the Constitution of Alabama, when we go back to our people, and those who oppose our work ask why was it you were unwilling to reduce expenses, why were you unwilling to place the clerk of the Supreme Court upon a salary when the Governor, the Secretary of State and other State officers have been placed upon salaries? Solicitors have been placed upon salaries. At one time the Solicitors of this State were on fees, but in the progress of business the fees multiplied and became of such magnitude that they carried to the Solicitors unreasonable compensation for their work. The result was, the Solicitors were put upon salaries, and the excess fees turned into the Treasury. We should pursue the same wise and economical policy in this matter that we do in our private affairs. Why not transact the business of the State in the same economical and just plan that we transact our own business? We do not ask that the clerk work on a low salary; we do not ask anything of the kind. We ask that he be reasonably compensated, and whatever is in excess of that amount taken from the people shall be returned to the people in the best method we have of returning it to them. The attempt to reduce fees will be in vain until the incentive for lobbying has been removed from behind the effort. Let us put the clerk upon a salary and then there will be nobody having a personal interest in keeping up exhorbitant fees, and affairs can be placed upon an economical basis. It is not proposed to interfere with the compensation of the present incumbent, and I do not believe that the people of the State will justify us when we say in answer to their question: Why did you not reduce the

compensation of the clerk of the Supreme Court? I do not believe they will justify us if we reply that the present incumbent is a man of extraordinary high character; that he is an excellent man and that he will probably occupy the place again. I do not believe that is a sufficient justification for continuing to pay an official an exhorbitant compensation in fees, and that it is exhorbitant we all know, because if it were not exhorbitant nobody would hesitate to put him on a fair basis; nobody would object to that proposition, so I can see no good reason except our personal regard for the present incumbent and the probability that he will occupy the place again, in continuing the present plan.

MR. SMITH (Mobile)--Mr. President, in the consideration of this question in the committee, I took absolutely no part whatever in the discussion, nor have I taken any part in the discussion of it here before the Convention. It was my purpose to allow the Convention to pass upon this question as it might see proper without any discussion whatever by myself as the chairman of the committee, but the gentlemen who have seen fit to attack the report of the majority, have taken the position here, that they, and they alone, possess the integrity and the virtue that is among the delegates in this Convention, and that those who thought differently from them were actuated by some improper motive. They have spoken of it here as the result of lobbying and have referred to it time and again in that way. Not only have they practically denounced the balance of the Convention as not sincere in this matter, but they have charged that it was absolutely impossible ever to obtain justice or right from the Legislature of this State, because they, too, were subject to the influence of lobbying. Now, Mr. President, it seems to me that that is assuming a great deal more virtue than these gentlemen have, a very great deal more, and it seems to me that it is taking the position that the balence of these delegates are actuated by motives which they cannot be justly charged with.

So far as I am concerned, it seems to be that a fee basis, except where the man who does the work has the opportunity of manufacturing business, is the proper basis. If a man does a great deal of work, he should receive a great deal of pay, and if he does very little work, then he should receive very little pay. In the case of Solicitors, there is an evil to be guarded against. The Solicitor may be subject to temptation to prosecute people whom he ought not to prosecute, for the purpose of enhancing his compensation. No such temptation can obtain with the clerk of the Supreme Court He has no control whatever over the number of cases that come to that court, and I think, therefore, he stands on a different basis, and the question should be controlled by different principles than those applicant to the Solicitor. I think the proper and just way of compensating is by fee. If the fees

are too high, then they should be reduced, and the fact that they are too high is no reason whatever why the basis of compensation should be different. What is the argument that he should not be paid by fees? The argument is that every man save these speakers are dishonest and that therefore it is not practicable. It strikes at the very life of our form of government, by saying that we cannot trust the legislature because the last one of the legislators are dishonest. I say it is no argument; it is a vicious assault on the forms of civilized government and we cannot act upon it. Now, then, something has been said about the magnitude of these fees. These gentlemen have said that he should not receive several times the amount that our Judges of the Supreme Court receive. Have they here shown or been able to state upon their own information that these clerks receive such an amount?. Not at all. But they have said that these people need the influence of those lobbying and that those who are representing this Clerk, if they expected to be believed upon the floor of this Convention ought to have brought figures to these gentlemen. I feel under no obligation to present my facts and information to other delegates simply because they disagree with me. Why don't they go to the records themselves. The records are open to the gentlemen on the other side of this question as well as ourselves. They are public records and not private. Let them go to those records and bring these figures here and not stand up and call on us to do it.

MR. ROGERS (Sumter)—Why have you never given us those figures?

MR. SMITH—I did not feel myself under any obligation to do so.

MR. ROGERS—You question it because you have the figures.

MR. SMITH—I question it because you have not produced them. The records are open to you and if you want the labor done, go do it yourself. Don't call upon me to do it. I am a delegate here as well as yourself.

MR. ROGERS—We want the result of your investigation.

MR. SMITH—I know you do and I want the result of yours. I am at liberty to doubt the accuracy of your statements quite as freely as you are mine.

I am informed, and I believe reliably, that there have been about four hundred and seventy cases come to this court yearly; that of those there are as many as seventy that fall within the non-fee paying cases, misdemeanor cases, and cases of felonies, where there are no affirmancies, and cases of insolvent parties. If that information is right, there would be three hundred cases left, and the ordinary fee bill, as printed, and that any man can look at, produces to the clerk, $11.05 under ordinary circumstances—

$11.05 when an sciara facias is issued or execution, and there are one or two exceptional instances where additions are made. Those additions may run it up to a little over $12. I am told that $12 is a fair or large average on the cases. If that be correct, then there is $3,600 or $4,000. Then in addition to that there are copies of opinions. That may amount to $200 or $300, and then from that must be deducted an amount for an employe in the office. I have understood that that made a net result of $3,000. It may be a little more, it may be a little less. So it seems to me that the statement made here that the clerk should not receive three times as much as the Justice of the Supreme Court is a reckless statement. So far as my information is concerned, it is not justified by any facts, but it does not seem to me that is the question. The question is whether paying a man according to the amount of work he does is a just method of compensating him. If the amount paid for that work is too large, it seems to me that the reduction of it is within the province of the legislature and not within our province, and therefore the majority report is correct, and I move to lay the amendment upon the table.

Upon a vote being taken the motion to table the amendment prevailed.

MR. SAMFORD (Pike)—I move that the report of the Committee be engrossed and ordered to the third reading.

MR. OATES—I rise for the purpose of offering an additional section. I think there is merit in it.

The section was read as follows:

Additional section giving the power to the legislature to abolish courts.

"Amend Article on the Judiciary Department by adding thereto the following section:

"The legislature shall have the power to abolish any court except the Supreme Court and the Probate Court whenever necessary from any cause, or its jurisdiction and functions have been conferred upon some other court."

MR. OATES—All that I have to say about that is that it offered to make the power of the legislature clear wherever it becomes necessary. I know that in the past there has been litigation springing up in consequence of the legislature abolishing courts, as to whether or not they had the power. One of the members of this Committee, the delegate from Mobile, Mr. Pillans, had drawn hurriedly two proposals to cover this ground and when he was leaving he handed them to me and asked if I would not draft one and present it. I have done the best I could on it, and think it is the proper thing to be done.

Upon a vote being taken a division was called for, and the amendment was adopted by a vote of 54 ayes to 37 noes.

MR. REESE—I desire to offer an additional section.

"Sec. 34. The Legislature may by law change the mode of selecting the solicitor of any county, or may provide for the appointment of such officer."

MR. REESE—Mr. President, the amendment is offered to cover contingencies that may arise, in fact the local conditions of the various counties of this State are very much varied. The plan of selection by the people will result in the election of good men in some of the counties and it will be expedient in other counties to select the best men by that method. There are various reasons, unnecessary to mention, but which suggest themselves to the members of this Convention why this should be done. As far as I am concerned, one reason that has guided me in the support of this amendment is that the party which now has charge of the affairs of this State is the party that has furnished the best, most honest and trustworty officers that the State has ever had. I am afraid to trust the Republican party of this State to furnish officers for the State of Alabama, and if I were a member of the Legislature, I would vote for a law that would permit the Legislature to select prosecuting officers in counties where otherwise it would be put in the hands of negroes and the opponents of the party which has given such good government to the people of Alabama. Speaking candidly, that is one of the reasons why I would accept this amendment. But eliminating any partisan motives at all I have grave doubts as to whether this mode of electing solicitors would result in good in my county. It makes the solicitor dependent for the office upon the very men whom he is expected to turn around and prosecute. We know in these cities there are men and influential citizens and politicians not interested in the enforcement of law and in the prosecution of criminal cases and Mr. President, that class of citizens in a community exercise a very large and a very wide influence and if they were to go out to get the office of solicitor they could get it. It has been suggested to me by a delegate of this Convention that the law and order crowd could control this matter. Mr. President, whether or not the law and order crowd has ever gone out against the other crowd, the law and order crowd generally got wiped up and I do not believe we ought to put in any iron clad ruling in this that might confront the Legislature in the future and prevent them from rectifying a trouble that may ensue from the provision agreed upon by this Convention, and I hope that this committee, Mr. President, to aid in morality has been allowing this committee in allowing home rule, in allowing people of different communities to adjust these provisions to their particular and local needs and I think this is another

step in that direction and I hope the delegates in this hall will vote in favor of the adoption of the amendment.

MR. ASHCRAFT—I would like to have the amendment read.

The Secretary again read the amendment.

MR. SMITH (Mobile)—I don't know that I am wedded to either of the methods of electing solicitors but I would regret very much to see the report of the committee or this article declare that it should be both ways. I should regret to see the article prescribe the Constitutional method and at the same time prescribe that the Legislature can repeal that portion of the Constitution whenever it thought best. I am opposed to the proposition of the gentleman more on that account than I am to the Legislature determining the matter in the first instance and until the action of the Convention is reconsidered as to this matter, I do not think that this ordinance ought to be adopted, and I therefore move to lay it on the table.

A vote being taken the motion to table prevailed.

MR. MULKEY—I have an additional section.

The Secretary read the amendment as follows:

"Amendment to the article on Judiciary Department by adding to the said article Section 34 as follows: 'Section 34. Any justice of the peace or notary public exercising the powers and duties of the justice of the peace, who for a consideration or reward compromises or consents to a compromise of any criminal case pending in this court shall be guilty of a misdemeanor and shall also be liable therefor to impeachment under the provisions of this article.'"

MR. MULKEY—Mr. President, it has been my observation that officers compromise cases for a very small reward and it ought to be prohibited and for that purpose I offer the amendment and move its adoption.

MR. SMITH (Mobile)—I am heartily in favor of the law the gentleman advocates. I think it a most excellent measure, but I do not think it has anything to do with the Constitution. It is a legislative enactment pure and simple and it already exists in our statutory law, and I therefore move to lay the section on the table.

Upon a vote being taken the motion to table prevailed.

MR. OATES—I desire to offer an additional section.

The Secretary read the section as follows: "It shall be the duty of the Legislature to provide for the appointment and compensation of a competent number of court stenographers who shall act upon oath and whose duty it shall be to take stenographically and typewrite all evidence in criminal cases that may be prescribed by law.

MR. OATES—I am aware that this is new in this State and I think to that extent we are in our judicial proceedings behind the age. In a majority of the States there are court stenographers provided for and every lawyer who has had experience in criminal practice knows that it is a measure really of economy. It is a saving in time and it prevents the trouble of disputation as to what witnesses have testified when an argument is going on before a jury and often prevents disputation and trouble arising by a difference in recollection of the presiding judge and the lawyers engaged in the case and sometimes absolutely gives rise to hard feelings and trouble in establishing bills of exception and for the Supreme Court. It is a saving in time because when the evidence of the witnesses is taken down at once by a competent stenographer there is no delay, no dispute, no misunderstanding about what these witnesses swore. Now, sir, it does not provide, this amendment does not, for court stenographers in civil causes for this reason: In most of the States where I have noticed the system it is only provided by law that the court stenographer shall take down the evidence in a criminal case. Where there is a court stenographer, however, the Legislature prescribes a comparatively low rate of charges which he may be entitled to wherever the parties in the civil cause see proper to retain him to take the evidence therein. So there is no reason for putting that in the Constitution. I offer this merely to require the Legislature to make it their duty to provide for the appointment and compensation of a reasonable number of competent court stenographers who shall act under oath in the performance of the duty of taking down testimony in criminal cases, and stop right there. Of course, when a man is given the position as court stenographer, he does not think of receiving such compensation as he does for contract work, not at all. It is a great deal less. I noticed the workings of this and inquired into it particularly in California where I happen to have a brother who is a distinguished member of the bar, and he furnished me great facilities for carefully looking into their system and their workings of court stenographers. They are worth a great deal less because in the aggregate it is a good thing for the stenographer and it is really an economy of time and adds much to the accuracy of proceedings and as I have said before as to civil causes, where parties agree, he, still acting under oath, can take down testimony and greatly facilitate them, but it is improper in my opinion to put a clause like that in the Constitution, and this provides as the Legislature may prescribe, leaving it to them to say when this goes into operation and how to pass a law pescribing the compensation and the manner of appointment, and their duties. I think it is a good thing for the profession. Now, Mr. President, I want to say to the delegates that I have no personal interest in this. I have been a member of the bar forty-three years off and on in active practice a large part of the time, and I am in the practice now, but only in special

cases. I do not suppose that I would ever receive any benefit from this, and if I were to it would not deter me from offering it. I offer it because I think it a good thing for the lawyer, for the court and for the people of the State. It is really in the interest of economy although it appears to be an expenditure, and will facilitate the prosecution of business. Believing this, I prepared it and offer it to this Convention, and I hope that they will adopt it.

MR. SMITH (Mobile)—I appreciate very thoroughly the benefit the gentleman speaks of which is received both by the court and by the bar from the use of a stenographer. In our county there has been an official court stenographer for the last ten years under the enactment of the State of Alabama under the Constitution of 1875. In the State of Mississippi where I also practice there is an official court stenographer which stenographer also acts under an act of the General Assembly of the State of Mississippi, and while I would not be without a court stenographer, and while it is my habit when I leave any place where there is an official stenographer, I carry a court stenographer with me. I have not tried a case for nearly fifteen years without one, still it does not occur to me that because of the benefits we should enact these acts. It seems to me to be purely a legislative matter which it has not only power to exercise, but which it has heretofore exercised and should not therefore be in our Constitution. Therefore I move to lay the amendment upon the table.

Upon a vote being taken the motion to table prevailed.

A division was called for.

MR. SAMFORD (Pike)—I rise to a point of order. The vote was announced before a division was called for.

THE PRESIDENT—Yes, that is correct. The Chair waited to see if a division would be called for, and the Chair did not hear any request for a division and the Chair announced the result.

MR. OATES—I call for it as soon as I thought I ought, however, I am not wedded to it.

THE PRESIDENT—The Chair regrets very much that the gentleman was cut off from a motion for a division.

MR. OATES—If the Convention is satisfied with the result, I am.

MR. WILLIAMS (Elmore)—I have an amendment to offer.

The Secretary read the amendment as follows: "Amend Section 35 as follows: 'The compensation of the Judges of the Supreme Court shall be $5,000 per annum. Judges of the Circuit Court and Chancellors shall be $3,000 per annum.'"

MR. WILLIAMS (Elmore)—I am aware of the fact that this amendment is similar in nature to the amendment offered by some delegate to this Convention to the report of the Committee on Legislative Department, which report was not adopted, but, Mr. President and gentlemen of the Convention, I think the arguments adduced and proposed in favor of the increase of the Governor's salary, by the gentlemen who supported that part of the proposition, was in the report submitted by the Committee. The Judges of the Supreme Court have a great deal of work to do, and in order to have the very best men of the State, the most conscientious man, men who are best fitted for that position. They ought to be well paid. Besides, there is a great deal of work, more arduous labor to be performed by the judges of the Supreme Court than to be performed by the Governor of Alabama. As to the Judges of the Circuit Court, their duties are quite arduous, and I think it is nothing but fair and just that their salaries should be increased. You take a good man, a man who is a good lawyer, and who would make a good Circuit Judge; he could not afford to lay down a practice to accept an office paying twenty-two hundred and fifty or twenty-five hundred dollars which they now receive. It may be true that it is not proper to offer this amendment at this time; it may be like it was in offering the amendment to fix the salary of the Governor, but whether it is or not this amendment, if not adopted here, should take the same course that the resolution took offering to increase the salary of the Governor.

MR. WALKER—The Convention, I believe, has already adopted the policy of not fixing or increasing salaries in this Constitution, being of the opinion that we were not sent here for that purpose, to leave it to the Legislature, and, believing that the Convention has made up its mind upon this subject, I move that the amendment offered by the gentleman from Elmore be laid upon the table.

Upon a vote being taken, the motion to table prevailed.

MR. OATES—I desire to offer one more section.

The Secretary read the following section:

"The Grand Jury authorized by law in any one of the courts in this State shall consist of not less than eighteen qualified persons, ten of whom shall concur in order to find a bill of indictment, and in cases of lynching and felonies which, upon conviction may be punished capitally, the first Grand Jury sitting within the jurisdiction after the commission of such offense fails to find a bill of indictment, the Solicitor of the State shall enclose the substance of all the evidence in such case which was before the grand jury to the Judge presiding and holding such court; thereupon if he be of the opinion that an indictment should have been found and returned into court by such court and jury, he shall enter an order upon the

trial docket of such court directing the Solicitor to proceed against the suspected persons by information as may be prescribed by law."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Montgomery.

MR. OATES—I overheard the gentleman on my left remark, "Lay it on the table." I suppose that will be the effect of it. (Laughter). Notwithstanding it will not deter me from performing my duty. On a former occasion I offered something similar, but not this proposition, and on that occasion I made some remarks as to the present state of affairs in Alabama—as to murders and capital felonies committed which go unpunished. I have heard from reliable authority in many of the counties of the State where grand juries as at present constituted, failed to find true bills when the evidence certainly warranted it and called for such action. Now, sir, the Legislature, I admit, could remedy what is aimed at in the first part of this proposition. The Legislature could say by law that a grand jury shall consist of not less than eighteen qualified persons, ten of whom only shall be required to find a bill. They can do that, but they could not prescribe by law the remedy in the latter part of this proposition without constitutional authority. Under the present law and practice, a grand jury frequently consists of but fifteen members, and in such case parties who are sufficiently artful and employ the necessary amount of means, can not always, but sometimes, tamper with, and control enough, say four members, of that grand jury, and no bill can be found because, under the law, it requires twelve to concur, and in that way guilty parties do escape justice—not always, but only, I am glad to say, in exceptional cases; but even in those cases should it be allowed? Ought not the Constitution-makers and lawmakers provide against any such contingencies, and make the administration of the law against offenders certain, as certain as it is possible for human invention to reach? I will not undertake, because it would take me much longer than the time that I have in which to state it, to recount the instances coming within my knowledge, and every gentleman here is acquainted with the fact that we have lynchings and when and where was a man in the State ever indicted for a lynching? Never, that I have heard of, except in one case, and that was in Washington County; there they did get three or four and put them in the penitentiary. The gentleman from Pike suggests that it was nine; I had not remembered the number, but that is an exceptional case. Now, when they have such influence upon the grand juries as not to find any bill of indictment, why not provide some way to get at it. Now, I have studied the question and this amendment presents the best way I can think of. If any delegate can provide any better way, I would like to see it and most anxious to support it. It is an absolute

disgrace to our State, the number of murders that are annually committed within it, and it has gotten so, men escape so frequently for this offense, that it seems to justify good men, peaceable citizens, to go armed a great part of their time, as the law does not sufficiently protect their lives they go with pistols to protect themselves. Now, sir, we want to stop this thing. I provide in the amendment offered that wherever at the first term of a grand jury within any jurisdiction where such a felony has been committed, and the grand jury fails to return a bill of indictment that the Solicitor shall disclose to the presiding judge the evidence that was before the grand jury, and then if that judge—and a judge is presumed to be a just man, and it is his duty to enforce the law—if in his opinion he believes that a bill should have been found and that the suspected party should be prosecuted, to order the solicitor to proceed against the suspected party. It is true it is somewhat in the nature of a preliminary proceeding and a final trial combined, but how is he to get at it? It has become so fashionable to hide out in secrecy these abominable crimes committed that you must get at it in some way, and this is the best way I have been able to think of. Now, gentlemen, not all, but the major part of the murderers that go unwhipped of justice is the murdering of negroes by white men, sometimes it is the case of the murder of a white man and I can give you instances, but take the case of the murder of negroes, which is of most frequent occurrence, what is our duty? Does the negro have practically any voice in the making of the laws or in the execution of the laws? No, none. If any it is a still small voice that is not potent. I know none of the counties that have negroes to sit upon the jury. He is helpless, he is here among us, he is a laborer subordinate to the white man, but when he is the subordinate, when he has no voice in the making of the law and none in the execution of the law, is it not the bounden duty of the superior race, the governing race, to protect him by law?

THE PRESIDENT—The time of the gentleman from Montgomery has expired.

MR. SMITH (Mobile)—I regret very much to have to object to these things going into this Article, especially when the motive and purpose is high and one that I entirely concur in, and I also regret very much that my friend from Montgomery dislikes the processes that I have to go through in order to get rid of it, but really I think this is legislative, not a matter that has been committed to our discretion or out charge, and despite my regrets I move to lay it upon the table.

MR. OATES—Oh, well, as to that, I am used to it, fortunately.

Upon a vote being taken a division was called for and a further vote being taken there were ayes 62, noes 29, and the motion to table prevailed

MR. BURNS—I have an amendment.

The Secretary read the amendment as follows:

"Sec. 35. In the trial of all cases before a judicial officer, the compensation of the trial judge or justice shall be the same whether or not the defendant be convicted or discharged."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Dallas.

MR. BURNS—I will not detain or take up any time in discussing that. Those words and lines speak for themselves. They appeal to every honest man in this Convention.

MR. WADDELL—Will the gentleman submit to an interruption.

MR. BURNS—Certainly.

MR. WADDELL—How do you expect to collect that?

MR. BURNS—How do you expect to collect the salary of any judge, circuit judge, or anybody else? The Legislature will provide for the collection of it. The point I am after is that no Judge or Justice of the Peace shall be interested in the determination of a case which is on trial before him. There is complaint all over the State of Alabama against Justices of the Peace. Why is it? It is because when they go out, or their strikers go out, or their constables go out and bring in a trifling negro or low down white man, their costs depend upon a conviction. If they convict him and fine him 1 cent, if a negro, some man will come along and pay the 1 cent and the costs and take that negro along to his plantation or wherever else he wants him to go. I hope I have impressed this point upon every member of this Convention. It is for you to say whether you will pass this or to make one great grand struggle upon the motion of some grand attorney and carry it out and push it along the rugged road to the table.

THE PRESIDENT—The question is upon the amendment offered by the gentleman from Dallas.

MR. SMITH (Mobile)—I move to lay that amendment on the table.

Upon a vote being taken the President declared the ayes seemed to have it.

A division was called for.

MR. BURNS—I withdraw the demand for a division.

MR. WILSON (Clarke)—I wish to offer an amendment.

The Secretary read the amendment as follows:

"It shall be the duty of the Legislature to provide for taking down and preserving verbatim reports of the evidence in criminal and civil cases."

THE PRESIDENT—The question is upon the amendment offered by the delegate from Clarke.

MR. WILSON (Clarke)—I desire to offer this amendment. I was not in favor of the amendment offered by the gentleman from Montgomery, because I did not think it went far enough. I am not in favor of taking down the evidence in criminal cases alone, because I am not much interested in those cases, never deal in them, but I have seen the urgent necessity for some provision for an official stenographic reporter. It is seldom that you take an appeal to the Supreme Court that you do not have to dispute with the judges as to what ought to go in your bill of exceptions, or with the fellow on the other side, that you do not have to either have a fuss with him about what goes into it, or permit something to go into it that ought not to be in there. I believe there are many cases that go to the Supreme Court in which the record shows that there was an exception or ground for objection to the evidence or something else there interposed, when, as a matter of fact there was no such thing. The bill of exceptions, as written in the records, as a matter of fact, is not true.

MR. REESE—I will ask the gentleman if it is not the poor man who cannot afford to employ a stenographer who always gets the worst of that?

MR. WILSON—Yes, I believe it is, because the corporations and persons who are represented by counsel such as the distinguished gentleman from Mobile, the Chairman of the Judiciary Committee, who always takes a competent stenographer with him to report the trial, are usually persons able to afford to take stenographers along, and it is the man whose home is in litigation, and it is all that he has, is not able to send and get a stenographer to report the trial, and he suffers because there is not an official stenographer there to take down the testimony.

MR. BOONE—Is it not the law that the Constitution is not a granting power?

MR. WILSON—Certainly.

MR. BOONE—And unless prohibited the legislature has the power?

MR. WILSON—Certainly.

MR. BOONE—Any inhibition in this?

MR. WILSON—Not a particle, but, Mr. President, there is not an official stenographer in the first circuit and never has been, and I am afraid there will never be, and that is why I want it put in here. There are various provisions in the Constitution simply saying that things shall be done, in here for instance says establish a judge of probate in every county. Who can deny that they could be in there according to the logic of the gentleman from Mobile. Strike it out, and the same with circuit courts and inferior courts. It is not only to have things go into the Constitution what the legislature should not do, but general principles which the legislature should do should go in there to require them to do it. I believe this is one of them. It is not the legislature, it is simply the principle. It does not say how many stenographers, or what stenographers, or what they should be paid, or how selected, or anything of that kind—there are no legislative details but simply says the legislature shall provide the method to take down a verbatim report of the evidence, and in my opinion there is nothing needed more to protect persons who are unfortunate enough to get into the courts in this State than a provision of that kind.

MR. DUKE—I am heartily in favor of this section. It strikes me, Mr. President and gentlemen, that there are very few more important measures than this would be. Gentlemen who have facilities and have the use of these stenographers, know something about the benefits there are in having court stenographers and it seems to me that they ought to be willing to vote for court stenographers in other portions of the country where they have not got them. We are met, Mr. President, with that same old cry, when gentlemen have no other good reason for opposing it, that it is legislative. Well, it may be legislative, but it strikes me that it is no more legislative than it is to say that there shall be a justice of the peace court in a beat in the State of Alabama, two justices of the peace and one notary public—it is no more legislative than that. It is no more legislative than the establishment of any of the rest of these offices that we have established. Now, isn't a court stenographer a good thing for the poor people? It strikes me that every lawyer ought to see this. Every lawyer who has cases go to the Supreme Court realize the necessity of having the proceedings taken down. Take a case tried during two or three days of court. When it is ended and court adjourns, or before court adjourns, usually done before court adjourns, the lawyer proceeds to get up his bill of exceptions. Do you expect him to remember all the points that were made, and all the exceptions taken, and very frequently it is necessary for him to recollect all the testimony in the case.

MR. OATES—Isn't it a fact that this State is approaching one hundred years old, that there never has been a court stenographer except in Mobile, and that by virtue of a special act?

MR. DUKE—Yes, and I am informed one also in the Fourth district. Now, after that case is finished and the lawyer has prepared his bill of exceptions, recollecting as best he could, and he tries to recall everything that has happened in the case, and has prepared his bill of exceptions, what does he do? He takes it to the Judge of the Court trying the case, and the Judge of the Court usually turns that over to the lawyer on the other side, and the lawyer on the other side recollects it just exactly opposite to what the lawyer taking the bill of exceptions recollects, and it goes to the Judge to decide, and the Judge usually sees it somewhat different from the man taking the bill of exceptions, and so it goes to the Supreme Court and very frequently the appellant has not a fair trial before that tribunal. These are facts and every lawyer here who practices in the Supreme Court knows it. Then, why not establish court stenographers in Alabama, and why not let the Constitutional Convention do it? Simply because the legislature can do it is no reason why the Constitutional Convention should not do it. If that be a sufficient reason then there are thousands of things put in this Constitution that ought to be stricken out. It is an important matter, and it is a matter that ought to be placed in this Constitution. I cannot see why it should not be done. The expense will not be so great. In our sister State of Georgia they have court stenographers, and I am informed that the expense is not great and they are well pleased with them and would not give them up. I had a conversation not two weeks ago with a distinguished Superior Court Judge in that State and he told me that they could not get along without court stenographers in Georgia. I am informed that in our sister State of Mississippi they have court stenographers and they could not get along without them. This is an age of advancement. Alabama is taking her place among the most advanced States in the Union, then why should we not keep pace in the march of progress in the judiciary as well as in the other departments of State?

MR. BOONE—I move to lay the amendment upon the table.

Upon a vote being taken a division was called for, and a further vote being taken there were ayes 46, noes 40, and the motion to table was lost.

MR. deGRAFFENREID—I move the adoption of the amendment, and upon that I call for the previous question.

MR. PETTUS—Upon that I call for the ayes and noes.

The call for the ayes and noes was sustained.

MR. COLEMAN (Greene)—The question of inquiry. Does that say all courts, justice of the peace and all?

MR. WILSON (Clarke)—The Legislature has the right to say in what courts it shall be. To avoid difficulty I will ask unanimous consent to amend.

MR. SMITH (Mobile)—I object.

THE PRESIDENT—The previous question had been moved but not ordered.

MR. deGRAFFENREID—I withdraw the demand for the previous question for the purpose of permitting the gentleman to amend and be heard.

MR. WILSON—I ask unanimous consent to limit it to courts of record.

MR. SMITH—I object.

MR. WILSON—I move to amend the amendment by inserting the words "in courts of record."

THE PRESIDENT — The gentleman moves to amend by adding the words "in courts of record."

MR. COLEMAN—I would like to hear it read as amended.

The Secretary read the amendment as follows:

"It shall be the duty of the Legislature to provide for taking down and preserving verbatim reports of the evidence in criminal and civil cases in courts of record."

MR. COLEMAN—That includes of course probate courts.

MR. WATTS—Includes the Supreme Court.

MR. COLEMAN—I do not remember whether the Commissioners' Court is made a court of record or not. The amendment as I stated just now, includes all courts of record. Commissioners' Court and all their proceedings, Probate Courts and all their proceedings, but whether it would apply to the Supreme Court or not is a question of doubt.

THE PRESIDENT—The Secretary will read the amendment to the amendment.

The Secretary read as follows:

"Amend by adding at the end thereof in Circuit Courts or courts of like jurisdiction.

MR. COLEMAN — When was that amendment offered. That has not been adopted There is nothing of the kind been proposed to this Convention.

THE PRESIDENT—The gentleman from Clarke proposed his amendment verbally, and the Chair requested him to reduce it to writing, and that is the amendment offered to the Convention.

MR. COLEMAN—That is not the amendment offered to the Convention. I do not know that a member can do that. The gentleman did not have the floor to offer it, and there is no such amendment before this Convention. I propose to make a few remarks, however, upon the merits of the question. Not acceeding to the proposition that that amendment is before the Convention. There is but one and that is "all courts of record." After that time I have had the floor and no member has had an opportunity to offer an amendment. But upon the merits of this case. Who is it to come out of every litigant or is it to come out of the State? You say that is left to the Legislature. If the Legislature is to provide for that, why not let the Legislature provide also as to when and where a stenographer shall be appointed. Now just consider for a moment the breadth and extent of that proposition. Wherever there is a court in this State, City, Circuit or even the Chancery Court. If there is testimony taken there shall be a stenographer, one for every Circuit Court, one for evey City Court, one for all these courts that you have provided for in your Constitution, inferior courts. You will burden the State with seventy-five or one hundred additional officers and I am told that there would be six stenographers in Birmingham, they have that many courts going on at the same time.

MR. OATES—I will ask the delegate from Greene if it provides there at all for the appointment of a single stenographer? It provides for the evidence being taken down.

MR. COLEMAN—Why do you want a stenographer unless you take it down just as it is, and how can you take it down unless he is there at every trial?

MR. OATES—It don't provide for any stenographer at all.

MR. COLEMAN—The gentleman says it don't provide for a stenographer at all. I don't care what you name him, there has got to be somebody to take it all down. We have got to go slow in these matters. If it is to come out of the litigants, why, then, every trial that is had one party or the other will have imposed upon him additional costs. You may provide for stenographers in cities or towns of wealth and large litigation, but we are here to protect people of all classes, in all communities, the country courts, the farmer and others, and in the few instances where wrong is done by reason of not having a stenographer, will be nothing in comparison with the wrong imposed upon these parties. Something has been said about the difficulty of getting bills of exception. As far as that is concerned, it is a reflection upon your judges who try cases, but there is ample provision in this State

for establishing a bill of exceptions, and there is no lawyer here who will say that he went to the Supreme Court to establish a bill of exceptions and was refused when he has had the evidence to establish his bill. Time and again it has been done.

MR. PITTS (Dallas)—Isn't that rather expensive, establishing a bill of exceptions?

MR. COLEMAN—I don't know, not nearly so much so as a stenographer would be, and if so, it is upon the litigant and not upon all the people. If there is any particular expense about it I don't know. He takes his testimony, if it is not agreed upon by the opposite side, and the parties cannot reconcile themselves, all he has to do is to prepare his testimony as in any other case.

MR. WATTS—What would be the probable cost of these stenographers—about fifteen hundred or two thousand dollars?

MR. COLEMAN—I have no idea.

MR. WATTS—Don't they charge $7.50 a day, at least?

MR. SMITH (Mobile)—Ten dollars a day while engaged in a trial.

MR. COLEMAN—Seventy-five officers at ten dollars per day when at work. These are questions upon the merits and I move to lay the amendment upon the table.

MR. HEFLIN (Chambers)—I make the point of order that the gentleman from Greene was arguing that the amendment of the gentleman from Clarke is not before the Convention; therefore, the other amendment stands as it was. The other was to table, and the Convention declined to table.

THE PRESIDENT—What was the motion of the gentleman from Greene?

MR. COLEMAN—To lay upon the table. If that is not in order, I move the previous question and call for the ayes and noes.

MR. WILSON—Before the vote is put on that, to get it before the Convention, I ask leave to withdraw the verbal amendment and substitute the amendment which I set out in writing.

THE PRESIDENT—The gentleman from Clarke asks leave to withdraw the first amendment and substitute the second.

MR. COLEMAN—I have not objection; I am willing to meet the question upon its merits. I move the previous question and call for the ayes and noes upon that.

THE PRESIDENT—There is no objection; the gentleman will substitute the amendment and the clerk will read the amendment as offered.

The Secretary read the amendment as follows:

"It shall be the duty of the Legislature to provide for the taking down and preserving verbatim reports of the evidence in criminal and civil cases in Circuit Court and courts of like jurisdiction."

MR. COLEMAN (Greene)—I now renew my motion to lay the amendment on the table and call for the ayes and noes.

The call was sustained

MR. WATTS—That includes the whole amendment, doesn't it?

THE PRESIDENT—It includes the last amendment offered. There is only one amendment offered. The gentleman has withdrawn the other amendment, as the Chair understands.

MR. PETTUS—I would like to amend the motion by including the substitute if the second is amended.

THE PRESIDENT—There is no section, simply an additional section offered by the gentleman from Clarke.

MR. WILSON—I withdraw the verbal amendment and offered the amendment which is in writing.

THE PRESIDENT — Does the Chair understand that the gentleman from Clarke asks unanimous consent to incorporate the last amendment that he offered in the first?

MR. WILSON—Yes, sir.

MR. SAMFORD (Pike)—I object to that.

MR. COLEMAN—What was the original?

MR. WILSON—I offered that awhile ago as an amendment. I first offered that the amendment be amended so as to add the words "courts of record." Some one objected to that, and I subsequently sent up an amendment in writing to add the words "in Circuit Courts and courts of like jurisdiction." That was the pending question, and I then asked leave to withdraw the verbal amendment which I offered, that is adding the words "courts of record," and then the pending question was on my amendment which was sent up in writing, adding at the end "in Circuit Courts and courts of like jurisdiction."

THE PRESIDENT—The Convention refuses unanimous consent to incorporate the latter amendment in the former. The question will be on the amendment last offered.

MR. COBB—I rise to a question of parliamentary inquiry. Is it not true that when a delegate makes a verbal amendment and

he is required by the Chair to put it in writing, that that writing is the amendment and the verbal motion amounts to nothing?

THE PRESIDENT—Well, that point has been crossed by unanimous consent, and the gentleman has written out his amendment and it is now proposed to the Convention in the form in which he wrote it.

MR. COLEMAN (Greene)—I want to hear the section read now as amended.

THE PRESIDENT—The Secretary will read the original amendment and the amendment to the amendment.

The Clerk read as follows:

"Section —. It shall be the duty of the Legislature to provide for the taking down and preserving verbatim reports of the evidence in civil and criminal cases."

"'Amend by adding at the end thereof 'in Circuit Courts or courts of like jurisdiction.'"

MR. COLEMAN (Greene)—My motion now is to lay the amendment and the section on the table.

MR. deGRAFFENREID—I rise to a point of order. The motion to lay the section upon the table has been voted upon and the house refused to lay it upon the table.

MR. PETTUS—I rise to a point of order. The additional amendment is new matter.

MR deGRAFFENREID—It has not yet been adopted.

THE PRESIDENT—The gentleman from Clarke asks unanimous consent that his second amendment may be incorporated in the first.

MR. SAMFORD (Pike)—I object.

THE PRESIDENT—The question is on the motion to table the amendment to the amendment. The ayes and noes have been called for and the call sustained. As many as favor the motion to table will say aye, and those opposed no, as their names are called.

Upon the call of the roll, the motion to table was lost by a vote of 52 ayes and 61 noes, as follows:

AYES

Ashcraft,	Boone,	Cobb,
Beavers,	Burns,	Coleman, of Greene,
Beddow,	Carnathon,	Coleman, of Walker,
Bethune,	Chapman,	Eley,

Ferguson,
Fletcher,
Greer, of Calhoun,
Handley,
Heflin, of Randolph,
Henderson,
Howze,
Inge,
Jones, of Bibb,
Jones, of Wilcox,
Kirk,
Kirkland,
Lomax,
Lowe (Lawrence),
Macdonald,
McMillan (Wilcox),
Merrill,
Miller (Marengo),
Miller (Wilcox),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Pearce,
Reynolds (Henry),
Samford,
Searcy,
Selheimer,
Sentell,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Stewart,
Vaughan,
Walker,
Watts,
Williams (Barbour),
Williams (Marengo),

TOTAL—52

NOES

Messrs. President,
Banks,
Barefield,
Blackwell,
Brooks,
Browne,
Bulger,
Byars,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Cofer,
Cornwell,
Craig,
Cunningham,
Dent,
deGraffenreid,
Duke,
Espy,
Fitts,
Foster,
Freeman,
Gilmore,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grayson,
Haley,
Harrison,
Heflin, of Chambers,
Hodges,
Hood,
Howell,
Jackson,
Knight,
Kyle,
Long (Walker),
McMillan (Baldwin),
Malone,
Maxwell,
Mulkey,
Murphree,
Norman,
Norwood,
Oates,
Parker (Elmore),
Pettus,
Pitts,
Porter,
Rogers (Sumter),
Sanders,
Sanford,
Tayloe,
Thompson,
Waddell,
Weakley,
Weatherly,
White,
Whiteside,
Wilson (Clarke),

TOTAL—60

ABSENT OR NOT VOTING

Almon,
Altman,
Bartlett,
Burnett,
Case,
Davis, of DeKalb,
Davis, of Etowah,
Eyster,
Foshee,
Grant,
Greer, of Perry,
Hinson,
Jenkins,
Jones, of Hale,
Jones, of Montgomery,
King,
Ledbetter,
Leigh,
Locklin,
Long (Butler),
Lowe (Jefferson),
Martin,
Moody,
Morrisette,

NeSmith,	Renfro,	Studdard,
O'Neal (Lauderdale),	Reynolds (Chilton),	Willet,
O'Neill (Jefferson),	Robinson,	Williams (Elmore),
Phillips,	Rogers (Lowndes),	Wilson (Washington),
Pillans,	Sloan,	Winn.
Proctor,	Sollie,	
Reese,	Spears,	

MR. deGRAFFENRIED—I move the adoption of the amendment and of the section, and upon that I move the previous question.

The main question was ordered.

MR. COBB—I call for an aye and no vote on that.

MR. WILSON—Do I have the right to close?

THE PRESIDENT—Yes, sir.

MR. WILSON—I just want a word. The gentlemen have urged that this will be creating an expense costing ten dollars or seven dollars and a half a day. I have just been informed by the gentlemen from Hale and Dallas that they provide for an official stenographer for the whole circuit at $750 a year.

MR. HARRISON—Didn't the last Legislature provide for that?

THE PRESIDENT—The question is not debatable. The question is on the amendment.

MR. ROGERS (Sumter)—Is the Chair stating the question correctly? We have just adopted the amendment to the amendment.

THE PRESIDENT—The question will be on the adoption of the amendment to the amendment, and the ayes and noes have been called for. Is the call sustained.

MR. COBB—I withdraw the call for the ayes and noes on this.

MR. SAMFORD (Pike)—And I renew it.

The call was sustained.

MR. WATTS—I rise to a question of inquiry. After this question of the amendments is disposed of, then we will have a chance to vote on the main question, will we not.

THE PRESIDENT—Certainly.

MR. SAMFORD (Pike)—I rise to a point of inquiry. The point of inquiry is, what there will be to vote upon after we have voted upon this question?

THE PRESIDENT — It will be upon the amendment as amended. The gentleman himself made the objection to incorporating the amendment to the amendment in the amendment of the gentleman from Clarke, and when the amendment to the amendment is adopted, then we will have to vote on the section as amended.

MR. SAMFORD (Pike)—I will ask if the amendment was not to the entire article by adding a section and when this amendment is incorporated in it, if we would not then have to vote upon the identical section that we are voting upon now?

THE PRESIDENT—It will be voting on the additional section. The gentleman from Clarke offered as an additional section the amendment which has been twice read in your hearing. He thereupon offered an amendment to that which limited the use of the stenographers to circuit courts and courts of like jurisdiction. It is the latter amendment that we vote on now. As many as favor the adoption of the amendment limiting the use of the stenographer to circuit courts and courts of like jurisdiction will say aye and those opposed no, as their names are called.

MR. SAMFORD (Pike)—That being the case, if the gentlemen will agree with me, I will withdraw the call for the ayes and noes. I will ask unanimous consent to be permitted to withdraw it. I did it under a misapprehension.

Consent was given.

Upon a vote being taken the amendment was adopted.

THE PRESIDENT—The question recurs upon the original amendment offered by the gentleman from Clarke.

MR. SAMFORD (Pike)—And upon that I demand the call of the ayes and noes.

The call was sustained.

MR. OATES—I desire the amendment as amended read.

THE PRESIDENT—The Secretary will read the amendment as amended.

The amendment as amended was read as follows:

"Section —. It shall be the duty of the legislature to provide for taking down and preserving verbatim reports of the evidence in criminal and civil cases in circuit courts or couts of like jurisdiction."

THE PRESIDENT—The question is upon the adoption of the amendment as amended, and the ayes and noes have been called for and the call sustained. As many as favor the adoption of

the amendment as amended, will say aye and those opposed no, as their names are called.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,	Duke,	Mulkey,
Banks,	Espy,	Murphree,
Barefield,	Fitts,	Norman,
Blackwell,	Freeman,	Norwood,
Brooks,	Gilmore,	Parker (Elmore),
Browne,	Graham, of Talladega,	Pillans,
Byars,	Glover,	Pitts,
Cardon,	Haley,	Sanders,
Carmichael, of Colbert,	Hood,	Thompson,
Carmichael, of Coffee,	Jackson,	Waddell,
Cornwall,	Kyle,	Weakley,
Craig,	Long, of Walker,	Weatherly,
Davis, of Etowah,	McMillan, of Baldwin,	Whiteside,
Dent,	Malone,	Williams (Elmore),
deGraffenreid,	Maxwell,	Wilson (Clarke),

TOTAL—45

NOES

Ashcraft,	Henderson,	Reynolds, of Henry,
Beavers,	Howell,	Rogers (Sumter),
Beddow,	Howze,	Samford,
Bethune,	Inge,	Sanford,
Boone,	Jones, of Bibb,	Searcy,
Bulger,	Jones, of Wilcox,	Selheimer,
Burns,	Kirk,	Sentell,
Carnathon,	Kirkland,	Sloan,
Chapman,	Knight,	Smith (Mobile),
Cobb,	Lomax,	Smith, Mac. A.,
Coleman, of Greene,	Lowe, of Lawrence,	Smith, Morgan M.,
Coleman, of Walker,	Macdonald,	Sorrell,
Cunningham,	McMillan (Wilcox),	Spears,
Eley,	Merrill,	Spragins,
Ferguson,	Miller (Marengo),	Stewart,
Fletcher,	Miller (Wilcox),	Tayloe,
Foster,	Oates,	Vaughan,
Graham, of Montgomery,	Opp,	Walker,
Grayson,	O'Rear,	Watts,
Greer, of Calhoun,	Palmer,	White,
Handley,	Parker (Cullman),	Williams (Barbour),
Harrison,	Pearce,	Williams (Marengo),
Heflin, of Chambers,	Pettus,	
Heflin, of Randolph,	Reese,	

TOTAL—70

ABSENT OR NOT VOTING

Altman,	Jones, of Hale,	Phillips,
Almon,	Jones, of Montgomery,	Porter,
Bartlett,	King,	Proctor,
Burnett,	Ledbetter,	Renfro,
Case,	Leigh,	Reynolds (Chilton),
Cofer,	Locklin,	Robinson,
Davis, of DeKalb,	Long, of Butler,	Rogers (Lowndes),
Eyster,	Lowe, of Jefferson,	Sollie,
Foshee,	Martin,	Studdard,
Grant,	Moody,	Willet,
Greer, of Perry,	Morrisette,	Wilson (Washington),
Hinson,	NeSmith,	Winn.
Hodges,	O'Neal (Lauderdale),	
Jenkins,	O'Neill, of Jefferson,	

During the call of the roll:

MR. OATES—For the first time I ask leave to explain my vote.

Leave was granted.

MR. OATES—I am in favor of court stenographers. As I understand this proposition, it requires all the evidence to be taken down accurately in every civil case, and I therefore vote no.

So the amendment was lost.

MR. WHITESIDE—I offer an amendment.

Amendment by Mr. Whiteside of Calhoun. New section to Article on Judiciary by adding an additional section as follows:

"Section ---. After suit has been commenced on any cause of action the legislature shall have no power to take away such cause of action or to destroy any defense that may exist to any suit after such suit has been commenced."

MR. WHITESIDE—This amendment is in substance the same amendment I offered to the report of the Committee on Legislative Department, which was laid on the table. I would not trouble the Convention with the same thing again, but for the fact that I apprehend that the members of the Convention did not understand the purport of the amendment. Really, this amendment is not legislative. It is aimed at an evil that exists in the State of Alabama. Every lawyer knows that it is a common occurrence for penal statutes to be repealed by the repealing clause as to statutes then pending, and the statute against ex-post facto laws and the constitutional provision against ex post facto laws, and all other provisions in this Constitution fail to reach the point that this amendment is aimed at. I undertake to say that I con-

sider it a very unfair way to defend a suit when one is brought to go to the legislature to get the legislature to destroy the right of action in that suit, and it is a very unfair way to practice law to go to the legislature to get a law that will destroy a defense that may exist to a pending suit. It is well known that when I offered the amendment before, the distinguished Chairman of the Committee on the Legislative Department simply stated that this matter had already been provided for, and therefore he moved to lay it upon the table, and it was laid upon the table. I afterwards had a conversation with the Chairman of the Legislative Department and explained to him the object of the amendment and he then stated that if I would offer the amendment to the report of the Judiciary Committee, he would assist me in getting it through. It is an amendment that ought to be made and I hope that it will be adopted.

MR. OATES — I want to say now that I hope no one will move to table the amendment, but that it will be considered.

MR. BOONE—Has the gentleman from Calhoun finished his remarks?

THE PRESIDENT—Not yet.

MR. WHITESIDE—I yield to the gentleman from Mobile.

MR. BOONE—Mr. President and gentlemen of the Convention. I favor the proposition which has been introduced by the delegate from Calhoun. If any delegate on this floor will take the 124th Alabama Report and look at the case of the City of Mobile vs. the Louisville and Nashville Railroad Company, he will find just what he says there to be true. There was a prosecution by the city to remove certain obstructions from the streets. After that case was tried in the Chancery Court and appealed to the Supreme Court, and after it had been argued and submitted in the Supreme Court an act was passed validating void ordinances and a portion of a void charter of the New Orleans, Mobile and Chattanooga Railroad Company for the purpose of defeating that prosecution. Now I am not discussing whether that was wisely or otherwisely done, but only for the purpose of emphasizing the point made by the delegate from Calhoun. The Supreme Court in that opinion said that they would not consider the act of the Legislature because it was a special and private act and must be alleged and proven before the Court could consider it, and as it was passed after the submission of the cause in the Supreme Court it could not be done but still when the case was revised and remanded by the court holding that the prosecution brought by the city could not be maintained, the act of the Legislature was put in as a special plea in bar in a supplemental answer, and upon the hearing before the Chancellor it was held that the validating act of the Legislature constituted a perfect defense to the prosecution brought by

the city to obtain a removal of certain obstructions unlawfully placed by the railroad company in its streets. I just call your attention briefly to the case in 124th Alabama, and ask you to look at that case and see if it is not as I represent. There ought to be a remedy against such acts being passed by the Legislature. If a man has his right of remedy and gets worsted in the court below, it ought not to right or within the province of the Legislature to abolish that right or take away the remedy while the suit is pending.

I heartily support the Section to the Article introduced by the delegate from Calhoun, and hope that the Convention will embrace the same in the Article now being considered.

Upon a vote being taken a division was called for and the amendment was adopted by 51 ayes and 25 noes.

MR. DENT—I desire to give notice that I will move during the morning hour to reconsider the amendment to this report offered by the gentleman from Montgomery and adopted by this Convention, giving the Legislature power under certain conditions to abolish courts.

THE PRESIDENT—It will be in order to consider the motion now if the gentleman desires it.

MR. DENT—I prefer for it to go over until morning. I want to see it in print, and several of the gentlemen want to see it in print.

MR. FERGUSON—I ask unanimous consent to introduce a short resolution.

Resolution No. 287, by Mr. Ferguson:

"Resolved, That the distinction between grand and petty larceny is narrow, technical and shadowy, and that the punishment between the two said offenses is shockingly unequal."

Referred to the Committee on Judiciary.

MR. SMITH (Mobile)—I rise to a point of parliamentary inquiry. I would be glad to dispose of this report on the Judiciary, but I do not want to ask an order that will have to be reconsidered before the gentleman's motion for reconsideration can be heard. If a motion to order it to be engrossed and ordered to a third reading would not cut off that reconsideration, I shall be glad to make it.

THE PRESIDENT—It would not cut off the motion to reconsider, but it would have to be reconsidered before the other question can be reconsidered.

MR. SMITH (Mobile)—I make the motion that the Article be engrossed and ordered to a third reading, and that the motion lie on the table until tomorrow, to be taken up after the motion to reconsider is disposed of.

Upon a vote being taken the motion was carried.

MR. JONES (Bibb)—I ask that this petition be read.

Petition was read as follows:

The Constitutional Convention, Montgomery, Ala.:

We, the undersigned citizens of the State of Alabama, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made on unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective, self-operative provision to that end.

S. R. Shepard, H. R. McCollum, Joseph W. Espy, Henry Jackson, W. L. Mulhard, A. J. Lampkin, W. M. Farquhar, D. J. Moreland and many others.

Brierfield, Ala., 1901.

Mr. Duke here took the chair.

MR. deGRAFFENREID — Something like ten days or two weeks ago I introduced two ordinances to repeal two sections that were adopted by this Convention when the article from the Committee on Banks and Banking was under consideration. In some way, I do not know how, these ordinances went to the Committee on the Legislative Department of which Governor Oates is chairman, and that committee has reported upon them adversely to this Convention. I wanted to ask that the chairman should order that these resolutions be sent to the Committee on Banks and Banking so that they can be reported on by that committee.

THE PRESIDENT PRO TEM.—The Chair so orders.

MR. OATES—I ask leave to introduce a petition from the citizens of my old home in Henry county and have it read.

Leave was granted and the petition was read as follows:

To the Constitutional Convention, Montgomery, Ala.:

We the undersigned citizens of the State of Alabama, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either

State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective self-operative provision to that end.

E. C. Glover, B. W. Segara, Carl Espy, W. R. Wood, A. Trawick, John B. Ward, E. C. Porter, W. W. Espy, A. M. Granby, and many others.

Abbeville, Ala., July 23, 1901.

THE PRESIDENT—The special order will be the consideration of resolution No. 194, favorably reported by the Committee on Legislative Department.

The Clerk read the resolution (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 ten cents per ton.

Resolved further, that the General Assembly at the time shall provide for the support of the various agricultural schools in this State out of the general fund of the State.

MR. PETTUS—The question having been elaborately discussed when it was up in the Convention before, I move the previous question on the passage of the resolution.

MR. GREER (Calhoun)—I would ask you not to do that. I have a substitute I would like to offer.

MR. OATES—I desire to appeal to my friend from Limestone, and a member of the same committee not to make that motion, but allow it to be discussed.

MR. GREER—I hope he will withdraw that motion. I have a substitute to offer.

THE PRESIDENT—Shall the main question be now put?

The main question was voted down.

MR. GREER (Calhoun)—I have a substitute here I would like to offer.

The Secretary read the substitute as follows:

"Resolved, by the people of Alabama in Convention assembled, that the next Legislature of Alabama shall fix the tax on fertilizer at $1 per ton. Resolved further that the Legislature at the same time shall provide for the establishment and support of an agricultural school in each county in the State where such ag-

ricultural school has not been established heretofore and that such school be maintained and supported out of the fund raised by said fertilizer tax.

MR. GREER (Calhoun) — Now, Mr. President, as is well known to you I was very much in favor of a reduction of the tax on fertilizer, and if it should be done I want to say I have not changed my opinion in the least, but as a farmer I want to say that if the principal of fifty cents per ton is right, if it is good, a dollar per ton is better. If the nine agricultural schools now already established in Alabama are good, sixty-six certainly will be more than six times as good, and while we do increase the tax 100 per cent. you must bear in mind at the same time that we increase the schools in Alabama more than 600 per cent., six special schools, and I want to say as a farmer that the time is fast approaching, aye, it is now here, when farmer must keep pace with the times, they must be skilled farmers, they must be prepared to farm on scientific basis, and conduct their farming on business principles, the same as the banker or the merchant. They should be prepared for their avocation and trade in life the same as a lawyer, the physician and the teacher, and if we can have agricultural schools in Alabama in every county where agriculture is taught the science of agriculture, making them agricultural schools indeed and in truth, what they purport to be, I say to you a greater blessing could not be bestowed upon the people of Alabama.

MR. JACKSON—I desire to ask the gentleman if I understood him to say the other day that he never received any benefit from agricultural experiment stations.

MR. GREER—I said the other day I had not, but if you put one in my county I will receive the benefit from it, not only in seeing the working of it, but will receive benefit by having the privilege and the opportunity of educating my children there and preparing them as other farmers do in different counties, will have in preparing their children to enter colleges and universities in Alabama, and when we thus have the opportunity of sending our children to these schools where they can receive proper training, they will go to your colleges, they will go to the universities in Alabama. I know Mr. President, that this is a very pretty question with some of the delegates, but mark my prediction, a majority of the opposition to this substitute will come from the men who represent guano factories, who have them in their town, and from men who have already agricultural schools established in their counties. Now, I know, I see already, some distinguished gentlemen on the floor going around to move to table this substitute. It is a popular move in this Convention, but I say the time will soon come when the people of Alabama will pass on you and some of you gentlemen will be tabled and retired to political oblivion. Now, I say this, if it is right to tax fifty cents it is right to tax a

dollar. If it is right to establish nine schools, it is certainly right to establish sixty-six schools in Alabama, and I want to say to you I much prefer paying one dollar tax on fertilizer and getting a school than to paying fifty cents and getting nothing. That is my position in a nutshell.

MR. REESE—Does the gentleman think that one dollar a ton will produce enough revenue to run a school in every county in the State?

MR. GREER—Yes, sir. It will give about three thousand dollars to each county in the State, that is about what it will give. Two hundred thousand dollars in sixty-six counties. Now, we have heard on the floor of this Convention that the farmer did not pay this tax—sometime ago, when the matter was up. Be that as it may, I am a farmer. I live by the sweat of my brow. I get my living from farming, and expect to continue to do it, and I am willing to pay a dollar tax on fertilizer that I use, if in return you will give me and the people a school where we will have the privilege of educating our boys, and schooling them in the scientific method of farming that they may be independent, and may be as skilled in their profession as the professional men of this Convention and of Alabama. Now, Mr. President, I know that the resolution offered by the gentleman, Mr. Morrisette, I do not remember where he is from, I believe it is Monroe, to reduce the tax to ten cents, but it also says that nine agricultural schools shall be provided for out of the general fund. If they provide for those out of the general fund, I want to ask you where it is to come from? It is to come out of the common schools of Alabama. You are taking it out of the agricultural districts where you certainly ought to give rather than to take, because they need your assistance. You cannot take between twenty and thirty thousand dollars from them without hurting the schools in the rural districts. In the cities you have public schools and educate your children. In the rural districts we have none, except such as the State has seen fit to give us, and when you take from us a part of the small pittance you have already given us, without giving, that if you do that where do you expect us to educate our boys, where do you expect the children in the country to qualify under this election law passed here, and become useful men and women, but on the contrary you give us these agricultural schools, one in every county, and we will educate our boys in those schools and prepare them for useful men and the girls for useful women; we will have an enlightened and cultured people, and they will rise up and bless mankind, and they will be better for having that privilege, and we; as farmers, will pay for it ourselves. I as a farmer, ask that privilege. I say that I have just returned from my home where I have spent four or five days, and where I have consulted the farmers, and every one of them that I consulted, and I consulted them by

the hundreds, all are in favor without exception, and they begged me to come back and when this resolution came up, to offer the substitute that I offer, and I ask this Convention to consider well, and I ask the distinguished gentlemen who are so ready to table everything, not to do it until they hear the matter properly discussed, and let us do what is best and right in the premises. We ask nothing more. If our position is not right then vote it down by vote of this Convention, but I ask one thing, and it will be the last request that I have on this proposition, and that is that when I call for the aye and no vote on this proposition, I beg you in the name of the boys and girls who live in the rural district of Alabama, to stand up here like men and say, Yes, we are willing to go on record on this proposition. That is the last request I have to make of you in regard to this proposition.

MR. PEARCE—I have a substitute to offer to that amendment.

"Be it ordained by the people of Alabama in Convention assembled, that after January 1st, 1903, no tax on fertilizer in excess of ten cents per ton shall be levied on the sale or manufacture of fertilizers in this State. That the proceeds arising from such tax shall be used exclusively for the benefit of the farmers of the State.

THE PRESIDENT—The question is upon the adoption of the substitute of the gentleman from Marion to the amendment of the resolution offered by the gentleman from Calhoun.

MR. PEARCE—It is very easy to answer the gentleman's speech who has just preceded me. It is on that same old line, that if you cannot keep the government from taking money from me I want some of it. That answers his proposition. In order that the Convention may understand me, it is that same old human nature that if you cannot keep from concentration of the people's money by legislation, by some hook or crook, I want some of it. That answers the whole proposition. I say without fear of successful contradiction, and I tell you, gentlemen, I am so earnest in this thing, a man can be so earnest in a thing, he is too much embarrassed to make a speech, or he can be so little concerned, but I feel a great responsibility in this thing and I am conversant of the use and benefits of guano. Whenever you go to tax guano or fertilizer or whatever you may be pleased to call it, you vote to burden the greatest industry that has ever been invented in Alabama, and you vote to burden a thing that is more help to the people who need help in Alabama than anything that has ever been invented, you vote to burden a thing that helps to build up the interests of Alabama more than anything else. I mean by that that it helps people who have unfortunately been backed out on the poorest districts of Alabama. It is an actual fact that there is a great portion of Alabama that a man can pay for his guano

and can successfully compete with raising cotton on account of the quality of it with other portions of Alabama which are called rich. That is an actual fact, and the Legislature and law-making power of this State has seen fit to exempt cotton factories from taxation. It would be a great deal more justifiable, while I do not oppose that, and think that it is good sense, it would be a great deal more justifiable to exempt this guano from taxation instead of taxing it, and a great deal more so, and there is but one of two things that can make a man want to do this. He blinds his judgment with selfishness, or greed, as a rule, and those are two of the worst leaders that ever presented themselves to a man. It was said the other day that the reason this tax ought to be kept on the farmers of this country was that they participated several years ago in putting it on them, co-operated with some lawyers and other gentlemen here in the Legislature who put it on them. I deny the justification of that proposition. If they are to be punished for co-operating with the lawyers and other men here in putting this tax on them, they certainly have paid the penalty by paying about a million and a half dollars, and certainly ought to be excused from now on. Why, it is unreasonable. I can remind you of an instance that happened about 1869, when I was a boy, which it reminds me of. There were a lot of lawyers and blacksmiths and a few ignorant farmers in my county, who opposed the thimble skein wagon, saying it was ridiculous, and stated that it would pull the oxen and mules' heads off going downhill. (Laughter). And this proposition of wanting to keep the burden on the people to pay the tax on guano because they participated or co-operated here with a few ignorant lawyers and a few ignorant farmers who put it on them, is simply ridiculous and out of place, and there is no sense in it. Now, the gentleman who just preceded me says he wants to double the bet in order that he may get some of it. I told him in a brief way the other day that he ought to have understood it, but I will be a little plainer today. I will tell the gentleman a fact about his guano—well, I will not call them guano schools; I will call them complete fertilizer guano schools I want to tell you that they will not benefit us. When he gets them established in his county, the barefooted boys and girls he is talking about——

MR. GREER—Will you allow an interruption?

MR. PEARCE—When I am at leasure. (Laughter). I will answer the gentleman.

MR. GREER—I would like to inform the gentleman that I did not use the term barefooted boys and girls. That is already copyrighted, and I never infringe upon the rights of my friends.

MR. PEARCE—You will have to excuse me, if you did not use it. Now, I can tell you, gentlemen, the facts. The school is located in Hamilton, ten miles from my house, and so far as I am

concerned, in my honest judgment, I do not believe they have ever had a man there who knew anything more about farming than a two years' old birdnest. I do not, and I regret to use a plain language as this is about an institution that is in my own county. I was told by a man who come here, Captain Hamilton, last year and saw Governor Oates and the Legislature in order to get that school located there, and he reaped a great deal of benefit out of it (and he was a mighty good man), by selling the land around there. I was told by him no longer than last year that the last session before this they actually had a magic-lantern show master there for a school teacher to teach children in an agricultural way. I tell my authority, I have never been in the school, because I could see as much and learn as much as there was in there by passing along the road.

I am a sort of one-horse farmer and a pretty good judge. I can see the efforts of agricultural people, and the class of people that patronize the school and see the results of the students from it. Now, I want to tell you what is a fact. The brightest, smartest students they have had there, gentlemen, have hunted around to find out the political parties that had the most appointive power, and has affiliated with them in getting appointments at Washington and around over the country. I do not say it to reflect anything unkind on the people that come out in the country to teach school, but I am inclined to believe from what I see about it that it was rather the neglected students that did not reach so high and stand so well with the managers of the school, they would send out over the country to deal out brains in job lots to people who were paying the tax on guano. That was about the way it was.

THE PRESIDENT—The time of the gentleman has expired.

MR. deGRAFFENREID—I move the time of the gentleman be extended.

MR. HEFLIN (Chambers)—Mr. President——

MR. FITTS (Tuscaloosa)—I move a suspension of the rules—

MR. GREER (Calhoun)—I rise to a point of order. The Chair had already recognized the gentleman from Chambers.

THE PRESIDENT—The point is well taken and the gentleman from Chambers has the floor.

MR. HEFLIN—I think we have consumed a good deal of the time of the Convention discussing this resolution. I favor a resolution something on the line of Mr. Morrisette's resolution, but the gentleman's from Calhoun resolution I think wild. I think that one of the finest pieces of mechanism in the great workship of the world is the table. It supports the white scroll of the stenographer day by day, wher he takes down the wise sayings and pon-

derous arguments of the delegates on this floor. I am told, that Thomas Jefferson used the table upon which he wrote the Declaration of Independence, and from that good day to this the table has been useful as well as ornamental, but, Mr. President, I would sing the praises of that invisible figurative table that has its place in the rules of this Convention. It is the temporary and oft-times the everlasting resting place of mighty amendments, strong resolutions, and well-built sections. I have seen delegates smile oft-times when that table was mentioned in connection with a motion, and I have seen others tremble as does the gentleman from Calhoun at the mere mention of its name. I have seen lofty ideas of distinguished delegates start mantled in splendid language towards a place in the Constitution, and I have seen this ghostly old table rise up midway between the idea and the Constitution, and seize it in ghoulish glee and lay it upon itself. Mr. President, of all the resolutions that have been introduced in this Convention, I do think that the resolution of the gentleman from Calhoun is entitled to a special place upon this table, and, as a friend to this table, I move that the resolution of the gentleman from Calhoun and the gentleman from Marion—these amendments offered to the original resolution, be laid upon the table.

THE PRESIDENT—The question is upon the motion to table the substitute.

MR. GREER—Upon that I demand the ayes and noes.

A division of the question was called for.

THE PRESIDENT—The question before the Convention is to table the substitute of the gentleman from Marion.

Upon a vote being taken, the motion to table prevailed.

The question recurs upon the motion to table the resolution offered by the gentleman from Calhoun.

The Secretary again read the resolution.

MR. GREER (Calhoun)—I call for the ayes and noes.

The call was not sustained.

Upon a vote being taken, the motion to table prevailed.

MR. PETTUS—I now move the previous question upon the resolution reported.

MR. LONG (Walker)—I will ask the gentleman to withdraw that.

MR. PETTUS—I withdraw it if desired.

MR. CARMICHAEL—I rise to a point of order. The previous question has been called for.

MR. PETTUS—I withdrew it.

MR. CARMICHAEL—He did not have leave to withdraw it.

THE PRESIDENT—The point of order is not well taken because the question was not put to the house.

MR. LONG (Walker)—It is wonderful how men from different sections of the State change their course of tactics. It is wonderful how men who are friends to agricultural schools are here calling for the previous question no doubt because they are permanently established by the Constitution in their own town. This is a proposition gentlemen of the Convention that has been here before, and it is a proposition that was voted down by this Convention, and it is a proposition that should be voted down again. Why rather than have 10 cents a ton you had better have nothing, and rather than to permanently pay for agricultural schools, out of the general funds of the State, if that is the proposition, we had better abolish them. Now there could be no good reason why we should be called upon to reduce the tax 40 cents, from 50 cents a ton down to 10 cents a ton.

MR. ROGERS—Will the gentleman permit a question? I thought the next thing was the substitute offered by the gentleman from Marion.

MR. LONG (Walker)—That has been voted down and is on the table. Now then, what would be the effect. Why the distinguished Committee on Taxation reduced taxes here to 65 cents on the $100, three mills of that is asked for by the Committee for educational purposes. One mill goes to the Confederate soldiers of the State. That leaves only two and a half mills, and yet we are required to reduce this tax to 10 cents by that resolution, and to support these schools out of the general funds of the State. The State of Alabama is not ready for that. We will not be able to do it, I for one voted to reduce taxation, but the minute you pass that, I am one who is ready to vote to put it back to 75 cents on the $100. Now this is a legislative matter pure and simple. It has no place in our Constitution. The Legislature can reduce taxes on guano or it can raise it. It can place it to a dollar a ton, to 25 cents a ton, to ten cents a ton, or it can take it all off. That being true why then are we asked to pass this amendment. It is a compromise pure and simple and a compromise that I see. Friends here of the agricultural schools are advocating it, because these schools are permanently placed in the Constitution. They are not permanent now. The Legislature can abolish every one of them. The Legislature can take them away, and can take away every cent of the guano tax. Why, Mr. President, there can be no reason why other counties should not some day be allowed to have agricultural schools in their borders, or at least have a chance to have it, but when you establish agricultural schools in the Con-

stitution, I plead to the delegates upon this floor not to load this Constitution down with such legislative enactments. Remember what you are doing, and remember that if once it is placed in there you cannot get it out. I am glad to see delegates around me that voted for the amendment to take the tax off, every bit of it; they will not vote for a miserable substitute and a compromise like this. What is it, 10 cents a ton? Why not take it off entirely and establish agricultural schools in the Constitution? Mr. President, you may put on a tax of 10 cents a ton and I tell you it will not amount to enough to support the agricultural schools in this State. It will take away from Auburn its just deserts. It will take away from the other agricultural schools their just deserts and the State of Alabama under a 65 cent tax rate is not able to sustain them and give them the encouragement they should have.

Now the 50 cents a ton tax on guano as has been stated here and I state it, and defy successful contradiction, as the man who has been in the guano business for twenty years, is paid by the manufacturer, and you will find every manufacturer in favor of taking it off, and if they did not have it to pay they would want it off. You can take it off and there is no farmer in Alabama next year who could buy guano one penny cheaper and you simply take that much and put it in the pocket of the manufacturer. I admit if you had a tax of five or ten dollars, it would raise the price of guano, but 50 cents is too insignificant a sum compared with the benefit to the farmer. He buys second hand through the merchant. If the manufacturer takes it off the merchant would not do it. In South Carolina they have a 5 cent tax on it, and is guano selling cheaper there? Not a penny. Does it sell any cheaper in Georgia than Alabama? Not one penny. I have seen Georgia manufacturers turn down goods, the same standard and class of goods, at the price furnished by fertilizer companies elsewhere. In the State of Alabama, that would not reduce the cost one penny, and yet we are called on to place it permanently in the Constitution at 10 cents a ton. I would a thousand times rather wipe it out entirely. It is a much more honorable proposition. There is no good reason to be given for it and I hope this Convention will think well what you are doing.

You have no right, and we did not come here to legislate upon guano; we did not come here to place it at 10 cents a ton. That is a legislative act, and what you leave out of this Constitution you leave with the people of Alabama. What you put in it is but a shackle upon the liberties of the people of Alabama. And you leave it out of there and you make the Constitution stronger in every county. What right has Limestone County with an agricultural school permanently fixed in the Constitution, above any other county in the State? What superior right have these other counties in this State, nine in number? It has been claimed upon

this floor that agricultural schools are a farce. I am not here to defend them, but I was written the other day from one of them in the county of Marion, in the Sixth Agricultural District, that I have the honor to represent as one of the delegates on this floor, that out of 225 people enrolled, every one, with the exception of four, were sons of farmers actually engaged as farmers in this State. Do you wish to put them at the mercy of a State that you compromise by reducing taxation? Alabama has as much to care for as she can care for under a 65 cent tax rate. Put it in there and you will see that one or two things will happen. Your agricultural schools will go by default, or else Alabama will default her honest obligations. I think that the other delegates on this floor will agree with me that this proposition should be laid on the table, and that it has no place here. It is a legislative act, pure and simple. I understand that the Commissioner of Agriculture himself is willing for a proper reduction to be made at the right time, and it should be made, but why should we single out nine counties, and say you shall have schools and deny it to every other county in the State? We put a Constitution school upon them, not an agricultural school, but a constitutional school, and it has no place in our fundamental law. I now move to lay on the table this resolution.

MR. ESPY—I hope the gentleman will withdraw that.

MR. LONG—I cannot withdraw it, with all due respect.

A reading of the resolution was called for.

MR. LONG—I will withdraw the motion.

MR. ESPY—This question in part has been discussed by this Convention before, and every members knows my position. There is not one here more desirous of reducing tax tariff than I am, but I cannot and will not vote for the proposition now pending before the Convention. The tax levied upon the farmer is an unjust one, because it is double taxation, but this proposition to reduce the tax carries with it the perpetuation of thirteen agricultural schools in this State, and that means that the Legislature in the future, however much it might desire to change it, will not have the power to do it. Now what right have the thirteen various localities in the State of Alabama to have appropriated, especially to them, thirteen schools that must be kept up by the State at large, and so long as this Constitution we are now making shall exist. It is not right, it is not fair to the people at large. The money that would go to keep up these thirteen schools would go into the general fund of the State and be distributed out among the schools that are accessible to all children throughout the State of Alabama. For that reason I cannot support this measure, although if the proposition was to reduce the tag tax within itself, I would gladly do it. The Convention has just voted down the amend-

ment offered by the gentleman from Marion, which carries with it the proposition fairly and squarely within itself. Therefore this Convention has twice put itself on record that it is not willing to relieve the farmers of the State of Alabama from the payment of that excessive tax. And it is no answer to that proposition to come here and say we will reduce it provided you will let us put upon the State at large thirteen agricultural schools that will exist so long as this Constitution exist. I ask the gentlemen who advocate it, is it right to have thirteen schools in thirteen Congressional districts in the State of Alabama, when as a matter of fact nobody living beyond a radius of three or three and a half miles is accessible to that school. Certainly no man can show the justice of the establishment and perpetuation of any such a school, and now, Mr. President, as the matter now stands, I hope that this Convention will vote down the whole proposition.

The Chair recognizes the gentleman from Pike (Mr. Samford).

MR. COLEMAN (Greene)—I rise to a question of personal privilege. The delegate from Limestone withdrew the previous question that I might make some remarks upon this question, and the Chair recognized the gentleman from Walker. He withdrew his motion to lay upon the table in my favor and the Chair recognizes another gentleman, and I think——

THE PRESIDENT PRO TEM.—The Chair will state to the gentleman from Greene that the Chair did not know the gentleman from Limestone withdrew his motion in favor of the gentleman from Greene, but was under the impression that he withdrew it in favor of the gentleman from Walker, and the Chair did not see the gentleman from Greene on the floor at all. The gentleman from Pike will proceed.

MR. SAMFORD (Pike)—It rejoices me to be able to say that I have never known a single instance in the history of Alabama or in any civilized State where a school that was once established at the expense of the State has ever been discontinued. It is a credit to the State of Alabama that notwithstanding the fact that the agricultural schools may not have been of benefit in the way of agriculture, still they have been a benefit to education, and for that reason the General Assembly of this State have so far decided to keep them in operation. I have made several efforts in this Convention to secure relief for the farmers of this State from the iniquitous tag tax upon fertilizer. I have brought that question before this Convention in several different ways, and I desire to state here in the presence and hearing of every member of this Convention, that notwithstanding the fact by inuendoes I have been charged with having some ulterior motive in regard to this matter, that I do not buy fertilizer. I own no stock in any fertilizer factory and I am not employed to represent them. I am

"Amend the resolution by striking therefrom the following words: 'resolved further, that the General Assembly at the same time shall provide for the support of the various agricultural schools of this State out of the general funds of this State.'"

MR. CUNNINGHAM—That was the amendment I wanted to offer.

MR. COLEMAN (Greene)—I would like for the resolution, before the Convention to be read. The resolution was read as follows:

"Resolved by the people of Alabama in Convention assembled, that the next General Assembly of Alabama shall reduce the tax on fertilizers to ten cents per ton.

"Resolved further, that the General Assembly at the same time, shall provide for the support of the various agricultural schools in the State out of the general funds of the State.

MR. COLEMAN (Greene)—I call for a reading of that, in order that the attention of the delegate might be specifically directed to the second paragraph of the resolution. There is a distinct recognition of the fact that these agricultural schools are to become constitutional schools. It has been stated time and again by the speakers, but I thought that perhaps some of them had overlooked the expressed terms of the resolution. Now I have had nothing to say upon the tag question even when it was up before, because I thought it was purely legislative provisions. It is no argument as adduced by the gentleman who last addressed you that because this Convention has time and again adopted legislative provisions, therefore it should continue to do so when there is no necessity for it. One wrong never justifies another wrong, and if the Convention has gone too far, it seems to me that it is time to call a halt. The effect of the adoption of this resolution is merely to limit all agricultural schools to their present number. Now if you know how they are situated in this State, some of them being in the extreme limits of the congressional districts, as illustrated by the district in which I live. The one established in the county of the gentleman from Marion (Mr. Pearce) and though that is a large congressional district there is no other school of that character established, there is none in Hale. Am I correct in that?

MR. deGRAFFENRIED—Yes, you are correct.

MR. COLEMAN—Now, whether the policy of the legislature is right or not is a question that ought to be solved by future contingencies and circumstances. We ought not to adopt any resolution here which will limit the legislature in the establishment of these agricultural schools if they should prove a success, but the legislature will not venture to establish these schools if they are

tax imposed upon the farmers in South Alabama that cultivate the poorest land in the State——

MR. LONG (Walker)—May I interrupt the gentleman?

MR. SAMFORD—No, sir.

MR. LONG—I want to make a correction.

MR. SAMFORD—I do not care. I will state to him though in my section of the State there are men who are looking with longing eyes towards this Convention for relief that the Legislature of this State has failed to give them through the many years that have passed, and if the arguments of the gentleman from Walker are followed they will continue to refuse it in the years that are to come, and the members on this floor need not hide behind the proposition that it is putting into the Constitution these nine agricultural schools throughout the State, because when they look at it fairly they are bound to admit the proposition that there never has been a school done away with in Alabama that has ever been established, and I trust to God that it never will be the case.

Now, Mr. President, my principal object in this matter was a reduction of the tag tax upon fertilizer, but if it takes the combination resolution as offered by the gentleman from Monroe to get it, then I am ready to accept that. I stated here in my former speeches that if I should be a member of the legislature I would not vote to do away with the agricultural schools. I said it here that I would not vote to do away with the agricultural schools if I were in the General Assembly and that being the case, and knowing that these agricultural schools will remain fixtures in the State of Alabama I do not see the necessity of failing to support a good measure because there is another question involved in it. It says that the legislature shall provide for the maintenance of the schools out of the general fund. The effect of that would be to keep the General Assembly from taking any of the public school money to maintain them, and it would force the General Assembly to maintain them out of the general fund of the State, where they must be paid for if they are had at all, but there is nothing in there that I see that requires the legislature to appropriate any specific amount.

Mr. Coleman of Greene, was recognized, and yielded to Mr. Espy.

MR. Cunningham sought recognition.

MR. ESPP—I desire to have this amendment read before the gentleman makes his remarks.

The amendment was read as follows:

been all my life, ever since I was a grown man, but it does seem to me if you desire to keep up these agricultural schools, if you desire to have appropriations made for their continued prosperity in accordance with the ability of the State and the needs of the farmer, it is a question that ought to remain exactly where it is now. It ought not to become a part of our organic law, the Legislature established the school, the Legislature imposed this tax, the Legislature has the power to remove the tax, and it has the power to establish additional schools. It has the power now if they see fit to abolish them, according to the emergencies and contingencies of the time, and I think they ought to consider these questions and we should not put anything in the organic law which cannot be changed, except by another Constitutional Convention. Surely in a matter of this kind we can trust to the Legislature——

MR. PEARCE—I offer an amendment.

The amendment was read as follows:

"Provided, that nothing herein contained shall be so construed as to prevent the Legislature from abolishing any or all of the agricultural schools now established by law, or to prevent the Legislature from reducing the tag tax on fertilizer below 10 cents per ton, or to repeal such tag tax altogether."

Mr. Greer (Calhoun) sought recognition.

MR. GRAHAM (Talladega)—I desire to rise to a point of order, on both of the gentlemen. They have both spoken on this matter. Further, this amendment is not germane to the question that is before the House.

The resolution was again read: "Resolved further, That the General Assembly at the same time shall provide for the support of the various agricultural schools of this State out of the general funds of this State."

THE PRESIDENT PRO TEM—In the opinion of the Chair the amendment is not germane.

MR. WHITE—As I have heretofore said I think this tax the most iniquitous one that the farmer has to bear. Whether he bears it or not, the tax is wrong in principle. It is selecting one product and taxing it at a different rate from that at which any other product is taxed. However, there are other questions involved in this matter. If this means anything (and I doubt very much whether it means anything at all or not) it means the establishment permanently or certain so-called agricultural schools in this State. It means that they must be maintained by the State of Alabama, whether in the future they perform the offices intended or not. They are arbitrarily located, and we don't know how soon this State may be redistricted into new Congressional districts, and

to be preserved by an appropriation from the general fund. We cannot expect it. Now, it is not such a hardship upon the farmer to have agricultural schools established and maintained by a tax that is imposed upon fertilizers which are used by them. But, Mr. President, if it is not considered out of order, and is not too much of a personal character, I should like to state to this Convention some facts relative to dealers in fertilizers. I dislike to refer to any personal transactions, but it seems to me that at this time it will not be altogether out of place. During the last season I was so situated that it became to my interest to sell largely or to be interested in selling largely of fertilizer. We corresponded with every manufacturing company in the South, in Louisiana, Mississippi, Georgia, Tennessee and South Carolina. We had the agents to meet us at Eutaw, where I live, one at a time, once or twice there were two or three there, and they all fixed absolutely a price upon all characters of fertilizers, and even upon the freights to be paid. They went so far in their agreement as to charge an additional rate of forty cents a ton whenever it was delivered at any landing upon the river. I mention this to show you how complete the organization is.

Now, gentlemen have said here upon the floor that you could go across into the Georgia line and buy the fertilizer at forty cents less than you could in Alabama. That might be all so, and my friend further says fertilizers cost him less because he does not have it analyzed and buys it in large quantities. If it is not analyzed he can afford to sell it at forty cents a ton less than the others, but in order to protect the planter the fertilizer ought to be analyzed. Any lawyer with very much experience in the agricultural districts has seen more or less litigation growing out of the sales of fertilizer. I have defended such suits time and again, and have established in the courts, and it was so found by the juries that the fertilizer consisted principally of lime rock mixed up with a little stuff to give it the smell. The analysis is necessary in order to protect the farmer. The combination is complete and the sales are agreed upon by those companies before they enter upon a sale anywhere. Now you pay fifty cents a ton upon fertilizer. Many small farmers, and I speak from what I know, buy four, six, eight hundred pounds or half a ton, and the charge is twenty-five cents upon a half a ton. Now he never thinks of that and never feels it. You would not sell it to him as a merchant or as a dealer one cent less when retailing it than you would with the tax. Because, when you sell fertilizers to small farmers around that way the merchant invariably puts on his percentage, and the fifty cents per ton is not considered. The farmer does not lose much in the end.

Now I do not wish to be misunderstood about this thing. I am in favor of relieving the farmer as much as any other class. I know his troubles and difficulties and I sympathize with him, and am one of them, whether generally so understood or not, and have

here in my humble way, and in my feeble way attempting as best I can to represent the constituency that sent me here.

That this is a tax upon a class for the benefit of the whole State cannot be denied. That the fertilizer tax is a tax upon a commodity that is used by a class of citizens that cultivate our poorest land, is a fact that cannot be denied. That it is wrong in principle no man has ever attempted to deny, and the only opposition that has sprung from delegates in this Convention, when it was discussed on prior occasions, was that it was a matter for the Legislature of the State. That is a statement that has been so often repeated since that time that I fail to see how delegates can get up courage enough to raise that old saw. We have passed one legislative enactment after another until we are presenting to the people of Alabama, not a Constitution within the limits of the authority of a Constitutional Convention, but we are upon the eve of submitting to the people of Alabama a very code of laws instead. Gentlemen of the Convention, one of the principal functions, and the only function of a Constitution should be that of limitations, and I ask members of this Convention how you may limit the Legislature upon taxes, licenses or anything else unless you place it in the Constitution of the State. I am informed by my friend from Walker that the Superintendent of Agriculture of this State will be willing to a reduction at the next General Assembly of this tax, and I ask him in answer if he makes the Superintendent of Agriculture of the State of Alabama the guardian of the people or the keeper of the consciences of the members of this Convention. If it is right to do it we ought to do it. If it is a proper limitation to be placed in the Constitution we ought to do it. If, however, such a tax ought not to be levied upon a class of our people, then we ought to limit the Legislature in this matter. If the farmers of this country are to continue to bear the heaviest burden of the government then we should adopt the substitute offered by the gentleman from Calhoun, which provides for a tax of one dollar per ton instead of fifty cents. Gentlemen, the State has no right to levy this tax. It takes the right by the rule of might, and when through its tax collectors, and through its other agencies it runs the gaunt hand into the pockets of the people and takes from a certain class more taxes than are levied upon other classes of its citizens pro rata. It does that which the highwayman did centuries ago and is still doing upon our frontiers. Now, I do not care so far as I am personally concerned, whether you reduce this tax or not. I have got no personal interest in it, and I have not been in the habit of making threats with regard to the adoption of this Constitution, but let me say in all earnestness and in all candor, that a gentleman who represents a county in North Alabama where they dig coal and iron from the bowels of the earth and do not need fertilizer may not care, and may still want this

there may be two or three of those schools put into one district. I am utterly opposed to selecting and singling out these schools and making them constitutional schools in Alabama.

MR. SAMFORD (Pike)—I desire to ask the gentleman from Jefferson if he ever expects to see one of the schools abolished.

MR. WHITE—Well, I may not live to see it, Mr. President, and yet they may be abolished after I am dead and gone, and it may be at a time when they are not fulfilling the purposes for which they were intended. At all events, I do not want them permanently fastened upon the people of Alabama. They have been criticised, and severely criticised upon this floor by men who claim to know something about them. I do not. But certainly in the face of the criticism indulged in against them they ought not to be made permanent institutions in this State, but as I said just now, I doubt very much whether this resolution means anything, and I got the idea from a distinguished gentleman upon this floor, the gentleman from Madison (Judge Walker) that this is simply a resolution, and does not become a part of the organic law of Alabama. It is simply advisory.

A DELEGATE—It is directory.

MR. WHITE (Jefferson)—How is it directory. It is neither that the Legislature shall, or should, or must, but it is simply a letter addressed to the Legislature from this Convention giving them the sense of this Convention. It does not in any sense become a part of the organic law of this State. It is not an ordinance. But I say if it means anything it means too much. It means a permanent fixing of these agricultural schools upon the State of Alabama, and I am opposed to it, and however much I may be in favor of relieving the farmers of this iniquitous tax, I will never do it at the expense of fastening a number of so-called agricultural schools, which they say through members claiming to represent them upon this floor, are not, in fact, agricultural schools at all.

MR. VAUGHN—I move to lay the resolution and the amendment upon the table.

MR. ESPY—I ask for a division of the question and call for the ayes and noes.

MR. LONG (Walker)—I move that this Convention remain in session until the matter is disposed of.

Upon a vote being taken a division was called for.

MR. FITTS (during the taking of the vote)—I make the point of order that under the rules the House is adjourned, the hour of 7 o'clock having arrived.

THE PRESIDENT PRO TEM—By a vote of 33 ayes and 55 noes the motion that the House remain in session is lost.

MR. SANFORD (Montgomery)—I move that we do now adjourn.

The motion prevailed and the Convention adjourned.

SIXTY-FIFTH DAY

MONTGOMERY, ALA.,

Wednesday, August 7, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by Rabbi Messing, as follows:

Almighty God, as we again take up the broken threads of our daily task, we look unto Thee for guidance and for light. We pray Thee let not this day be an empty page in the record of our deliberations. Let it be a day of progress, of progress gained not by combining iniquity with selfishness, but by establishing righteousness in honor. May a loftier conception of our duties here relieve the task from the dullness of routine, the dry rot of monotony. While we are assembled together emphasize and impress upon the people a sense of the priceless value of all that in the Constitution for which our fathers were willing to sacrifice everything save their honor. May we so succeed in shaping this sacred instrument, this bulwark of liberty, that when it shall have been completed it shall lend renewed support to the flag, that flag which has never yet been folded in defeat or has been drooped in reproach, but which has gone in great splendor to the uttermost parts of the earth, where men bow in slavery, where women weep, where cruelty and greed are entrenched in the power of ancient fraud, bringing unto every one liberty, equality and fraternity. May we be faithful to the end to our large and sacred trusts, and never shame the greatness of our priceless opportunities. Amen.

Upon a call of the roll 81 delegates responded to their names.

The Committee on Journal reported that the Journal for the sixty-fourth day had been examined and found correct, and the report was adopted.

MR. DENT—I gave notice on yesterday that I would move to reconsider the section that had been offered to the report of the Judiciary Committee, which was adopted by the Convention. I will read the section:

"The Legislature shall have the power to abolish any court except the Supreme Court or the Probate Court, whenever necessary from any cause, or its jurisdiction and functions have been conferred upon some other court."

Upon reflection, it seemed to some of the delegates that perhaps that was going almost too far. While I agree that the Legislature under certain conditions, ought to have authority to abolish certain courts, I will read to the Convention, if the motion to reconsider is adopted, which I make, the section as it will read as amended. I propose to offer an amendment to it, striking out these words "necessary from any cause or," so that the section if amended will read as follows: "The Legislature shall have power to abolish any court except the Supreme Court or Probate Court, whenever its jurisdictions and functions have been conferred upon some other court." I think that is enough to say upon the subject. It makes it simple and plain.

I now move that the vote by which that particular section was adopted, be reconsidered.

MR. OATES—When I drafted the section that was adopted, I had some little doubt about whether it was not too broad to use the very words which my friend, the delegate from Barbour, proposes to strike out, and upon reflection, I have no objection to the section being reconsidered and thus amended. It is probably right.

MR. COLEMAN (Greene)—The amendment offered by the gentleman from Barbour will harmonize the whole theory of our Judicial system. It provides that counties of a certain population may establish courts, and then relieve them from being included in any circuit or chancery division. It is too radical to authorize the Legislature at discretion to abolish a court of record established by this Convention, but when counties have been removed from any chancery division or any circuit, then it is right and proper that those circuits and divisions be retired or else the counties left added to other circuits and divisions, and if you adopt the amendment offered by the delegate from Barbour, the whole system will harmonize and we will accomplish what we ought to accomplish. I hope the vote will be reconsidered and the amendment of the gentleman from Barbour adopted.

MR. WALKER (Madison)—I favor the motion made by the gentleman from Barbour to reconsider the vote by which a new section was added on yesterday. My reason for favoring it is I do not believe that, under the plan presented by the Judiciary Committee and as has been adopted by this Convention a provision of that kind is necessary, as under that plan it was left to the Legislature to supply the place of the Chancery court or of the Circuit Court in counties where a separate court was needed, and in those

counties to get rid of the useless expense of a Chancery Court or a Circuit Court.

MR. COLEMAN—It is your opinion then that this amendment does nothing more than make clear the provision already accepted?

MR. WALKER (Walker)—Yes sir.

MR. COLEMAN—It is my view and therefore I move its adoption.

MR. WALKER—I would not offer any objection to the amendment proposed by the gentleman from Barbour, as I think the amendment offered by the gentleman from Montgomery went beyond any necessity of clearing up what was meant by the Judiciary report. I hope the Convention will reconsider it.

MR. BOONE—I move the previous question on the motion to reconsider.

Upon a vote being taken the main question was ordered.

THE PRESIDENT—The question is on the motion to reconsider the vote whereby this section was adopted.

Upon a vote being taken, the motion prevailed.

MR. DENT—I send up my amendment.

The amendment was read as follows:

"Amend section adopted yesterday giving the Legislature power to abolish certain courts by striking from said section the following words 'necessary from any cause or,' so the section is thus amended, will read as follows: 'The Legislature shall have the power to abolish any court except the Supreme Court and Probate Court whenever its jurisdiction and functions have been conferred upon some other court.'"

MR. DENT—I think the Convention understands the question and I move the previous question on the section as amended.

The main question was ordered.

Upon a vote being taken, the amendment was adopted.

Upon a further vote being taken, the section as amended was adopted.

MR. deGRAFFENREID—On yesterday when Section 28 of the report of the Committee was under consideration, the gentleman from Lauderdale, Mr. Ashcraft introduced a substitute for the section. That substitute was adopted, and at the time of its adoption, I gave notice that I would, on this morning, move a reconsideration of the vote whereby his substitute for Section 28 was

adopted, and later on when the Convention adopted the substitute, I also gave notice that I would make a motion to reconsider that vote. For the purpose of saving time, I desire now to make a motion to reconsider both votes so that the whole matter can at once come before the Convention. The section to which I refer is the section whereby this Convention has abolished the system of circuit solicitors as it heretofore existed in Alabama.

THE PRESIDENT—The gentleman from Hale moves to reconsider the vote whereby Section 28 was adopted.

MR. SMITH (Mobile)—I rise to a point of order. The motion to enroll and to a third reading was specially set to follow immediately after the motion of the gentleman from Barbour to reconsider the vote whereby the amendment of the gentleman from Montgomery was adopted. I do not wish to cut off any gentleman who wishes to discuss this matter, but I do not want it to reopen the entire article, and cause it to lose its place which it has under the special order.

THE PRESIDENT—The Chair will state to the gentleman from Mobile that two motions to reconsider having been entered the Secretary understood the special motion to be set after the disposition of the two motions to reconsider, and it will not displace the special order.

MR. deGRAFFENREID—As I was going on to say, the section to which I refer, was the section which abolishes the system of circuit solicitors as they have heretofore existed in Alabama and provides in its stead, a system of county solicitors, which existed only for a short period in the history of the State. That was when the Republican party was in control of the politics and government affairs of Alabama. Now there was some wisdom in the men who framed the first constitution of this State. During all the time we have lived under the various Constitutions of Alabama which provide for circuit solicitors, we have had good government in this State. It is a matter of pride to every lawyer and citizen of Alabama that the judicial reports and the judicial history of the State take front rank with the judicial reports and history of the other States of the Union. There are but few reports that rank as high as the Alabama Reports. During Republican times, it was seen fit by those in charge to abolish the office of circuit solicitor, and have county solicitors in order that they might have more officers to share in public plunder, which was then being distributed by that party to its members. Attention is called to the fact, gentlemen, that we have in this body ninety-six lawyers and that no office created by this section can be filled by any one other than lawyer, and when we go back to the people, it might well be argued that the increase in office provided for by this section, is an increase which can only be filled by members of the legal profession.

It was said on yesterday, and I refer to it simply that the facts may be known, that there was a lobby in attendance upon this Convention upon this subject. I desire to simply say that if there has been a circuit solicitor in this capitol, at any time, while this matter has been under consideration, it is more than I have known. If any circuit solicitor has approached a single member upon this subject, it has been more than I have heard of. In fact we came here on yesterday morning with two reports for consideration on this subject, one the majority report, the other the minority report, both recognizing the circuit solicitor, the only difference being the manner of election, whether it should be done by the General Assembly or whether it should be done by the people themselves. That was the question we came here to consider. While that subject was under consideration an amendment was introduced, changing the entire system of Alabama as it has always existed, with the exception of the time of Republican control between 1868 and 1875. I doubt very seriously whether the affairs of this State can be as well and ably administered by a solicitor in each county as under the present well tried system.

MR. GRAHAM (Talladega)—How many counties are operated exclusively on the system of county solicitors.

MR. deGRAFFENREID—I do not know. There are deputy solicitors in many counties.

MR. GRAHAM (Talladega)—I am talking about where the county solicitor has exclusive jurisdiction, not only of misdemeanors and not where he has a deputy. I am talking about where he has jurisdiction of the entire county, felonies and otherwise.

MR. deGRAFFENREID—I do not know.

MR. COLEMAN (Greene)—Will the gentleman please state how many of the solicitors have been elected by the people and by the Legislature.

MR. GRAHAM—They have all been elected by the Legislature. Nobody denies that proposition. That is not the matter of difference between myself and the gentleman from Hale.

MR. deGRAFFENREID—I venture the remark that that system only prevails in the wealthy counties, like Montgomery, Dallas, etc.

MR. GRAHAM—I ask you how do Clay county and Cleburne county stand in point of wealth in this State? If they are not under $2,000,000.

MR. deGRAFFENREID—I don't know any thing about how their affairs are administered.

MR. GRAHAM—Well they have county solicitors to the exclusion of circuit solicitors.

MR. deGRAFFENREID—And under that, in circuits like Montgomery, Mobile, Dallas and the other wealthy counties in the State, our criminal affairs might be well administered, but in the poorer counties that is not true. It was stated yesterday that with the exception of two counties, the Committee on the Judiciary had ascertained that there were lawyers living in every county in Alabama who were capable of representing the State as its public prosecutor, but is that any guarantee that those men will be elected, if this becomes a law? Is it any guarantee that they will accept the position of county solicitor if the position is tendered to them or that they will be elected if they become candidates before the people?

Not at all. The fact about it, as it seems to me, is that the further you remove the person who acts as prosecutor from the people, the better and abler will be his services, and we might as well be plain about this matter. One gentleman said yesterday that he did not care to throw any bouquets at the Populists or the Republicans.

There are some fourteen or fifteen counties in Alabama represented on the floor of this Convention by members who do not represent the dominant party in this State. The dominant party represents the intelligence of the State of Alabama, and it has been through that party that we have been able to maintain white supremacy and honest government in this State, and I do not want to see the time when we will have a single Republican or Populist representing the State in a prosecuting capacity in any county in this State. Under the system, if it is maintained, that was inaugurated on yesterday, we will certainly have the condition in some of our counties. It seems to me Mr. President, that this vote ought to be reconsidered and we ought to go back to a system under which this State has prospered, and about which I am informed, with one exception (that of Morgan county), there was no discussion before the people.

MR. LONG (Walker)—I hope the Convention will reconsider the vote whereby the substitute of the gentleman from Lauderdale was adopted yesterday. We are going to be called upon to defend this measure. I am going to ask how many delegates can defend a proposition that is going to open sixty-six offices in Alabama? That is the proposition that will confront us on the stump. Even in the medical profession there are doctors that make a specialty of medicine, there are lawyers in the State of Alabama that make a specialty of prosecuting attorneys. It would leave many counties in this State without a man competent to represent the State of Alabama in the criminal prosecutions in this State. There are counties in the State of Alabama that have not a lawyer that is competent to even draw a bill of indictment. The effect would be

that you would have no head to the criminal system of solicitors in the State of Alabama.

MR. WHITE—May I interrupt the gentleman? Will you name a county that has a lawyer of that class.

MR. LONG—I could name numbers of them.

MR. WHITE—Name one.

MR. LONG—The county of Winston, the county of Marion, and a great many other counties in this State. That means no reflection upon these counties. There is scarcely a lawyer in the county of Fayette alone.

This is no reflection upon the lawyers, but there are agricultural counties in this State that a lawyer can not make a living in, because the litigation is so small that they do not need lawyers, and it is a compliment to those counties. We all know that there are counties in the State of Alabama where there are no lawyers capable of representing the State. No gentleman can deny that. This is a legislative matter, and should be left to the Legislature. Why our Constitution is but an old barge loaded down with 200 tons of rock and the enemies of it want to get us out into deep water and sink it, and when it comes to the ratification we should consider carefully what we are doing. It is not wise to get up here upon an impulse of the moment to adopt a substitute that was not even considered by the committee, and if all the lawyers on this floor that have been defeated by the Legislature would vote against the proposition, it would be defeated almost unanimously. There are many sore toes here, and it is natural for a man to despise a system that he failed in. It is not necessary to mention them, they are all over the House. If you would let the people elect them, why some of them would be defeated before the people and would be willing to right then put it back to the Legislature. They would say it was a fraud, a snare, and a delusion, and they would say further than that that the people were all up to trickery and bribery in Conventions, you have heard that by defeated candidates ever since you have heard of elections in this or any other State. The trouble is that there are some lawyers on this floor want to be solicitors, that is the reason this measure is so popular, in my honest judgment. There are counties in the State of Alabama where you could not elect a Democrat to save your life. There are fourteen or fifteen counties in this State where you could not elect a Democrat, and yet you want to turn it over. It is but a bribe to lawyers to turn in opposition against the Democratic party, in order to be elected, that is the result of it. Everybody knows that with few exceptions there is not a lawyer in the State of Alabama but what is in sympathy with the Democratic party, but you do this, and there will be a heap of little lawyers whose services are not worth $2 a year would become candidates for solicitors in those counties

and the counties would elect them, and the man of strong influence who can deliver the goods, deliver from three to five votes on that question will not be prosecuted or indicted by the Grand Jury, and if he is indicted the case will be nolle prossed, and that will be the end of it. The Legislature was an evil, but an evil that was placed upon us and it has elected solicitors every year since 1819 with a single exception when the Republicans were in power in the State of Alabama. Now, we are asked to abolish it. For what purpose? In order that there may be no head to criminal prosecutions in this State to represent the State of Alabama. I tell you if you put the solicitors in the county to represent it, he will cater to the local interests in his own county, and it is natural that he should. This is a question that should be reconsidered and leave it to the legislature to say whether you ought to elect them in certain counties or let the legislature elect them in certain counties and let the people elect them in others. It is a legislative act pure and simple, and I appeal to the delegates on this floor. I have no personal interest whatever in any solicitor in the State of Alabama. I am not learned in the law, and therefore I could not be a candidate if I wanted to, but I tell you the people of Alabama do not want any such thing. I want a man to rise in his seat and say that during the last canvass he advocated county solicitors, I want to see what kind of man he is. You know you did not advocate it. It has been hatched up, it is one of the buzzard eggs hatched out here without even three weeks setting, hatched out after the report of the committee had been considered, and I tell you it will do more harm to this Convention than anything you can place in it. There are men specially adapted to become prosecuting attorneys, and other attorneys not fit for it although able and competent lawyers. We all know lawyers that make a specialty of civil practice and are a success, other lawyers make a specialty of damage suits and make a success. That is their particular business, and they are better adapted in their particular line than a general lawyer that claims to do everything, a jack at all trades and good at none. We know that a lawyer who has represented the State of Alabama for years is more competent than one of these jack legs. We know that, and you are going to turn it over to that very class of men in the State of Alabama. You are going to have one lawyer in one county say this is the law, and another one in another county say, the other thing is the law. It will be hard to convict men in the State of Alabama on account of incompetent solicitors. Your cases will be reversed in the Supreme Court, sent back on technicalities and errors. That will be the result. There are many counties in the State of Alabama that have not competent men to represent the State of Alabama. In my judgment it is one of the highest judicial offices in the State.

THE PRESIDENT—The time of the gentleman has expired.

MR. GRAHAM (Talladega)—There are a few things necessary to be answered, just by the way, that are not argumentative. The speeches that have been made upon this floor demonstrate that all the small men on the floor are not limited to the legal profession. (Laughter.) The statement of a gentleman on this floor that no circuit solicitors have been working in their interest demonstrates that he is either blind or has sat here with his eyes shut.

MR. deGRAFFENREID—Will the gentleman tell me who they are?

MR. GRAHAM—If you will look around here for about three minutes, and not run up against one in the lobby right now, I'll—well—no use to say anything further. (Laughter.)

MR. deGRAFFENREID—I have never seen them.

MR. GRAHAM—I have not been personally approached, but I can designate solicitors who have been talking to men on this matter, on which side, I cannot state. That is by the way. I want to argue this matter not from that stand point, not from any personal stand point, because I have no grudge against any solicitor in Alabama and nothing personal inspires my position, but I want to answer the argument of the gentleman from Walker, who says we are going before the people of Alabama with sixty-six new offices created for lawyers. How does it stand now? We have thirteen circuit solicitors in the State. We have sixteen city solicitors in the State, not deputies. We have about fifty deputy solicitors in the State, making a total of seventy-nine under the present system. Then how would it be damaging to the Constitution before the people for it to go out that we recommend only sixty-six. I can point you to three counties in this State that have three and four solicitors each. The county of Calhoun today has a circuit solicitor, a city court solicitor, with concurrent jurisdiction, and the deputy county solicitor—three in one county. The gentleman from Madison tells me the same thing exists in the County of Madison. I believe there are four in the county of Jefferson, and there is no reflection upon any gentleman there. It is on the line of reform and economy that I speak. Last year the State of Alabama according to the Auditor's report paid to circuit solicitors of this State, $32,122, and those thirteen circuit court solicitors paid into the State Treasury in fees that they earned, $19,053, making a total loss to the State of Alabama of $12,169 on thirteen officers. Can you make it any worse than that? (Laughter.)

MR. FERGUSON—Entailing loss to the State of Alabama?

MR. GRAHAM—To the State of Alabama a loss of $12,000 in round numbers for thirteen men. The thirteen circuit solicitors had sixteen counties carved out of their circuits in which all of the fees went to the local solicitors.

MR. FERGUSON—I wish to ask another question. The Judges and Chancellors and other State officers, are they required to pay their way as they go?

MR. GRAHAM—No sir, because they are not on fees and never were. The fee system has been in existence all the while for solicitors and they have turned the fees into the State Treasury, until the change to a salary basis and the State has lost $12,000.

MR. FERGUSON—May I ask the gentleman another question?

MR. GRAHAM—I have only five minutes more time, and I must decline to yield. I decline simply from lack of time without any intention to be discourteous. I would like to have an all day discussion with the gentleman and dinner on the ground, if we had the time. (Laughter.)

Thirteen circuit solicitors who lost the State $12,000. Can you make it any worse? There are sixteen county or city solicitors who retain their fees in local counties and do not contribute anything to the State. How does this sound with reference to counties? Here is a little Populite county where they have "no lawyers big enough to be solicitors." The little county of Franklin, represented here by Populist Byars, pays into the State treasury $1,026 for fees in one year, and the great big Democratic county of Hale pays in $44. (Applause).

What is it but this iniquitous system that makes the discrimination? The little county like Franklin with Populites contributing more than $1,000 a year, and the great big county like Hale with three or four representatives here in the Democratic party contibuting only $44.

MR. deGRAFFENREID—The people are law abiding in Hale county.

MR. GRAHAM—Now there is another argument I wish to use here. I did not by the way use the term populite in derision. I used it to answer these gentlemen who argue that if they adopt this system, it will work to the good of Populites or Republicans in small counties. Gentlemen, are we here to frame a Constitution which says the Democratic party shall forever be perpetuated in control of this State, or are we here on the higher plane, to reform the suffrage, and base the privilege of voting on intelligence and virtue, and then let the intelligence and virtue of the State rule and dominate it without reference to the party in which it may be found? I am a born partisan and will always be a partisan, but God forbid that I should ever become so narrow minded and so small that I would deny the right to rule to the intelligence and virtue of this country, simply because it may be transferred to the Republican or some other party. We cannot make the solicitor

system any worse. They say corrupt influences will get in, that Republicans and Populists will be elected. I would like to know if the Democrats don't get out in the open and take their chances of electing Probate Judges and Sheriffs and all county officials? Is the election of Probate Judges of less importance in this State than the office of solicitor? I would like for you to answer that question. They say that it will be corrupt. I cast no reflection on any solicitor in this State, but it seems from reading the reports of solicitors made to the Attorney-General that the saloon men and gamblers, except negro crap shooters, are "immunes" under the present system. You cannot make it any worse. There were only 45 cases coming from the entire State of Alabama last year, where the saloon men were prosecuted for selling liquor to minors. Do you believe that would represent anything like the violations of the law on that line? They say that cases will be nol prossed. The report of the Attorney-General shows that 2,200 cases out of 10,000 were nol prossed last year. Can you make it any worse? I am not a candidate for solicitor or any other office, and have none in contemplation. None in the world.

PRESIDENT—Time is up.

MR. HARRISON—Mr. President, though scarcely able to talk, I feel that this is a very important question, and I desire to say a few words in regard to it. As a delegate to the Constitutional Convention in 1875 I remember well the pressure that was brought upon that body to change from a system that this Convention now seems desirous by vote on yesterday to again follow. It was not as I remember it, Mr. President, because they were Republicans, but it was because of the abuses of county solicitors, not only by Republicans, but in counties where they had Democrats. The people almost en masse, as I remember, came before that Convention and through their delegates, demanded the abolition of county solicitors, and that we should return to the system of the State prior to the war, and have circuit solicitors. Why was is? Just as it exists today, you will find, Mr. President, that in a majority of the counties of this State, in the first place, you will be unable to secure a proper man to represent the State of Alabama in important cases, for what fees they will make in a single county. The average county will not afford enough income for a lawyer to lay aside his business and undertake the prosecution of criminals. If he does, he will abandon his practice, and we will have a very obnoxious system of prosecuting every sort of case. I remember well in my own county that the County court under this system was one of almost perpetual motion, every character of case being presented and the sitting almost every day. We best judge others by ourselves. Let a man lay aside his practice and undertake to prosecute criminals, and making a livelihood by it, he will yield to the solicitation of every darkey to prosecute these trivial offenses, profane language, vulgar language in the presence of women, as-

sault and battery among negroes, and every county in the State is run to an expense that is outrageous. That was the practice among county solicitors before, and I say it will be under the proposed system.

MR. BOONE—Were they not under the fee system then, and now they are under the salary system. Would a man under salary try to put all this work on himself when it isn't necessary?

MR. HARRISON—I do not know what the effect will be. I understand by your system you do not propose to pay a salary, but you leave it to the Legislature.

MR. ASHCRAFT—Put them on a salary.

MR. HARRISON—Well if that is the system, you cannot get competent men to prosecute for the State in these cases under a salary. The Legislature will never fix it on earth in the average county, so that you can get a proper man to represent the State. In case of murder, arson and these cases, we need the best talent in the State to prosecute these cases. I heard a brother lawyer say to me on the street that it would help the profession, because the other fellow will employ some fellow to assist him. That may be, but have we come to the pass that men have got to be employed to prosecute for the State in cases of murder and arson where the dignity of the State is involved. I say, take the average county, and the average deputy solicitor, now, and in reply to my friend from Talladega, so far as doing away with these county deputy solicitors, I am in favor of it now. If is the only objection I see in the plan, that when we changed from county solicitors we did not put in a provision that they should not have any deputies. I do not refer to the cities and towns. The mere fact they have a little deputy if you go into these counties where they have them, you will find many of these nol prossed cases that were referred to by the delegate from Talladega, grow out of the fact that these deputies are hunting up little cases, which are bound over to the Grand Jury and bills are obtained on frivilous cases that the circuit solicitor does not think the interest of the State demands should be prosecuted, and they are nol prossed. I believe if we had solicitors enough in the circuit they would properly represent the State. Keep proper and competent men. It is to the best interest of the State. I am opposed to the election of those officers. I do not believe it is demanded by the people. I do not believe that the good of the State demands that they should be elected. The principal duties required of him in many cases if he does his duty, it will make men mad. He ought to make them mad. It is his duty to prosecute and he should not be amenable especially there at home. It would be much better to elect by the Legislature. In many instances, if he does his duty properly, he will defend a criminal and defend a great many people and of all the officers that are elected or appointed, I think the solicitor is one that should be elected by a

different body than the county or district. That he should be elected by the Legislature or some other tribunal, and not on account of his popularity, for if he does his duty, he will not be very popular after the first experience. In the next place, I submit this would not secure proper men. In the first place, lawyers such as we should have to represent the State of Alabama would not be secured for the salary that this system would secure to them. I am speaking about the average county. Some of the counties would. Therefore I insist on the idea that we want as prosecuting officers, the best talent in the State. As has been said by the delegate from Walker, we want men who have made criminal prosecution a specialty, who are willing to devote their life to it.

MR. PITTS (Dallas)—I had the honor to represent the Fourth Judicial Circuit of this State from 1880 to 1882 as solicitor. I was not a candidate for that office, so I have no interest in the matter except to the good of my country. The gentleman who has just taken his seat has insisted that prior to 1874, the office of county solicitor was very obnoxious. Why was it then? Because prior to 1874, who were the judges in this State? Prior to 1874, when Houston was elected. Who composed the juries? Republicans mostly. The county solicitor then and now, cannot issue a process without the consent of the judge. Now, in those times, a judge and solicitor combined together as it were, that whenever he made application for a warrant to be issued, the judge at once issued it. Now, there is a great deal of difference between then and now, and an entirely different system prevails. We have, as it were, Democratic probate judges in nearly all of the counties of the State, and we have Democratic circuit judges, but that is immaterial. Let us get down to the principle of the matter. Now it is said and it is so reported by the committee that they propose to elect the solicitors, circuit solicitors, by the people. Well now, why if that is right, why not elect county solicitors by the people? The majority of the committee reported that the circuit solicitors ought to be elected by the people of the circuit. Well, if the circuit is capable of electing them, why is not the county capable, where he is better known, and if he is not qualified, the good people of the county will not elect him. I would much rather, if I had it in my power to elect solicitors, other than by the election of the people, I would much prefer to elect them by the people than by the Legislature, because the people know who are the candidates and they know whether or not they will perform their duty. Now, I will say further on this line that it is said that in some counties good men will not be elected. If a majority of the people of a county are opposed to enforcing the law, it does not make any difference what kind of solicitor you get, they would not enforce it, because they compose the juries and if they are against enforcing the law, if an indictment is found against a person, the solicitor, no matter how able he may be, they will acquit him. My observation and ex-

perience is, the good people want the law enforced and will uphold the solicitor and if a county in this State has become so bad that the majority of the people in that county are opposed to enforcing the law, I say let them carry it a while and they will see the error of their way, but because there are some counties in the State who are not in favor of enforcing the law, do not say to those people who are in favor of enforcing the law that you shall not have a system by which they will enforce the law.

Now another thing. The judges are elected by the people. They talk about since 1819 the Legislature has elected chancellor or circuit judge and have one years elected the circuit judges, and in fact up to 1875. Is there any complaint about the people electing their circuit judges? Don't they give us good judges? Is there any complaint about it? None at all. Now is there any complaint about the circuit solicitors? Now you have heard what the gentleman from Talladega has said, there is universal complaint against the enforcement of the law.

MR. deGRAFFENREID—Can I ask the gentleman a question? Would it not be just as consistent to abolish the chancellor or circuit judge and have one judge with plenary jurisdiction and powers for each county as to abolish the solicitor?

MR. PITTS—That is the tendency right now in every county of 20,000 inhabitants to have one judge, (applause) and I am in favor of it, and it has been adopted.

Mr. President, I did not propose to say anything about it, but there are delegates on the floor of this Convention who have witnessed violations of the law in my county, who have been there on one occasion, and there are delegates here, if they will testify to it who have seen where open barrooms were kept in violation of the law, where blind tigers were kept and where gambling rooms were open, and the solicitor was right there a witness to it and yet no indictment was ever presented or ever will be presented.

I want it so that the county solicitor will be elected by the people, and if he fails to enforce the law that the people may hold him responsible for it. I think the proper way to do it is to make the people responsible for the election of their solicitors. A man who comes up here with three or four votes behind him can trade himself into office. It has been done and it has been frequently done and the will of the people has be defeated.

MR. COLEMAN (Greene)—Was this a county solicitor?

MR. PITTS—It was a circuit solicitor right there, a witness to the whole of it, and no indictment was ever presented or ever will be presented. I believe if it had been a county solicitor the people would have said to him, you have failed to perform your duty, but what can they say to a circuit solicitor? They don't

elect him, and he can say, I am not dependent upon you at all for election. I am dependent upon the other counties. They say, this body is composed of a great many lawyers and it will be creating offices for the lawyers. That is idle talk, talk to the winds. Don't anybody pay any attention to that. It is said for the purpose of intimidating the lawyers of this Convention.

If any lawyers in this Convention can be intimidated with any such speech as that, they are certainly not fit to represent the people of Alabama as solicitors. Out of sixty-six counties in the State, I say that sixty-four of them have lawyers able enough to represent the State of Alabama. If that is true, why defeat a system that is the best thing in order to satisfy two counties. But I go further, they say a good many Republicans and Populists will be elected. I am a Democrat, and I am a black belt Democrat and I believe about as good as any of them, but I want to say, and I am not ashamed of it, if a majority of white people in the country are Populists, I believe they ought to control it. If a majority of people in the county say they believe in certain principles, the minority ought to yield, and allow them to have it, just as the majority of Democrats in a county insist that they have a right to control it. If they want to elect a Populite, I know Populists just as good as any Democrats. If they want to elect a Populite, let them elect him if a majority of the people in the county want him. Hold him responsible for the enforcement of the law. Now that is the only form of government we have—that the majority must rule and I believe in it, and I believe in local self government and believe in letting the people in the county say whether or not they want a certain man for solicitor, and if they don't hold him responsible, they will be responsible themselves.

MR. COLEMAN (Greene)—Mr. President and gentlemen of the Convention, my friend who has just taken his seat told you of the condition of affairs in his circuit; that a circuit solicitor had knowledge of the open violation of law, and that the parties had never been indicted and never would be. Now, I wish to call your attention to the fact which of itself would satisfy me of the wrong of the plan suggested by him. I ask him to rise in his seat and say whether or not the solicitor selected was not chosen by a primary vote of the people?

MR. PITTS—Yes sir, he was.

MR. COLEMAN (Greene)—Ah, he was. Who wants any better argument, Mr. President, to show that the election of solicitors will not answer the ends of justice in this State? His own argument and his own solicitor have demonstrated that this is a power and a proposition you cannot intrust to the people by their vote.

Mr. President and delegates of this Convention, you find the same disposition and the same principle prevailing throughout this State when you entrust the duties of a prosecuting officer to a man selected by the people. When I read the report of the committee and saw that the election was to be either by the Legislature or by the people, I cared very little for the two principles or plans. To my mind, as an individual with some experience in the office, it seemed to me that the old plan was the best; that it comported more with the dignity of the office than the new idea suggested here; that it had been tried a long time and had proven effective and satisfactory to the State. But while not concurring in the wisdom of the conclusion that the people should elect them I expected not to raise my voice one way or the other, but had I known or dreamed that there would have been such an innovation upon the system as to abolish the circuit solicitors and go back to the election of county solicitors, I surely would have been in my seat yesterday morning, at all hazard, to raise my protest against a plan so perilous to the proper enforcement of the criminal laws in this State.

It has been stated here time and again that high crimes go unwhipped of justice even now, and it has been paraded before you, the fees received by county solicitors. The plan is not properly understood by everybody. It is only those who have had experience in these matters, who are able to trace and lay before you the reason why some solicitors do not receive or collect more fees than their salaries. The Legislature has time and again established county courts in the various counties. It is the misdemeanor fees which make the income of the office, and not the felonies, and the county solicitors prosecuting in the county courts collect the fees for the misdemeanors, and the Circuit Court solicitor has been made responsible for prosecuting the felonies and seeing that the higher crimes are prosecuted and punished. That is the reason the gentleman from Talladega has made out that only $44 were collected in Hale county. The reason of it is they have a County Court system there established by the Legislature, where all misdemeanors are tried, and fortunately for Hale county they have a very efficient prosecuting attorney for the county. The gentleman should look one county higher, to the county I have the honor to represent, Greene, and see that the fees were over $1,300, and he may go through the list. There are counties where the solicitor has no opportunity to proscute for any other crimes than felonies, and his fees are necessarily low, but it is the only way you can have high crimes and heinous crimes prosecuted.

MR. FOSTER—Is it not a fact that also in these county courts the excess over the solicitor's salary is paid into the State treasury?

MR. COLEMAN—I was coming to that; these are legislative provisions. It is not because the people do not get the benefit of

the fee system. The excess goes to the county and not to the State.

MR. GRAHAM—Will the gentleman allow me to ask him a question?

THE PRESIDENT—Will the gentleman from Greene yield?

MR. COLEMAN—I will once more yield.

MR. GRAHAM (Talladega)—Is it not a fact that in all these county courts, with possibly one exception, the solicitor gets all the fees, the one exception being Pike County?

MR. FOSTER—No, sir.

MR. COLEMAN (Greene)—Mr. President and Delegates of the Convention: My information is that the fact is exactly the opposite. The people of the county get the benefit of it. But since the gentleman has seen proper to interrupt me, I do not wish a statement as reported by the stenographer of his speech yesterday morning to go unchallenged. It is reported here that he said: "We want to say that the solicitorships in this State are not hereditary on that line," and when I read that this morning, I was reminded of what old Polonius said about Hamlet, "still harping on my daughter," and he went on to say, "but they are hereditary on the line that if men whose fathers or brothers or friends are men of political influence in the State, and they happen to say that a certain man shall be put upon the slate for a solicitorship, he goes upon it without reference to qualifications or whether the people want him or not."

I ask the gentleman the question, who is it that has been put upon the slate and elected by the Legislature without having qualifications? I think, Mr. President, that the nominee of the Democratic party in the district where the gentleman resides is his equal in point of law, and I do not think there is any cause for complaint upon the action of the Legislature in selecting a man who has the privilege of being an opponent of his. I say, if he had in special view any one man when he made these declarations, it was without justification.

Now, Mr. President and delegates of this Convention, the people of Alabama had no idea that this Convention would undertake to re-establish the system of county solicitors. In my own county, there is not a man who could be induced to take the office who is competent to fill the office for the salary you could pay him for performing its duties. There are counties around me where they have more criminal business, where they have competent men who are filling the office acceptably and well, and I do say that the great ends of justice would be defeated by re-establishing the system of county solicitors. It is not fair to the State. It is not fair to the counties in this State, who had no such view in

contemplation. Why not leave it to the Legislature, where it is and where it has always been? What wrong has been done? Why the gentleman speaks of a court up here in Clay County. That was done, of course, through the Legislature, and I hope the delegates of this Convention will remember that those occurrences cannot be repeated any more under the provisions of this Constitution.

MR. PITTS—I would like to ask how many counties are in the Seventh Circuit?

MR. COLEMAN (Greene)—I don't know.

MR. PITTS—Are there not only six, and haven't they got four county solicitors in these?

MR. COLEMAN (Greene)—I don't know. I am speaking on general principles. It is hardly fair to me to ask a question and not let me answer it fully, but I know very well where there are cities and towns where it would pay a good lawyer to represent the State. Shall the interests of the State be sacrificed for the benefit of a few counties or cities in this State? The gentleman speaks of the prosecuting attorney for Montgomery. Who elected him? The Legislature and not the people. There are cities in the State where if it is relegated to the people who will defy law and order, the beer saloon, the rum seller and the gambler will elect him, and law and order will be overthrown, but so long as it is trusted to the people of the State, you are safe in your prosecuting attorneys. I wish I had half an hour.

MR. BOONE—The delegate from Walker said that there are a good many men in this Convention and hereabouts who had aspired for the position of solicitors and had failed, and that there were a good many hereabout with sore toes. I would say that it seems to me that there are more toes in this Convention that are afraid of getting bruised than there are sore toes. Now, I want to ask you, gentlemen, what would be the condition in this State, so far as the enforcement of the criminal law is concerned, if we did away with all of the county solicitors or deputy solicitors in the State of Alabama, from and after the adoption of this Constitution? Don't you know it is a fact that those men who are in the counties and who prepare the cases, who put them before the grand jury, who are conversant with the witnesses, who know the character and the standing of the men who are to testify on the one side and the other, know more about preparing that case and what is the proper way to treat that case in the selection of the jury than the solicitor of that circuit who is not in that county.

MR. COLEMAN—Don't you know it to be the law that when a justice of the peace tries a case he must take a note of the testimony and send it up for the use of the solicitors?

MR. BOONE—Yes, sir; I know that is the law, but I would like to ask the gentleman how many justices of the peace in Alabama carry out the law in any particular?

MR. COLEMAN—I would like to say to him that it is a misdemeanor not to do so and he is liable for indictment, and in my twelve or fifteen years' experience in the office of solicitor, they never failed more than once or twice to carry out the law. I will ask the gentleman, have you had any experience in the office?

MR. BOONE—No, sir; I have not and do not expect to have any, and I haven't any relatives that are in the office, either.

Now, I say that, unfortunately for the State, we have not always had as vigorous and painstaking solicitor as the gentleman from Greene, he did make a distinguished solicitor, but we have not that caliber of men throughout the State today, as solicitors for the State of Alabama. Now on the question of ability. The delegate from Lee said that it should always be the paramount question of fitness or capacity for the office. I agree with him, but I remember what took place in that hall in 1892, when a man who had been elected by the Legislature in 1886 as Solicitor from Mobile County, exclusively for that county, came back here in November, 1892, for re-election. He was endorsed by the bar, he was endorsed by the bench, by the preachers, by the merchants, by the mechanics, and the laborers, no reflection, he had made as able a solicitor as was in the State of Alabama. What was the question? What was he told? That they did not care two pence about his ability, not two pence about what the people of Mobile County want, but the question he wanted to be heard upon was the proposition, that and none other, how many votes could he put in the combination? (Applause.) That is all I have to say. I contend that the stream cannot rise higher than its source. If this stream that comes from the people is so polluted, if they cannot be trusted, then they are incapable of preserving a Republican form of government, and you cannot get representatives in the Legislature coming from such an evil source, from which purity and sunshine and liberty and justice should ever flow.

MR. COLEMAN—Permit me to ask a question? Do you undertake to tell this Convention that Mr. Webb, who was elected by the Legislature, was not the equal of any other man?

MR. BOONE—I will not. Mr. Webb is my warm personal and political friend. You have not seen him here. He says if he cannot be elected by the people of Mobile County as Solicitor, he don't want the job. (Applause.)

MR. JONES (Wilcox)—I am not one of those who take issue with the proposition that solicitors should be elected by the Legislature.

My distinguished friend from Jefferson, who had to leave here on business, paired with me on that question. I favor the minority report of the Committee on Judiciary, that favored the election of solicitors by the Legislature of the State. Mr. President, I lived in the times when we had County Solicitors in Alabama. It is true that in these days the Republicans were in control, but that was not all over the State, and I tell you that they did not have men of ability as County Solicitors to represent the people of Alabama in the prosecution of criminals. I lay this proposition down that the Solicitors should be as far as possible removed from the people. I am not interested in any way in any Solicitor in Alabama. I have not seen one of them here. I have not been in correspondence with any one of them. I am not related to a Circuit Solicitor or connected with a Circuit Solicitor in Alabama. I stand here, Mr. President, as one of the delegates of the State, representing the people, and doing what I think is for their best interest. Now, Mr. President, we know that there could be corruption in the Legislature as well as in the primaries. My friend, Mr. Pitts, who just spoke awhile ago, said that the Legislature would be traded with. If there can be trades made with the candidates for Solicitor, with the Legislature, can it not be done with the primaries in the counties? It can be done just as well and easier in the primaries than it can be done in the Legislature of Alabama. I am not one of those who censure the Legislature. I suppose that I ought to be considered unfortunate that nineteen years ago, at the earnest request of my people, I was Senator from the district in which I lived. We had men in the Senate as Governor Samford, the lamented Seay and Hargrove, General Harrison and Troy, and a number of other gentlemen who would have reflected credit on any State in the South, they were incorruptible, and it was so in the Lower House, and I do not know, have not kept up much with the Legislatures in later years, but I believe that they are just as incorruptible as the Legislatures with which I was connected. I believe we can trust them. I know we can send honorable and incorruptible legislators here to the Legislature of Alabama. Solicitors should be as far removed as possible from the people. You know how it would be if they were elected in the county. They would have heated contests, and it would be human nature that they would favor personal friends. I read a short while ago the recollections of Reuben Davis of Mississippi and Mississippian. He was a Solicitor, elected by the people, (the Circuit Solicitors were elected by the people), and he was so much embarrassed when he started out on his circuit, it had been a close contest, and he had put himself under obligations to prominent men. In the first county, he paid $500 to the Clerk of the Court with the consent of the Judge to allow the friends of the deceased to employ counsel to prosecute a man who had supported him in the canvass—that he could not do his duty in the prosecution. Shortly after that another

friend of his who had been indicted for murder when the case was called, rather than prosecute him, he resigned the office of Solicitor and went back to his law practice. When you have men near home—take it in a county where there are two gentlemen running for the office and the contest is narrowed down so that both of them exert themselves in every way possible to secure an election. The man who is elected is under obligations to his friends who assisted him, would he not feel embarrassed in representing the State of Alabama? Mr. President, there is another thing. In 1975 the people of Alabama in Convention assembled changed that old system, and this Committee in this Convention have adopted the report of that Committee, in 1875, the minority report so far as electing solicitors by the Legislature of Alabama. They have taken the right shoot, and the members of this Convention will regret it if they change this whole system. It will be indefensible before the whole people. They will say that when you came here, you are in for helping lawyers, and have now provided for one in every county in the State. Can you do it? I tell you, gentlemen, it will work against the adoption of the Constitution in this State. There is another thing. There are some counties in this State that cannot support County Solicitors, and they cannot get men of first-class ability, without propor compensation. Take my friend, Mr. Pitts, I am glad he spoke; he was a circuit solicitor, an able and honest one. We have tried many cases when we were against each other, and I never cared whether I had anything in writing with Henry Pitts, I knew that he would do exactly what he said, and he was a man not only of ability and honesty, but he was an honor to the office of solicitor, I am proud to say. But would he be solicitor of Dallas county now? Could you get him to take the place? The very fact that he was willing to represent the people of the State as solicitor for a circuit, that he were able to get a man of his ability, shows what character of men the Legislature as a rule selected for the people of Alabama, because he was a representative of that class. I do not know the circuit solicitors personally, I do not know one-third of the legislators who elected the solicitors, I was not here. I have not heard of a single one of the Legislature who were legislators who were corrupted——

THE PRESIDENT—The time of the gentleman has expired.

MR. CRAIG—I am not interested in this matter in any way, shap or form, except as a citizen of Dallas county and the State of Alabama. I would not have said anything on this occasion except for the fact that reflection has been cast upon the solicitor for the 4th circuit in which I reside. I want to say here that I have lived in the State of Alabama all of my life and in the very same spot almost where I was born. I have known the solicitors from Joe A. Stallworth down to the present time. I have never known more faithful men in any office. Stallworth, Gaillard, Dawson,

Pitts and the present solicitor. I can say on this floor that of all these men, none more faithfully, none more honest than the present solicitor,, the statements made here to the contrary notwithstanding, I am in favor of the people electing every officer in this State to rule them from Governor to Constable. I want no man nominated to office in this State, and I have introduced a resolution to that effect. We have seen things happen until we thought that we were in the hands of a Platt or a Quay. I am in favor of electing solicitors by the county and let the people say who they shall be. In the last election, it was said our solicitor was elected by primary. He was not elected by primary. There were two honorable men contending for the office. They agreed to submit it to a vote of the people and whoever got the majority came to the Legislature and was elected, which was done. Both were honorable men, both would make good solicitors, and there can be no reflection upon the present solicitor. I have lived in Dallas all my life, over sixty years. I have known hundreds of murders in that county and not a single white man has ever been hung in the county, and only two that I know of have been sent to the penitentiary, and the Governor turned them both out, and just as soon as one was turned loose, he might as well have turned loose a wild beast, he had killed two men and soon after he killed another man. The other one is loose now and we don't know when he will turn up and kill somebody else. A gentleman who was solicitor on one occasion told the jury "turn this man loose, you might just as well turn a man loose in this State to shoot down any man he pleases as to have the Governor turn him out of the penitentiary, who was not hung." The present solicitor has discharged his duties as well as any solicitor, he cannot make a jury indict a man, he can call the witnesses and submit the testimony to the grand jury, but he has to leave the grand jury room and let them vote on it. A few weeks ago, a man waited on me about the franchise, what they wanted and what they did not want. I called attention to the fact that a short time ago across the river, three negroes were killed, I had asked, do you know who killed them? No, I never will know. The very man who killed them would be on the grand or petit jury. How could a solicitor convict them under that condition of things? If he does his duty, that is all he can do. I have a letter from our solicitor who says: "I have considered the matter of selecting solicitors and have a fixed opinion upon the subject. Every official in the State including Railroad Commissioners, should, in my judgment, be elected by the people whom they serve." I endorse every word of that. He says further: "Especially if the new Constitution restricting the suffrage is ratified, if the voters and particularly the voters hereafter cannot elect the solicitors they are not fit to be trusted with the election of any office." That is what I say, if we cannot elect the solicitors, to attend to our affairs in our counties, then we are not fit to elect

anybody. I yield the balance of my time to Mr. Carmichael of Colbert.

THE PRESIDENT—There remains five minutes of the gentleman's time.

MR. CARMICHAEL—Have I not time of my own?

THE PRESIDENT—The gentleman has not been recognized except to discuss the question in the time of the gentleman from Dallas.

MR. HEFLIN (Chambers)—I move that the time of the gentleman be extended so as to give him ten minutes.

The additional time was accorded.

MR. CARMICHAEL (Colbert)—Mr. President and gentlemen of the Convention. I have been, but am not now, a circuit solicitor. I have never been defeated in my aspirations for that office, nor am I a candidate for that place, and I think I can speak with some degree of information and with perfect impartiality on that subject.

I submit to this Convention that there ought not to be any change in the old Constitution unless there be an imperious necessity for it. I fear, Mr. President, that some gentlemen have a greater desire to write their names in the Constitution, just to see how they will look, rather than to consider the public good. Now, Mr. President, has there been or is there a demand for a change along this line? So far as I am informed, there is not. These gentlemen who lived in the days when we had county solicitors hold up their hands and warn us against this plan. There is no complaint of the solicitors who hold office at this time, and I want to say, Mr. President, that so far as I am informed on this subject the solicitors of Alabama have not been the subject of criticism for lack of discharge of duty. There has been no canvass among the people along this line. Who demands it that this office of circuit solicitor be abolished? Where did it originate? When the people have not demanded it, Mr. President, but going back to what I said before, unless there is a pressing necessity for it, then we ought to let well enough alone. I oppose the institution of county solicitor, I oppose the election of solicitor by the people. Why do I say that it is wrong to abolish the circuit solicitor, and establish county solicitors? For we ought to retain the system which we now have. How many counties are there in the State? There are sixty-six. What would be the expense now of paying these county solicitors. Do you expect to get a man of ability to prosecute for $1,000 a year? Then that would be $66,000. I lay down the proposition, Mr. President, that it would not cost the State of Alabama less than $75,000 to get anything like the service we have now from the circuit solicitors. It

only costs now, according to the statement of the gentleman, $29,000; that is the amount that these circuit solicitors are paid. Then you propose to appoint or elect county solicitors for sixty-six counties in the State. Suppose you do not pay them a salary, but pay them fees. Now there, Mr. President, I submit to this Convention, is the test of this system. Now, the gentleman from Talladega proposes in order to save the State of Alabama $12,000 a year, to appoint and employ sixty-six detectives in Alabama and set them and turn them loose upon the people of Alabama. That would be the effect of it if you establish a fee system. If you establish a salary system, it would almost bankrupt the State of Alabama to pay the salaries.

MR. GRAHAM—Do you propose to abolish the fee system on your salary plan, and not turn the fee into the treasury to pay the salaries?

MR. CARMICHAEL—Let it stay as it is.

MR. GRAHAM—Then you do not abolish it?

MR. CARMICHAEL—No, but the solicitor has not the same interest.

MR. GRAHAM—It would go into the State treasury.

MR. CARMICHAEL—No, sir. I do not believe that it would be wise to turn the county solicitors upon the people, to go into all kinds of litigation, and make all sorts of charges. I submit now on the question of expense, I want to answer the proposition of the gentleman from Talladega. Now, the total amount paid is $29,000, and the amount paid by the solicitors is $19,000, but that does not include felony cases, because in felony cases $12,850 is paid in the convict department, leaving a loss to the State of only $4,000 on these solicitors; so that they are not expensive now, and there is no man that will say the service will be better; there is no one that will say that it is in the interest of law and order. Some men will say it will prevent the Legislature from playing those tricks that they have been playing. Suppose they have done trading; has the service suffered; haven't they got good men to discharge the duties; is not the interest of the State protected?

Now, Mr. President, I submit this: I would be willing to abolish the deputy solicitors entirely. I would be willing to say that the solicitor should never hold court in the circuit for which he is elected but one time. Why? I think it is of the utmost importance that the solicitor should be above reproach; that they should be outside of temptation. Some men say you elect your judges; what is the difference? The difference is this, the judge acts in the open; everything he does from the bench is subject to inspection, whereas the solicitor does his business in the grand jury room; he takes the witnesses, and goes into the consultation

room, and returns to the court room and says, "If your honor please, there is nothing in that case, and I desire to nol prosse it. Who knows whether there is anything in the case or not? The lawyer trying the case before the judge says I accept the ruling of the court. Who excepts to the action of the solicitor? Who knows what has happened in the star chamber? I submit it is a dangerous thing; it would be a scramble. I insist in all these counties it would institute a scramble among the law-breakers for the control of the solicitor, and for the election of a solicitor. Now those men who have been solicitors know how hard it is to prosecute a friend—a man to whom he was under obligation; a good man. There is no duty on earth that is similar to it. To be called on to prosecute a man to whom you are under obligation. But suppose you are called upon to prosecute a bad man that you are under obligation to. Who can say that solicitors are not human beings; who will say that a man will not be inclined to meet the emergency? Here are two candidates running for solicitor. One of them proposes to make the race on a high plane, looking to law and order——

MR. HOOD—Do you undertake to say that the criminal law is not enforced in those counties equally and effectually as they are in those counties that have circuit solicitors?

MR. CARMICHAEL — I am not informed in all of those counties; in some of those counties I have no doubt that the law is enforced equally as well.

MR. HOOD—Do not the records show?

MR. CARMICHAEL—I will state for those counties they are not elected by the people.

MR. HOOD—Does not the record show that the criminal law is equally enforced?

MR. CARMICHAEL—They are not elected by the people. And I would suggest in that connection that we ought to have a man for solicitor who is a specialist—that is the practice of the age—a specialist in that line. Now, Mr. President, I move the previous question upon the motion to reconsider.

MR. ASHCRAFT—I trust the gentleman—will I be in time to conclude the argument?

THE PRESIDENT—The gentleman who made the motion would be entitled to close.

MR. ASHCRAFT—I appeal to the gentleman to withdraw his motion.

THE PRESIDENT—The gentleman from Colbert moves the previous question. The question is shall the main question be now put?

The main question was ordered.

MR. WATTS—I demand the ayes and noes.

MR. deGRAFFENREID—I believe I have the floor under the rules.

THE PRESIDENT—It seems to the Chair, under the rules, the gentleman who made the motion would have the right to conclude.

MR. GRAHAM (Talladega)—I do not believe that applies to a motion to reconsider. I would like to see the rules.

THE PRESIDENT—The Chair will consult the rules.

MR. deGRAFFENREID—The rule provides that the mover of the resolution will have the right to close when the previous question is ordered.

THE PRESIDENT — It seems to the Chair that Rule 17 reads: "The previous question shall be in the following form: Shall the main question be 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 ordinance or resolution, shall have the right to close the debate, after the call of the previous question has been sustained, unless the Convention extends that time. The demand for the previous question may be limited by them over 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."

MR. GRAHAM (Talladega)—I make the point that this is neither an ordinance nor a resolution.

THE PRESIDENT—"The mover of the question," but the "mover of the question or Chairman of the Committee having charge of the ordinance or resolution shall have the right to close a debate." It seems to the Chair that the right to conclude rests with the gentleman from Hale. The question is, whether he will yield any time to the other side.

MR. GRAHAM—Is that true, Mr. President, where he has already made a speech on the matter.

THE PRESIDENT—That brings up another question.

MR. deGRAFFENREID — That is true, no member shall speak more than once, but the mover of a resolution may speak twice.

THE PRESIDENT—No delegate shall speak more than once to the same question, without leave of Convention, unless he be the

mover or the Chairman of the Committee. It seems to the Chair that the gentleman is entitled to close.

MR. deGRAFFENREID—I want to say to the Convention that I shall occupy only two or three minutes of the time of the Convention in my closing remarks. I will simply call attention to the Convention that will prevail in the event this motion to reconsider is adopted by the House. This discussion has taken a broader range than the circumstances justify, because we have been discussing questions that will come before the Convention in the event that this motion to reconsider is adopted. The Section which was adopted on yesterday provides for the selection of County Solicitors by the people. If this motion is reconsidered, we go back to the report of the Committee on this subject. That report provides for the selection of solicitors for the circuits by a vote of the people, and there is a minority report which povides for their selection by the General Assembly, so that if this vote is reconsidered, you will then have before you the question as to whether or not you will adopt the majority or the minority report or whether or not you will amend it in such form as you see proper. In other words, if there are gentlemen here who are opposed to the abolition of the Circuit Solicitors, but who favor the election of solicitors by the people, those delegates can consistently vote for the motion to reconsider.

MR. WATTS—There is no further question before the Convention as to electing Circuit Solicitors by the people. Has not that been disposed of?

MR. deGRAFFENREID—Yes sir, but it was disposed of by this amendment which I now move to reconsider.

MR. WATTS—I understood you to say that the Convention would have a chance to vote on that.

MR. deGRAFFENREID—The Convention can have a chance and any delegate can introduce any resolution he sees proper in reference to Solicitors.

MR. HOOD—Is it not true you did not move to reconsider the vote whereby the report of the Committee was lost in reference to solicitors?

MR. deGRAFFENREID—No sir.

MR. HOOD—And that question is now before the Convention?

MR. deGRAFFENREID—No sir. Because this was simply adopted as a substitute and if you destroy the substitute, the original Section stands, and if not, you could introduce a Section to take its place. The delegate understands that. Now, on the subject of county solicitorship, as to whether the Convention made

a mistake in providing for their election by the people. The Solicitor is a person of some power and we all know that if the Legislature permits him to succeed himself, that that office will furnish him, unless he be a man of first-class character, great leverage to secure his re-election and to perpetuate himself in office. There is no doubt about that. Now, something has been said, (and I will reply to it now), about the method which prevails in the State of electing Solicitors by the Legislature. The gentleman from Mobile, Mr. Boone, refers to the fact that some time since, I do not remember when, a candidate for solicitor came before the General Assembly with the endorsement of the bar, the ministers and various people of Mobile, but he did not have any votes to put into a combination and was defeated. I call your attention to the fact that no system was ever devised by God or man that has not been made the subject of abuse or fraud. In ancient times, amid the solemnities that surrounded the summit of a sacred mountain, God delivered to Moses the Ten Commandments on tables of stone. We all know that mankind has been breaking them ever since. They are not like the clause in the old Constitution about railroad passes. They are self-executing. To violate them means to incur a penalty in this world and in the next, but each day we see them violated by weak or vicious men.

Abuses have occurred in the election of solicitors by the Legislature, but abuses have frequently occurred, also, in primary elections, in nominating conventions and in the general elections. Why, they have primary elections in this State in places, and this Convention was called upon at the commencement of its session to pass upon a question as to whether in the county of Elmore the privilege of the primary had been violated and whether or not fraud had been perpetrated in the primary there, and the will of the people overturned, and how frequently are charges made that combinations are made in conventions that nominate candidates, from the Governorship down?

MR. GRAHAM (Talladega)—I just want to correct the gentleman; this Convention has never been called upon to do so.

MR. deGRAFFENREID—I believe that it was the Democratic caucus that was called upon to determine that matter, but the Convention was called upon to ascertain whether or not the last General Assembly was imposed upon in the matter of the Shelby Court House. It is humanity to sin, and you have fraud in every department, and the fact the privileges are sometimes abused by the General Assembly is no argument that we should go to the primary election or nominating convention, because the same abuses occur there that occur before the General Assembly in the election of solicitors.

MR. GRAHAM—I move to lay the motion to reconsider upon the table, and upon that I call for the ayes and noes.

The call was sustained.

THE PRESIDENT—The gentleman from Hale moves to reconsider the vote whereby the section was adopted. Thereupon the gentleman from Talladega moves to lay the motion to reconsider upon the table. The ayes and noes have been called for, and the call is sustained. As many as favor the motion will say aye and those opposed no, as your names are called.

Upon a call of the roll, the vote resulted as follows:

AYES

Ashcraft,	Graham, of Talladega,	Pettus,
Banks,	Grayson,	Phillips,
Beavers,	Henderson,	Pitts,
Beddow,	Hood,	Porter,
Bethune,	Howell,	Reynolds (Chilton),
Blackwell,	Jones, of Bibb,	Rogers (Sumter),
Boone,	Kyle,	Sanders,
Bulger,	Ledbetter,	Sloan,
Byars,	Lowe (Lawrence),	Smith (Mobile),
Chapman,	McMillan (Wilcox),	Smith, Mac. A.,
Cofer,	Malone,	Smith, Morgan M.,
Cornwell,	Maxwell,	Sorrell,
Craig,	Merrill,	Spears,
Davis, of Etowah,	Miller (Marengo),	Spragins,
Dent,	Miller (Wilcox),	Studdard,
Espy,	Mulkey,	Tayloe,
Fitts,	Murphree,	Waddell,
Flether,	NeSmith,	Walker,
Foshee,	Oates,	Watts,
Freeman,	Palmer,	Weakley,
Gilmore,	Parker (Elmore),	White,

TOTAL—63

NOES

Messrs. President,	Duke,	Heflin, of Randolph,
Barefield,	Eley,	Howze,
Browne,	Eyster,	Inge,
Burnett,	Ferguson,	Jackson,
Cardon,	Foster,	Jenkins,
Carmichael, of Colbert,	Glover,	Jones, of Wilcox,
Carmichael, of Coffee,	Graham, of Montgomery,	Kirk,
Carnathon,	Grant,	Kirkland,
Cobb,	Greer, of Calhoun,	Knight,
Coleman, of Greene,	Haley,	Lomax,
Coleman, of Walker,	Handley,	Long (Butler),
Cunningham,	Harrison,	Long (Walker),
deGraffenreid,	Heflin, of Chambers,	Lowe (Jefferson),

Macdonald,
McMillan (Baldwin),
Norwood,
Opp,
O'Rear,
Parker (Cullman),
Pearce,
Reynolds (Henry),
Samford,
Sanford,
Searcy,
Selheimer,
Sentell,
Stewart,
Weatherly,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson Clarke).

TOTAL—59

ABSENT OR NOT VOTING

Almon,
Altman,
Case,
Davis, of DeKalb,
Greer, of Perry,
Hinson,
Jones, of Hale,
Jones, of Montgomery,
King,
Leigh,
Locklin,
Martin,
Moody,
Morrisette,
Norman,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Pillans,
Proctor,
Renfro,
Robinson,
Rogers (Lowndes),
Sollie,
Willet,
Winn.

PAIRS

AYES	NOES
Brooks,	Reese,
Bartlett,	Burns,
Thompson,	Wilson (Washington),
Hodges,	Vaughan,

THE PRESIDENT—The motion to table prevails.

THE PRESIDENT—The special order this morning will be the consideration of resolution No. 194, to which there is pending an amendment offered by the gentleman from Henry.

MR. ASHCRAFT—The special order this morning at this hour is the motion to engross and order to a third reading.

THE PRESIDENT—The gentleman is correct.

MR. SMITH (Mobile)—Before making that motion, I wish to state that the term "General Assembly" is used throughout the Article on Judiciary, but I believe the sense of the Convention was that the term "Legislature" should be used in lieu thereof. I, therefore, ask on behalf of the committee unanimous consent to have the word "Legislature" inserted wherever the words "General Assembly" are used in the Article.

There being no objection, it was so ordered.

MR. SMITH—I now desire to call up the motion to have the Article engrossed and ordered for third reading.

MR. OATES—I ask that that be withheld a minute. At the instance of several delegates I have prepared an additional section 1, with reference to stenographers, which was discussed yesterday evening. I do not wish to discuss it, but desire to offer it and let the Convention act upon it.

THE PRESIDENT—Does the gentleman withdraw the motion?

MR. SMITH—I believe there is general objection to it, and I cannot do it.

THE PRESIDENT—The pending question will be the motion to order to a third reading.

MR. WILSON—A motion to amend has precedence over a motion to order to a third reading. Under Rule 25, I believe, the motion to amend is seventh in rank and precedes the motion to order a third reading and engrossment.

MR. SMITH—I take it that making it the special order for today changes the status of it.

THE PRESIDENT—It seems to the Chair that the point of order would be well taken. The gentleman did not move the previous question. It was merely made the special order for this hour. The Chair is in doubt on the question.

MR. SAMFORD (Pike)—I would call attention to 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," and, by unanimous consent, it was made the special order directly after these motions were disposed of.

MR. WILSON (Clarke)—That is very true that when a matter is made a special order, a motion would apply just like it would to any other question. Whenever a motion to amend, no matter what it is, the motion may be applied to any order as laid down in Rule 25. Now, the main question is the third reading and engrossment. While that motion is pending any one of the motions enumerated in Rule 25 may be made. Were it otherwise when you set a matter for special order, you would be limited to what is in that proposition. For instance, when you set this Article for a special hour, you could not amend it and could not do anything. You must vote on it as it is. The special order simply takes it up at that time in preference to the regular order heretofore established, and when the matter is before the Convention, motions may be made in the order laid down under Rule 29.

THE PRESIDENT—It seems to the Chair that the point of order is well taken, that in the absence of some motion for the pre-

vious question upon the pending motion, that a motion to amend would be in order and would take precedence, the other motion having no preference so far as the rank of motions is concerned.

The Secretary read the amendment as follows:

"It shall be the duty of the legislature to provide by law for the appointment and compensation of a competent number of stenographers as court reports of the evidence of proceedings, and to prescribe the duties to be performed by them."

MR. SAMFORD (Pike)—I move to lay it on the table.

Upon a vote being taken a division was called for.

By a vote of 55 ayes and 39 noes the motion to table prevailed.

MR. WILLIAMS (Marengo)—I have an amendment.

MR. SMITH (Mobile)—I move that the article be engrossed and ordered to a third reading, and on that I move the previous question.

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

MR. WILLIAMS—I have an amendment I would like to get in. I do not care to discuss it. I don't think we should be choked off in any such style. I ask the gentleman to withdraw it. It is simply to provide that no solicitor shall be eligible to succeed himself, provided it shall not apply to the present incumbent.

Expressions of dissent were heard.

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

The main question was ordered.

THE PRESIDENT—The question is upon the motion that this ordinance be ordered engrossed and to a third reading.

The motion was carried.

MR. deGRAFFENREID—I give notice that I voted for that motion, and on tomorrow I shall move to reconsider the vote whereby that motion was adopted.

THE PRESIDENT—Ordering to a third reading?

MR. deGRAFFENREID—Yes, sir.

MR. JENKINS—I move to reconsider the vote whereby the article is ordered to a third reading, as I have an amendment to offer.

THE PRESIDENT—The special order this morning will be the special order that was under consideration yesterday afternoon. The pending question, the Chair is informed, is the motion to table.

MR. ESPY—Yes, sir; and a division was called, and the yeas and noes demanded, and the call sustained, and I now ask that the Clerk read both the original resolution and the amendment.

The Secretary read the resolution as follows:

"Resolved, by the people of Alabama, in Convention assembled, that the next General Assembly of Alabama shall reduce the tax on fertilizers to ten 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."

Amendment by Mr. Espy: "Amend by striking out 'resolved, further, that the General Assembly, at the same time, shall provide for the support of the various agricultural schools of this State, out of the general fund of the State."

MR. VAUGHAN—The motion was to table the resolution and the amendment.

THE PRESIDENT—And a division was called for, and the ayes and noes demanded on the motion to table.

MR. ESPY—On the motion to table the amendment.

THE PRESIDENT—The motion is to table the amendment and the resolution. Division is called for. The proposition will be submitted separately, first upon the motion to table the amendment offered by the gentleman from Monroe. The ayes and noes have been demanded and the call sustained. As many as favor the motion to table the amendment offered by the gentleman from Monroe will say aye, and those opposed, no, as your names are called.

Upon the call of the roll the vote resulted as follows:

AYES

Messrs. President,	Byars,	Fletcher,
Ashcraft,	Carnathon,	Foshee,
Banks,	Cobb,	Freeman,
Barefield,	Coleman, of Greene,	Graham, of Talladega,
Beddow,	Coleman, of Walker,	Grayson,
Bethune,	Cornwall,	Haley,
Blackwell,	Craig,	Handley,
Boone,	Davis, of Etowah,	Harrison,
Brooks,	deGraffenreid,	Hinson,
Browne,	Eley,	Hood,
Burnett,	Eyster,	Howell,

Howze,
Inge,
Jenkins,
Jones, of Bibb,
Jones, of Wilcox,
Kirk,
Kyle,
Ledbetter,
Lomax,
Long (Walker),
Lowe (Lawrence),
Malone,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Norman,
Norwood,
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pettus,
Phillips,
Pitts,
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Smith (Mobile),
Spears,
Stewart,
Tayloe,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
Williams (Marengo),
Williams (Elmore),
Wilson (Clarke),

TOTAL—76

NOES

Beavers,
Bulger,
Burns,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Chapman,
Cunningham,
Dent,
Duke,
Espy,
Fitts,
Foster,
Glover,
Graham, of Montgomery,
Grant,
Greer, of Calhoun,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Jackson,
Kirkland,
Macdonald,
McMillan (Wilcox),
Maxwell,
Mulkey,
Murphree,
NeSmith,
Oates,
Pearce,
Reynolds (Chilton),
Reynolds (Henry),
Sentell,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Studdard,
Thompson,
White,
Whiteside,
Williams (Barbour),

TOTAL—42

ABSENT OR NOT VOTING

Almon,
Altman,
Bartlett,
Case,
Cofer,
Davis, of DeKalb,
Ferguson,
Gilmore,
Greer, of Perry,
Hodges,
Jones, of Hale,
Jones, of Montgomery,
King,
Knight,
Leigh,
Locklin,
Long (Butler),
Lowe (Jefferson),
McMillan (Baldwin),
Martin,
Moody,
Morrisette,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Pillans,
Porter,
Proctor,
Reese,
Renfro,
Robinson,
Rogers (Lowndes),
Rogers (Sumter),
Sloan,
Sollie,
Willet,
Wilson (Washington),
Winn.

MR. JACKSON (Lee)—I give notice that I voted aye, and I give notice that I will tomorrow move to reconsider the vote.

The motion to table was carried.

THE PRESIDENT—The question recurs upon the motion to table the original resolution.

Upon a vote being taken the resolution was tabled.

MR. MALONE—I rise for a personal statement. Two weeks ago, in discussing this matter, in reference to how these schools were established, I made the statement that a part of it was done by two gentlemen from my county, Mr. Ward and Mr. Williams agreeing one to vote for the other's proposition. These gentlemen now ask that I make a statement that there was no agreement between them to vote for each other's proposition, though they admitted that was the practice, but they made no such agreement.

MR. WILLIAMS (Marengo)—I have an ordinance I would like to have unanimous consent to introduce.

Ordinance No. 443, by Mr. Williams of Marengo:

Be it ordained by the Convention that no solicitor shall be eligible for re-election as his successor, provided, this shall not apply to present incumbents who shall at the next election be eligible to succeed themselves.

Referred to Committee on Judiciary.

THE PRESIDENT—The regular order will be Resolution No. 120.

Resolution No. 120 was read as follows:

Resolved that all resolutions authorizing the payment of any money shall be adopted by a yea and nay vote.

MR. CARMICHAEL (Colbert)—I ask unanimous consent to call up an ordinance (No. 409) which was reported by the Committee on the Journal. It is a very short ordinance and will not consume much time, and I ask unanimous consent to call it up for the purpose of putting it on its passage.

There being no objection the ordinance was read as follows:

Ordinance 409:

To provide for the filing and arranging of the papers and documents pertaining to the Constitutional Convention, by the Secretary of the Convention; also to provide for the delivery by the Secretary of a correct copy of the Journal to the public printer with a proper index thereto; also to provide for the superintendence of the printing of said Journal by the Secretary; also to make appropriation for the compensation of said Secretary for his services.

Be it ordained by the people of Alabama in Convention assembled, that the Secretary of said Convention shall within forty days after its adjournment file, label and arrange the Journal of said Convention and all the papers and documents pertaining to said Convention in the office of the Secretary of State. He shall also copy and deliver to the public printer the Journal of said Convention, with the proper index thereto, within the said forty days. He shall also superintend the printing and read and correct the proof of said Journal.

Be it further resolved, that for the services herein required of said Secretary, he shall receive the sum of five hundred dollars ($500) and upon the production by the said Secretary of the receipt of the Secretary of State for said papers, Journal and documents so required to be filed and labeled together with the receipt of the public printer for a copy of the Journal of the Convention, the State Auditor shall draw his warrant upon the State Treasury for said amount herein provided, and the said warrant shall be paid by the State Teasury.

Be it further resolved, that there is hereby appropriated out of any money in the State Treasury not otherwise appropiated, the sum of five hundred dollars ($500) for the compensation of the said Secretary for the said services herein required of him.

MR. OATES—Mr. President——

THE PRESIDENT—The gentleman from Colbert will be entitled to the floor.

MR. OATES—I rose for the purpose of making an inquiry.

THE PRESIDENT—The gentleman will please state his inquiry.

MR. OATES—From a reading of the report, it seems to me there is no provision in there as to the number of Journals to be printed, and no provision to furnish a copy to each delegate.

MR. CARMICHAEL (Colbert)—I would suggest to the gentleman that another committee has an ordinance of that kind that has been favorably reported to the Convention for its action. This ordinance requires of the Secretary of the Convention, the same duties with some additional work as are required of the Secretary of the Senate and the Clerk of the House of Representatives.

MR. DENT—Will the gentleman permit a question?

MR. CARMICHAEL—Yes, sir.

MR. DENT—Is not the report you refer to germane to this same subject?

MR. CARMICHAEL—No, sir, it comes from the Committee on Printing and I don't suppose it will be well to incorporate it in that.

MR. DENT—I thought if they treated of the same subject, they might be called up and acted upon together.

MR. CARMICHAEL—We find in the act which calls this Convention, that the Secretary and officers of the Convention shall receive compensation for the same services that are required of these officers of the House and the Senate.

I move the adoption of the ordinance.

THE PRESIDENT—As many as favor the adoption of the ordinance say aye and those who oppose no, as their names are called.

Upon a call of the roll, the vote resulted as follows:

AYES

Messrs. President,	Fletcher,	McMillan (Wilcox),
Ashcraft,	Foshee,	Malone,
Barefield,	Foster,	Maxwell,
Beavers,	Freeman,	Merrill,
Beddow,	Graham, of Montgomery,	Miller (Marengo),
Bethune,	Graham, of Talladega,	Miller (Wilcox),
Blackwell,	Grayson,	Mulkey,
Boone,	Greer, of Calhoun,	Murphree,
Brooks,	Haley,	NeSmith,
Browne,	Handley,	Norwood,
Bulger,	Harrison,	Oates,
Burns,	Heflin, of Chambers,	Opp,
Byars,	Heflin, of Randolph,	O'Rear,
Cardon,	Henderson,	Parker (Cullman),
Carmichael, of Colbert,	Hinson,	Parker (Elmore),
Carmichael, of Coffee,	Hood,	Pettus,
Chapman,	Howze,	Phillips,
Cobb,	Inge,	Pitts,
Cofer,	Jackson,	Porter,
Coleman, of Greene,	Jenkins,	Reynolds (Chilton),
Coleman, of Walker,	Jones, of Bibb,	Reynolds, of Henry),
Cornwall,	Jones, of Wilcox,	Rogers (Sumter),
Craig,	Kirkland,	Sanford,
Davis, of Etowah,	Knight,	Searcy,
Dent,	Kyle,	Selheimer,
deGraffenreid,	Ledbetter,	Sentell,
Duke,	Lomax,	Sloan,
Eley,	Long, of Walker,	Sorrell,
Eyster,	Lowe, of Lawrence,	Spears,
Espy,	Macdonald,	Stewart,

Stoddard,	Walker,	Williams (Marengo),
Tayloe,	Weakley,	Williams (Elmore),
Thompson,	White,	Wilson (Clarke).
Vaughan,	Whiteside,	
Waddell,	Williams (Barbour),	

TOTAL—103

ABSENT OR NOT VOTING

Altman,	Jones, of Montgomery,	Reese,
Almon,	King,	Renfro,
Banks,	Kirk,	Robinson,
Bartlett,	Leigh,	Rogers (Lowndes),
Burnett,	Locklin,	Samford,
Carnathon,	Long, of Butler,	Sanders,
Case,	Lowe, of Jefferson,	Smith (Mobile),
Cunningham,	McMillan, of Baldwin,	Smith, Mac. A.,
Davis, of DeKalb,	Martin,	Smith, Morgan M.,
Ferguson,	Moody,	Sollie,
Fitts,	Morrisette,	Spragins,
Gilmore,	Norman,	Watts,
Glover,	O'Neal (Lauderdale),	Weatherly,
Grant,	O'Neill, of Jefferson),	Willet,
Greer, of Perry,	Palmer,	Wilson (Washington),
Howell,	Pearce,	Winn.
Hodges,	Pillans,	
Jones, of Hale,	Proctor,	

So the ordinance was adopted.

Leaves of absence were granted to Mr. Reese of Dallas for today; to Mr. Leigh of Escambia indefinite leave on account of sickness, and to Mr. Sollie indefinite leave on account of sickness.

MR. JACKSON—I ask unanimous consent to have a petition read.

The petition was read as follows:

To the Constitutional Convention, Montgomery, Alabama.

We, the undersigned citizens of the State of Alabama, do hereby offer our protest against the railroad pass evil and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective, self-operative provision to that end.

James H. Lane, teacher; S. S. Scott,, farmer; W. A. Thompson, farmer; G. A. Wright, clerk; James W. Glenn, bookkeeper;

George W. Duncan, teacher; A. H. Whitman, dentist; T. R. Whitman, druggist, and many others.

Auburn, Lee County, July 23, 1901.

THE PRESIDENT—The regular order will be report No. 13 of the Committee on Municipal Corporations. Resolution 120, however, will have precedence.

MR. deGRAFFENREID—I ask unanimous consent to be allowed to introduce a short ordinance to be referred to the proper Committee.

The ordinance was read as follows:

Ordinance No. 444 by Mr. DeGraffenreid:

Be it ordained by the people of Alabama in Convention assembled. That Section 28 of the Article on the Judiciary heretofore adopted by this Convention be stricken therefrom, and the following inserted therein in lieu of said Section:

A Solicitor for each Judicial Circuit, or other territorial subdivision prescribed by the General Assembly, shall be selected, in the manner to be provided by law for such circuit, or other territorial subdivision, who shall be learned in the law, and who shall, at the time of his selection and during his continuance in office reside in the circuit or other territorial subdivision for which he is selected, and whose term of office shall be for four years; provided, that this Article shall not operate to abridge the term of any Solicitor now in office.

Referred to Committee on Judiciary.

The Resolution No. 120 was then read as follows:

Resolution No. 120, by Mr. Grayson:

Resolved, That all resolutions authorizing the payment of any money shall be adopted by a yea and nay vote.

Referred to Committee on Schedule, Printing and Incidental Expenditures.

MR. GRAYSON—The object of this resolution are patent to every one, that no money should be appropriated by this Convention, except by a yea and nay vote. It is simply to guard against hasty and ill-advised appropriations, and protect the Treasury of the State.

Upon a vote being taken the resolution was adopted.

MR. HEFLIN (Randolph)—I ask unanimous consent to call up report No. 33 of the Committee on Printing, Schedules and Incidental Expenses.

Consent was given.

The report was read as follows:

Report of the Committee on Schedule, Printing and Incidental Expenses:

The Committee on Schedule, Printing and Incidental Expenses instructs me to report Resolution No. 188, with a substitute, which substitute the Committee recommends be adopted.

John T. Heflin, Chairman.

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 this 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 Journals, and that the printing and binding shall be paid out of the State appropriation for printing and binding.

Schedule, Printing and Incidental Expenses.

Resolution by Mr. Carmichael (Coffee), substitute for Resolution No. 188:

A resolution to provide for the printing, binding and distribution of the Journal of this Convention.

Be it resolved by the people of Alabama in Convention assembled, That the Committee on Printing, Schedule and Incidental Expenses be authorized to contract for the printing, binding and distribution of 1,000 copies of the Journal of this Convention.

Be it further resolved, That upon the delivery of 1,000 copies of the Journal, printed and bound in accordance with the contract heretofore mentioned, to the Secretary of State, he shall certify to the Auditor the amount due to the publisher for the work, and the Auditor will issue his warrant on the Treasurer in favor of the publisher for the said amount due.

Be it further resolved, That one copy of the Journal of this Convention be delivered to each delegate and officer of the Convention, and to the persons to whom under the existing law, the Journals of the House and Senate are delivered.

Be it further resolved, That the sum of $2,000, or so much thereof as may be necessary, be appropriated out of the moneys of the State otherwise unappropriated, to pay for the printing, binding and distribution of the Journal of this Convention.

THE PRESIDENT—The question will be upon the adoption of the ordinance.

MR. HEFLIN (Randolph) — I move that the ordinance be adopted.

MR. WATTS—I would like to ask the Chairman of the Committee what good reason there is for putting the printing of this matter in the hands of the special committee or the Committee on Printing of this Convention rather than the Secretary of State? The original resolution provided for the Secretary of State to do it, as is usually done with State printing. Why was the distinction made of having this particular printing done by this Committee?

MR. HEFLIN—I yield to the gentleman from Coffee to answer that question, as he conferred with the Secretary of State upon that question.

MR. CARMICHAEL (Coffee)—The Secretary of State suggested to the Committee that it was barely possible that he might have some money left over from the general appropriation for printing, and he would investigate the matter and see if he could not let us have some of the money under the general contract for printing, and at his suggestion, I introduced this resolution, thinking perhaps we could put the expense of printing the journal in with the other printing of the State, which is done by a general biennial appropriation. I did this and conferred with the Secretary of State afterwards, and he told me that the appropriation for printing was already practically exhausted; that he would have no money left to pay for the printing of the journal of this Convention, and therefore he would not feel authorized to take any action or to contract for the printing of this journal or become responsible for it in any manner, and suggested that it be done as all other Convention printing had been done. I will state that, at the outset of this Convention, the Chairman of the Committee and the Committee endeavored to have some of the printing done under the general contract, but the Secretary of State washed his hands of the whole matter, and it has all been thrown on the Committee, and that is the reason this substitute was prepared. There is no existing law to cover it, and the Secretary of State declined to have anything to do with it.

THE PRESIDENT—The question will be upon the passage of the ordinance.

Upon a call of the roll, the vote resulted as follows:

AYES

Messrs. President,	Beddow,	Boone,
Banks,	Bethune,	Brooks,
Barefield,	Blackwell,	Browne,

Bulger,
Burns,
Byars,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Craig,
Cunningham,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Espy,
Fletcher,
Foster,
Gilmore,
Glover,
Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Howell,
Howze,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Wilcox,
Knight,
Kyle,
Ledbetter,
Lomax,
Lowe, of Lawrence,
Macdonald,
McMillan, of Wilcox,
Malone,
Maxwell,
Merrill,
Mulkey,
Murphree,
NeSmith,
Norwood,
Oates,
O'Neal, of Lauderdale,
Opp,
O'Rear,
Palmer,
Parker, of Cullman,
Parker, of Elmore,
Pearce,
Pettus,
Phillips,
Pitts,
Reynolds, of Chilton,
Reynolds (Henry),
Rogers, of Sumter,
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Sentell,
Smith, of Mobile,
Smith, Mac. A.,
Smith, Morgan M.,
Stewart,
Studdard,
Thompson,
Vaughan,
Waddell,
Walker,
Weatherly,
Whiteside,
Williams, of Barbour,
Williams, of Marengo,

TOTAL—96

ABSENT OR NOT VOTING

Almon,
Altman,
Ashcraft,
Bartlett,
Beavers,
Burnett,
Carnathon,
Case,
Cofer,
Davis, of DeKalb,
Eyster,
Ferguson,
Fitts,
Foshee,
Freeman,
Graham, of Talladega,
Greer, of Perry.
Hodges,
Hood,
Inge,
Jones, of Hale,
Jones, of Montgomery,
King,
Kirk,
Kirkland,
Leigh,
Locklin,
Long, of Butler,
Lowe, of Jefferson,
McMillan (Baldwin),
Martin,
Miller, of Marengo,
Miller, of Wilcox,
Moody,
Morrisette,
Norman,
O'Neill (Jefferson),
Pillans,
Porter,
Proctor,
Reese,
Renfro,
Robinson,
Rogers, of Lowndes,
Sloan,
Sollie,
Sorrell,
Spears,
Spragins,
Tayloe,
Watts,

Weakley, Williams, of Elmore, Wilson, of Washington,
White, Wilson, of Clarke, Winn.
Willet,

So the ordinance was adopted.

THE PRESIDENT—Unless the Convention desires to interrupt the regular order the next regular order will be report No. 13 of the Committee on Municipal Corporations.

Mr. Dent here took the chair.

MR. WEAKLEY—Mr. President and gentlemen of the Convention, the Committee on Municipal Corporations has carefully considered the various ordinances and resolutions which have been referred to the Committee and report to this Convention an Article to be embraced in the new Constitution. It has become manifest to the people of Alabama in the last two years that the question of municipal government in this State is one of greatest public concern, and the importance which this branch of our government has reached is signified by the fact that a separate article upon that subject is proposed to be embraced in the new Constitution. The suggestions which this Committee make to this Convention while to some extent new to the people of Alabama, are not in any sense of the word, new and untried experiments. There is nothing embraced in this report which is not already embraced in the fundamental law of the State of Alabama, or some other State of the American Union. There has been suggested by this Committee to the Convention no innovation in municipal government, and the new ideas which are recommeded by the Committee are those which have been in successful operation in other States. I do not care to take up the time of this Convention by making any extended remarks. The report will speak for itself, and the discussions which will be had upon the various sections when they are reached will, I trust, afford sufficient enlightenment to the members of this Convention, in order that they may vote upon it. I desire to say, gentlemen, that neither the Chairman nor any member of this Committee has any particular desire to impress their individual views upon the Convention except to the extent where they believe This report is the property of the Convention. They may alter or amend it, as they choose, without doing any violence to the feelings of the Committee. I now move, Mr. President, that this report be considered section by section.

MR. MACDONALD—I simply desire to state, Mr. President, that at a former day in this Convention, I proposed an amendment to the Article on Taxation, and that amendment was laid upon the table to be considered along with the report on Municipal Corporations. It relates to the power given to municipalities to assess abutting property for streets and sidewalk pavements and sewers,

and I would like, as a matter of parliamentary inquiry to know from the Chair the proper time for that matter to be considered.

THE PRESIDENT PRO TEM.—The Chair would state that it would be proper to take that from the table, if the Convention so desires, when the particular section to which that is germane is reached in the report. The motion is that this report be taken up and considered section by section. As many as favor that motion will signify by saying aye. Those opposed no.

Upon a vote being taken the motion was carried.

MR. SANFORD (Montgomery)—I ask that the whole report be read.

(Expressions of dissent.)

The Clerk will proceed with the reading of the first section.

Section 1 was read as follows:

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.

MR. SANFORD (Montgomery)—I asked that the whole report be read and I thought that was the order.

THE PRESIDENT—The Convention decided otherwise. They decided to take it up section by section.

MR. FOSTER—I, for one, should like to hear some discussion of this section before I have to vote upon it. In the absence of any discussion to convince me to the contrary, I am inclined to think it is unwise to adopt this section. Every lawyer in this Convention knows that suits against municipal corporations are limited by public policy, as defined and illustrated by decisions of the court, to certain causes of action. For instance, you cannot embarrass a municipal corporation in its government by garnishing its employe. That is one instance in which public policy forbids the suing of a corporation.

MR. MULKEY—Is the garnishing of city employes a suit against the municipal corporation?

MR. FOSTER—Yes, sir, the garnishment proceeding is a suit again the corporation. If you get a judgment you get it against the corporation.

MR. MULKEY—Isn't this the same as the old Constitution of the State?

MR. FOSTER—I don't know.

MR. MULKEY—It is.

MR. FOSTER—It strikes me that it has been decided by the courts otherwise. If you put in here that they are subject just as a natural person, you not only open the door to these suits of garnishment, but you give litigants power to sue these municipal corporations for personal injuries or other injuries which occur in the prosecution of governmental functions of the corporations. As I say, I haven't looked into this thing, and if the chairman thinks the committee has investigated it, and they are protected to that extent by decisions of the Supreme Court, I, for one, would be very glad to hear from him before I vote upon this question.

MR. HARRISON—This is the provision in the present Constitution, except that the word "Municipal" does not occur in it. It simply says "All corporations shall have the right to sue and be sued."

MR. FOSTER—Does that especially say "municipal corporations?"

MR. HARRISON—It does not. It says all corporations. This is a special committee that has been appointed to consider questions of municipal government alone and I notice in a few instances this section for one, and the second section likewise, that they have covered ground embraced in the present Constitution on corporations proper, and which are covered by the report of the Committee on Corporations itself, and it occurs to me that these two sections, the first and the second, should be postponed or laid on the table to be considered along with the report of the Committee on Corporations.

MR. BOONE—Is the delegate from Lee not aware that the Supreme Court of Alabama has decided that "municipal corporations" is not covered by the word "corporations?"

MR. HARRISON—It may not be unless it is especially mentioned. I have no particular objections to this first section. I think there would be some doubt about it as expressed by the delegate from Tuscaloosa. Our present Constitution does not confer the right to sue and to be sued on municipal corporations. My remarks, however, were more intended to refer to the second section which has not yet been reached, in which there is a difference between the reports of the two committees. The Committee on Corporations, so far as this first section is concerned, uses the language of the old Constitution and simply says "corporation," whether it includes municipal or not. The gentleman from Mobile refers to a decision I do not recall just at this time, and I only suggested to the committee. So far as the first section is concerned, whether or not they would pass it, but I will, when the second section is reached, make a motion and will then state the reasons why I think it ought to be specifically considered. I do not think that second section is in proper shape as it stands now. I have no

objection to the first if the Convention wants it, only if it is covered by corporations it would be useless to have two sections in the Constitution conferring the same right. If my friend from Mobile is correct, and it doesn't do it, I have no objection to it.

MR. WEAKLEY—Section I, as has been stated, is an exact copy of Article XIV, Section 12, of the Constitution, except that the word "municipal" has been inserted.

MR. WALKER (Madison)—I just wanted to suggest this to the committee and see if they had considered it: Would not this section prohibit the Legislature from prescribing, in the case of municipal corporations, for instance, such a rule as is prescribed in many of the charters of municipal corporations in this State as this that before suit is brought again in certain accounts of cases the claim should be presented to the corporate body for their determination, the object being to take it out of the power of people desiring to sue municipal corporations to cast upon them the cost of litigation before giving the opportunity to settle.

MR. WEAKLEY—I will state to the gentleman from Madison, in answer to that proposition, that the charters of a number of cities in this State do so provide. I was about to state that I am aware of the fact that the charters of numbers of cities provide that all claims, for instance, for damages, for personal injuries and otherwise, shall be first submitted to the City Council for adjudication before suit can be brought upon it. But I do not see that this provision interferes with that.

MR. HOOD—Will the gentleman permit an interruption? Is it not true that the Supreme Court has held that the word "corporations" does not apply to municipal corporations?

MR. WEAKLEY—That is my understanding. I do not recall the decision.

MR. HOOD—Now it is equally true that the Supreme Court have held that a garnishment on a judgment is a suit, have they not?

MR. WEAKLEY—Yes, sir.

MR. HOOD—Now, wouldn't this provision authorize the garnishment of the income of the city on a judgment against the city?

MR. WEAKLEY—I think not. I desire to state that the courts have decided upon the question of garnishing the cities, that it is in violation of public policy, and the universal rule has been it cannot be done, and I do not think this section affects that at all.

MR. FOSTER—Under this section, could not they be sued for false imprisonment for arrests made by officers of the city?

Couldn't they be sued for anything that might be a claim against an individual person?

MR. WEAKLEY—I think not.

MR. FOSTER—It strikes me it is very dangerous, and might bring all sorts of suits against these corporations.

MR. WEAKLEY—I cannot conceive why municipal corporations shall not be subject to suit just as any other corporation.

MR. WEATHERLY—I would like to ask what is the necessity for this section? Is there any unreasonable restriction under the existing law upon the right of municipal corporations to sue or their liability to be sued?

MR. WEAKLEY—None that I know of.

MR. WEATHERLEY—Then what is the necessity for this section, inasmuch as there seems to be some reason in the objections that have been made to it by the gentleman on the floor?

MR. WEAKLEY—I state to the gentleman from Jefferson that the Committee found this section, or almost a similar section in the old Constitution.

MR. WEATHERLY—I want to call your attention to the definition of "corporations" as used in the old Constitution to show that your idea is not correct. I read from Section 13 of the present Constitution:

"The term 'corporation' as used in this Article, shall be construed to include all joint stock companies, or any associations having any of the powers or privileges of corporations, not possessed by individuals or partnerships.'"

Now, does not that indicate that municipal corporations are not included in the Article?

MR. WEAKLEY—I move the adoption of the section.

MR. HOOD—I offer an amendment.

The amendment was read as follows:

"Amend Article on Municipal Corporations by striking out Section 1."

MR. HOOD—I think it very dangerous to adopt this Article with Section 1 contained in it. As has been stated by the Chairman of the Committee, and by another member of that Committee, the Supreme Court of Alabama have held that the word "corporation," as it appears in the present Constitution, does not mean a municipal corporation. Now, it is true that under the present Constitution, the courts of the State have held that the income and

revenues of a municipal corporation could not be garnished, because it would be against the public policy. It is true, however, that in this State, the Supreme Court of the State have held that a garnishment on judgment is a suit in the sense in which it is used in this State. Now, certainly, the committee does not propose to permit the income and revenues of the cities and towns of Alabama to be garnished by creditors of the cities and towns. As I view it, this section would clearly give any creditor who had a judgment against any cities or towns in this State, the power to garnish the income or revenues of any such cities or towns in this State.

MR. HARRISON—Would it not also allow them in case of judgment to use the funds for the ordinary expenses of the government in the cities and towns for its debts?

MR. HOOD—I think it would; and for these reasons, I move to strike from the report Section 1.

MR. MERRILL—I have an amendment to the amendment.

The amendment to the amendment was read as follows:

"Amend Section 1 by striking the following words: 'In like manner as natural persons,' and add in lieu thereof 'as may be prescribed by law.'"

MR. WEAKLEY—We will accept that.

THE PRESIDENT—The chairman indicates the willingness of the Committee to accept the amendment just read.

MR. HOOD—I will accept the amendment offered by the gentleman from Barbour, or I will ask unanimous consent to withdraw the amendment offered by myself.

MR. O'NEAL (Lauderdale)—I object.

MR. MERRILL—The municipality is a part of the government of the State, a subdivision thereof, and the public policy that regulates suits and actions against a city or municipal corporations is not the same that applies to private corporations, and it ought not to be so. With the sections as brought in by the Committee, it puts them upon the plane of all private corporations and all individuals. That should not be done, and the amendment that I suggest, it strikes me, relieves it from all that difficulty, and leaves it where it is now, and where it ought to stay.

MR. WEATHERLY—I think the amendment proposed by the gentleman from Barbour, puts the matter in a worse condition than it was before, authorizing municipal corporations to sue and be sued in such manner as may be prescribed by law, at least infers that the Legislature will have to prescribe a method by which they may sue and be sued. Now there is a system that has grown up in the courts whereby municipal corporations sue and are sued. It

is built up by cases and the adjudication of the courts. We all know what it is. There is no necessity for any change. This whole Section is utterly useless, and it may bring some very great hardships and some very great inconveniences and embarrassments in the future in lines and directions which we cannot now foresee. Municipal corporations are an arm of the State Government.

MR. HOWZE—Did you ever see a municipal charter that did not have this provision in it that they could sue and be sued?

MR. WEATHERLY—Not in that language. They can sue and be sued, of course.

MR. O'NEAL—Do you think that under the provisions of this Section that an attachment could be levied upon the property of a municipal corporation?

MR. WEATHERLY—I think it is possible. It says they could sue and be sued as natural persons.

MR. O'NEAL—Then a creditor could levy upon any public buildings or property owned by the municipal corporations?

MR. WEATHERLY—You can't tell.

MR. O'NEAL—It leaves that question in grave doubt.

MR. WEATHERLY—I think it is unnecessary. It leaves that matter open for construction, and inasmuch as we know that under the existing law, municipal corporations do sue and are sued, it doesn't seem to me necessary to refer to them all. I move to lay the Section and the amendment on the table.

MR. COLEMAN—Will the gentleman withdraw that?

MR. WEATHERLY—Yes sir.

MR. COLEMAN (Greene)—If the report of the Committee is vicious for the reasons which have been stated, the amendment offered by the delegate from Barbour leaves the question entirely where it would be even if Section 1 was stricken out. Surely the Legislature is competent to provide all legislation except where it is restricted by the Constitution, and at any session it may impose liabilities or relieve from liabilities, and the legislation thus far affecting municipal corporations has been in line and harmony with the experience of States and courts everywhere, as to what is best for them. The amendment offered by the delegate from Barbour, I repeat, leaves the matter precisely where it is at this time, and where it would be if Section 1 is stricken out, and I think we would get along better by accepting these amendments which accomplish what is desired to be accomplished than by taking up time in the discussion of it. I do not care to renew the motion to lay on the table, because I would favor the amendment offered, which has

been accepted by the Committee, and which makes clear the purpose of this Convention.

MR. WEATHERLY—I renew my motion to lay the Section and the amendment on the table.

Upon a vote being taken, a division was called for, and the motion to table the Section and amendment prevailed by 42 ayes and 37 noes.

Section 2 was read as follows:

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 an 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.

MR. HARRISON—My remarks on the other Section are applicable to this. I think this Section should be postponed for action in connection with Section 7 of the report of the Committee on Corporations. This Section, like the first one, is an attempt to take a part of the old Constitution, or rather to take a provision in reference to corporations generally, and apply it to municipal corporations. The old Constitution, in speaking of this right of condemnation, gave the same rights to municipal and other corporations and to individuals where they were invested with the right and privilege of taking property.

The Committee whose report we are considering have in effect reported the old Constitution prescribing or confining its provisions to municipal corporations. It occurs to me that the general policy of the State in reference to taking property should be upon the same general policy of the State in reference to taking property should be upon the same general conditions, whether by municipal corporations, private corporations or individuals, whenever they are invested with this privilege. Your Committee on Corporations, in considering this matter had its attention called to a recent decision of the Supreme Court, in which, after a conference with members of the Court, and with the attorneys on both sides of a recent case of the Southern Railroad vs. Cincinnati Southern, in which it developed under the old Constitution, one railroad for instance by the right of appeal could prevent the use of the land for a year or two. It was stated before the Committee on Corporations even by the attorney who won the case he said he was glad

that the Constitution was as it was, but said it would be an outrage to leave the Constitution as it was, because it would in effect prevent a railroad from crossing another, and what applies to railroads would apply to individuals. There would be an appeal on demurrer and go to the Supreme Court and perhaps take a year or two before right of condemnation became available. In order to meet that your Committee on Corporations has amended the old Section 7 of the present Constitution, which covers municipal corporations as well as private corporations, which we think obviates that defect, and we think the provisions would be ample.

MR. WEAKLEY—I would like to ask the gentleman from Lee if he has any objection to taking up the section at this time and let the matter be disposed of?

MR. HARRISON—Nothing in the world except this being in the general provision on corporations, and if the Chairman of this Committee will read Section 7, I think you will agree to it and let it remain. I think it should remain in the general Article on Corporation, and not be separated as we are about to do, to have one under the head of municipal corporations.

MR. BOONE—In the article reported by the Corporations Committee does it expressly include municipal corporations?

MR. HARRISON—It does. It has all that this section has in it, and it might obviate this difficulty which we tell you about, it is in Section 7. I will read it:

Municipal and other corporations and individuals invested with the privilege of taking private property for public use, shall make just compensation, to be ascertained as may be provided by law, for the property taken, injured or destroyed by the construction or enlargement of its works, highways or improvements, which compensation shall be paid before such taking, injury or destruction.

MR. HOWZE—There is a provision in there vesting that right in municipal corporations.

MR. HARRISON—Yes, sir, the very first words.

MR. HOWZE—Where is the authority vesting in municipal corporations the right to do that?

MR. HARRISON—They will have to be invested with it by their charter.

MR. WEAKLEY—I understand, Mr. Chairman, inasmuch as municipal corporations are provided for in the report of the Committee on Corporations we have no objection to its taking the course suggested by the gentleman from Lee.

MR. HARRISON—I think it all should be in one article. If it meets with approval I move that its consideration be postponed

and taken up and considered with the report of the Committee on Corporations.

PRESIDENT PRO TEM—It is moved that the consideration of Section 2 of the Article on Municipal Corporations be postponed and taken up on the consideration of the report of the Committee on Corporations.

On a vote being taken the motion was adopted.

The Secretary read Section 3 as follows:

Section 3. The General Assembly shall have the 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 copies 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

MR. WEAKLEY—The Committee is aware of the fact that this Convention has passed an ordinance providing that if a local or special law shall be passed for the incorporation of any town or village, but after giving the matter due consideration the Committee was of the opinion that there might arise circumstances, by which it was necessary to procure the enactment by the legislature of a law authorizing the change in the boundaries of a city. Where such changes are left to the vote of the people that is sought to be incorporated into the city, it is always universally the case that these enlargements of the corporate boundaries never take place, and it frequently happens that the health and the welfare of the community, the suppression of crime, or the extension of public improvement demands that these suburban settlements be taken into the community. The Committee thought it would be unwise in all instances to allow the matter to be submitted to a vote, yet at the same time, in order that those people who sought to be embraced in the community, or left out of the community, may have notice of the intended change, it is provided that publication shall be made for thirty days prior to the meeting of the General Assembly, that the change is contemplated.

MR. O'NEAL (Lauderdale)—I desire to ask a question. The gentleman from Macon (Mr. Cobb) has suggested that the word "incorporated" be inserted before the word "city." It is certainly not intended that this should apply to a city or town not incorporated?

MR. WEAKLEY—I do not know any city or town not incorporated.

MR. O'NEAL—Oh, yes, villages that are not incorporated, and they may be a great many towns.

MR. WEAKLEY—I have no objection that.

The Secretary read the amendment as follows:

"Insert the word 'incorporated' before the word 'city' in the second line.

MR. WEAKLEY—The committee is willing to accept the amendment.

MR. ASHCRAFT—I desire to call the attention of the committee to the way in which that will read: "The General Assembly shall have the power to establish any incorporated city. How could they establish any incorporated city? If it has been incorporated how can they extend the boundaries?

THE PRESIDENT PRO TEM.—The question is on the amendment offered by the gentleman from Macon.

MR. GRAHAM (Montgomery)—With the consent of the gentleman from Macon I would like to ask some questions. Isn't it a fact that we are considering only incorporated cities, villages and towns. Then why the necessity of inserting the word "incorporated?"

MR. COBB—Simply to make it undoubtedly plain.

MR. GRAHAM (Montgomery)—Is it not undoubtedly plain as it is?

MR. COBB—We are not considering only incorporated towns, we have villages.

MR. GRAHAM (Montgomery)—I understand that. But he says "incorporated."

MR. COBB—If the gentleman be correct the word "incorporated" will not hurt anything.

MR. GRAHAM—It only makes the Constitution ridiculous by the insertion of ridiculous words. I move to lay the amendment of the gentleman from Macon on the table.

A vote being taken, the motion to table was lost.

MR. SANFORD (Montgomery)—I ask for a reading of the amendment.

A vote being taken and the amendment laid upon the table.

MR. SANFORD (Montgomery)—I have some rights here and when I ask for a reading of the proposition I think I am entitled

to be regarded. The request was that the amendment be read. I do not know what it is.

THE PRESIDENT PRO TEM.—I thought the gentleman was keeping up with the action of the Convention. The Secretary will read the section under consideration for the benefit of the gentleman from Montgomery, the section and the amendment.

MR. SANFORD—It was the amendment I wished to hear.

The amendment was read: "To add the word 'incorporated' before the word 'city.'"

MR. COBB—I ask the gentleman from Montgomery to withdraw for a moment. I have a word to say.

THE PRESIDENT PRO TEM.—The question has been settled and the amendment has been tabled.

MR. COBB—I called for a division and was interrupted by the gentleman from Montgomery, and it was this interruption that caused the confusion.

THE PRESIDENT PRO TEM.—The call was not heard, and it comes too late. The Chair recognizes the gentleman from Dallas, Mr. Craig.

MR. CRAIG—I have an amendment to offer.

The Secretary read the amendment as follows:

"Strike out the words 'meeting of the General Assembly' in line four of said section and insert in lieu thereof 'election held for the election of members of the next Legislature after such election.'"

MR. CRAIG—I offer that amendment for this purpose: In electing members of the Legislature, people ought to know what they propose to do with regard to enlargement of the city boundaries. After the election it is too late to elect a man representing them on the subject, and they would have to come up and lobby the Legislature at a very heavy expense to get what they want. Where they have an opportunity beforehand, and have a member of the Legislature representing their views, that will not be necessary. That trouble came up at the last session of the Legislature, on the boundaries of Selma. The people of Selma desired the right to elect their officers instead of having them elected by the county, and in an act passed they took in some plantations where there were no houses or anything else, making it a part of the city. The people knew nothing about it, and the law stands there today. There was great indignation on the part of our people. That is the reason I want to the people of a town, city or village to have the right to vote upon it, and they cannot do it, if put thirty days before the meeting of the Legislature.

MR. SAMFORD (Pike)—I have no interest in this matter at all. I do not live in a town that is likely to desire to take in a suburb one way or another. But it occurs to me that we ought not to put it in the hands of the Legislature or one representative from a county to come to the Legislature and on account of the legislative courtesy that is always accorded to representatives from a county, because some city has accumulated a large bonded indebtedness to extend the boundaries around all the farms within reach of it, and all the little villages perhaps that have grown up around the city. It occurs to me that this is a proposition that is in the interest of the bond-holding class of citizens, rather than of the people. Now, I know that there are cities in this State that are largely indebted by reason of profligate expenditures—I take back the word "profligate"—I will say by reason of large expenditures, heretofore made in the building up and improvement of the city in the way of building water works, electric light plants, paving the streets, curbing them, and things of that sort, and there has been a large debt, accumulated, and they want relief, and the first place they look for relief is to bring in all the little villages that have sprung up around their city, and they are brought in—not for the purpose of building up the villages that they take in, but for the purpose of paying the taxes that the people of the city have already voted, and paying the debt that the city has already made. Now that is wrong. This is a free country and a free government. I use the city of Montgomery as an illustration, without knowing anything about its financial condition. If I, as a citizen of this State, desire to move to Montgomery County, and buy a farm or place within a few miles of the city limits, I do it for the purpose of getting out of the city of Montgomery; I do not want to come into the city, and I move to the suburbs of the city. I stay there and pay my State and county taxes, and when an election comes on, they elect members to the Legislature, mostly composed of gentlemen within the incorporated limits of the city, and what do they do? The tax burden of the city of Montgomery is pretty heavy, we will say they want this thing distributed as much over Montgomery County as they possibly can go, and therefore they extend the limits of the city with an arbitrary line around it, so as to get everything in, men, women and children, dogs and negroes, anything that looks like the payment of a tax, not for the purpose of building up the suburbs, but for the purpose of paying off the indebtedness that they have already accumulated. I am opposed, Mr. President, to the Section, and to the sentiment expressed in the Section.

MR. KIRKLAND—The gentlemen of the Convention have the Section before them, they are able to read and able to determine for themselves without the assistance of so much speaking in this Convention, whether they will support that Section or not. I do not see the use of consuming the time of the Convention in speech-

making. I think the members of this Convention want to get away from here and get home, and I move the previous question.

MR. SANFORD (Montgomery)—I ask that I may be accorded the privilege of offering an amendment in accordance with the sentiment expressed by Mr. Samford of Pike. Will the gentleman withdraw the motion?

MR. KIRKLAND—I say it respectfully, General. I will not withdraw it.

THE PRESIDENT PRO TEM—Does the gentleman move the previous question on the amendment?

MR. KIRKLAND—On the amendment and the Section.

Upon a vote being taken the Convention refused to order the previous question.

MR. SANFORD (Montgomery)—I offer an amendment.

The Secretary read the amendment as follows:

"Amend said Section by adding to the end of said Section, 'Provided, that the people residing in the territory to be annexed shall have an opportunity to vote upon the question of annexation.'"

MR. SANFORD (Montgomery)—In offering that, Mr. Chapman, and in carrying out the policy indicated by the able gentleman from Pike—who seemed to have known by intuition the precise condition of affairs in this city. It is largely in debt. There was a great agitation here not quite twelve months ago about the annexation of outlying territory. The first line drawn brought in all the little places and left out much outlying property, and all of the corporation property, until the people met in public assembly time and again for the purpose of protesting against any such policy and such injustice. There were fields taken in finally by the proposition in which nothing dwelt, except toad frogs and a stray rabbit, it was taxable property. It was for the benefit, not of outsiders—it was confessed that there would be no improvement for several years to come to that property, but it was brought in on account of the indebtedness of the city. I submit, Mr. President, and gentlemen of the Convention, that if men are to be drawn into the municipality for the purpose of bearing its burdens of taxation, that they should be afforded the opportunity of saying whether they favor it or not.

MR. O'NEAL—I am unable to see any necessity for this Section. The report of the Committee on Local Legislation contains no provision which prohibits the Legislature from passing a law of this character. The only prohibition is against a local law incor-

porating a city, town or village. I move to lay the Section and all the pending amendments on the table.

THE PRESIDENT PRO TEM—The question is to lay on the table.

MR. MACDONALD—I want to call attention to the importance of the amendment proposed by my colleague, General Sanford. As the members of the Convention heard the amendment read they will see that territory cannot be annexed to any municipality unless there is a vote of the majority of the inhabitants of the territory sought to be annexed. Now there is nothing in the report which has been adopted on the Article on Local Legislation to authorize any such vote as that, as I understand, and it is most important that such an amendment should be adopted, or such a Section should be adopted by itself because if that is done, and this Convention prescribes that do municipality shall increase its boundaries and take in the briar patches and rats and rabbits as was attempted around the city of Montgomery, unless the inhabitants of that particular district voted in favor of it, or a majority of them, we would have something fair, just and equitable, whereas, if this amendment is laid upon the table, and this Section laid upon the table, we would be left to the doubtful construction of the Article on Local Legislation, and it seems to me wise that the amendment should be adopted.

The hour of 1 o'clock arrived.

THE PRESIDENT PRO TEM—The gentleman will have the floor at the evening session.

The Secretary here read the following notice:

"Beginning Thursday, August 8th, no certificates for per diem shall be issued except on Saturday. This is done at the request of the Auditor and Treasurer, who find it impossible to properly transact the business of their offices when interrupted by delegates and employes seeking to draw and have cashed their warrants. All delegates will take notice and govern themselves accordingly."

Thereupon the Convention adjourned.

AFTERNOON SESSION.

The Convention met pursuant to adjournment, there being ninety-four delegates present upon the call of the roll.

MR. LONG (Walker)—I rise to a point of inquiry.

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

MR. LONG—I want to ask when a substitute would be in order for the whole Constitution as framed by this Convention?

THE PRESIDENT—It will be in order when the Committee on Harmony Reports.

MR. LONG—I want to state for the information of the Convention, that I propose to move the adoption of a substitute at the right time, a substitute for this entire Constitution that we are framing. I propose to offer the old Constitution with the exception of the report of the Committee on Suffrage.

THE PRESIDENT—The special order for this afternoon is the consideration of Section 3 and amendments thereto, of the report of the Committee on Municipal Corporation. The gentleman from Montgomery (Mr. Macdonald) had the floor when we adjourned in the afternoon.

MR. MACDONALD—I have but little to add to what I have said before adjournment in support of the amendment offered by my colleague, Mr. Sanford. Nearly the entire ground was covered by the gentleman from Pike in the able speech that he made upon this subject. We Montgomerians bear in mind, like the man bears in mind the memory of an old boil, the trouble that afflicted us at the last session of the Legislature. We had a number of citizens here of this county living contiguous to the city who objected to the process of "benevolent assimilation" which was undertaken by the municipality of Montgomery to bring them, nolens volens, into the corporate limits of the city of Montgomery, to be subjected to the onerous burdens of taxation which are unfortunately suffered here. The scandal that was caused by that action in the Legislature will remain, I expect, fully as long as the lives of those men who participated in it. The facts of that transaction will never come to life, and I hope never will, but it has been to us as an object lesson which we are not likely to forget. Now, what harm could result from the adoption of the substitute offered by my colleague? If it ever becomes expedient or right that the occupants of territory contingous to Montgomery or to other cities that the occupants of suburbs should become citizens of any municipality, they themselves will see to it that they come in, but why should we pursue a man as civilization pursued Daniel Boone into the wilderness, so as to compel him to go into a city and be subjected to taxation, whether he wants to or not, if he lives within a half mile or mile of a city?

MR. SAMFORD (Pike)—I suggest to the gentleman from Montgomery that the amendment offered by his colleague, Mr. Sanford, is a little indefinite in regard to who would be permitted to vote upon that question. Some of us think that the way the amendment reads now it would be by the vote of the city as well as the others.

MR. MACDONALD—My recollection is that it was by the inhabitants of the territory sought to be annexed. If you are right in your inference, it makes it no better but worse. I suggest that the amendment offered by my colleague be read.

The Secretary read the amendment as follows: "Amend said section by adding at the end of said section the words: 'Provided, that the people residing in the territory to be annexed shall have an opportunity to vote upon the question of annexation.'"

MR. SAMFORD (Pike)—It does not confine it to that if you notice.

MR. MACDONALD—That is true, and I think it needs amendment in the manner suggested by the gentleman from Pike.

MR. deGRAFFENREID—Cannot the General Assembly do that as well without this section as with the section?

MR. MACDONALD—I think they can, and, therefore, I think the substitute of considerable importance. I know they attempted it and came very near succeeding, and that is one of the reasons that I was not willing that the section or substitute be laid upon the table, because I think the idea suggested that the consent of the inhabitants of the territory to be annexed should be first secured is of great importance, otherwise there is no limit whatever to legislative discretion in annexing any territory to a city, and we know, as has been well said on this floor, that the local members generally come from the cities, and will do what they can to relieve them of the burdens of taxation. I hope the substitute, amended possibly as by the suggested of the gentleman from Pike, will be adopted.

MR. WEATHERLY—As I stated in my opening remarks in introducing this Article, the members of this Committee have no pride of opinion as to the adoption or rejection of this section of this report, or any part of it. We are simply offering to the Convention the results of our investigation, and our ideas of what should be put in the Constitution so far as it relates to municipal corporations. It was suggested to the members of this Committee that great harm had been heretofore done by changing corporation lines in the Legislature without giving the people of the city which was affected any notice of it or any opportunity to be heard, and I understand that the gentleman from Dallas states upon this floor that that was done at a late meeting of the Legislature affecting his town. The Committee thought it wise, therefore, that if any change should be made in the corporate boundaries of a municipality that notice of the intended change should be given by publication in the form set out in the report. As the matter now stands, any member of the Legislature regardless of the wishes of the people, can either procure the enlargement of the limits of his town

or have them contracted. We think that the people have a right to be heard, but, gentlemen of the Convention, it is not thought by those who have carefully studied the question, that the question of taking in or leaving out a certain territory should be left to the vote of the people affected by it. Now, the gentleman from Pike, speaking upon this question before the noon recess, pictured the beauties of a suburban residence, where a man who lived outside of a town could get all the advantages of city life, be able to carry on his business in the city and escape municipal taxation. I say that a man who receives the benefits of a municipal government ought to be willing to bear his proportion of the burden. If you leave it to the vote of the man who lives immediately on the outside where he can reach the center of the city and reach his place of business by a street car in ten minutes, where he gets the benefits of electric lights, police protection, paved streets and sewers and does not have to bear its proportion of the burden of course he is going to vote not to come in, and I say gentlemen that there are times when certain portions of suburban territory should be brought into the city limits even if those people themselves are opposed to it. This section gives them an opportunity to be heard before the Legislature. It brings the subject to the attention of the public, where it may be actively discussed by the people, and if any changes are to be made, they can be made in the open, and not, as heretofore, made in secret. These are the reasons that move the committee to recommend the adoption of this section to the Convention. I move to lay the amendment on the table.

MR. SANFORD (Montgomery)—Upon that I call for the ayes and noes.

The call was not sustained.

THE PRESIDENT—As many as favor the motion to lay the amendment on the table will say aye and those opposed no.

Upon the vote being taken a division was called for and the motion to table the amendment prevailed by 36 ayes and 35 noes.

THE PRESIDENT—The question will recur upon the amendment of the gentleman from Dallas (Mr. Craig).

MR. HOOD—I move that the amendment and the section be laid upon the table.

MR. GREER (Calhoun)—I call for a division of the question.

MR. WEAKLEY—I call for the ayes and noes.

THE PRESIDENT—The question will be first upon the motion to table the amendment offered by the gentleman from Dallas, and the ayes and noes are called for. Is the call sustained?

The call was not sustained.

MR. BOONE—The committee asks unanimous consent to accept the amendment.

The consent was given.

THE PRESIDENT—The question will be upon the motion to table the section as amended.

Upon a vote being taken, a division was called for, and the section as amended was tabled by a vote of 44 ayes and 37 noes.

Section 4 was read as follows:

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 right of way over or right to use any steet or public way or part thereof except to the person or corporation offering the highest sum therefor or the highest percentage of gross annual receipts to be deprived 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 or abutting properties.

MR. BROOKS—I have an amendment.

The amendment was read as follows:

"Amend Section 4 by inserting after the word 'village' in the eighth line, the following: "or if there be no newspaper published therein, then by notice posted in three separate public places in such city, town or village."

MR. WEAKLEY—The committee asks unanimous consent to accept the amendment of the gentleman from Mobile.

The consent was given.

MR. BROOKS—The object of that amendment is simply to provide the ordinary mode of giving notice where there is no paper published in the city, town or village.

MR. SMITH (Mobile)—I have an amendment.

The amendment was read as follows:

"Amend Section 4 of the report of the committee by striking out the word "twenty" in second line, and inserting the word 'fifty' in lieu thereof.

MR. SMITH (Mobile)—I think the period as fixed is too short in the interest of our growing communities. A majority of the cities and towns of Alabama are not sufficiently large to make the character of improvements that enhance the value of property and to go to the progress of communities profitable to investors. Nearly all of these public improvements are put in comparative small places, with the hope of developing those places to some extent, and thereby making the franchise itself of some considerable profit. If you restrict them to a very short period of time you will make it difficult, for small places at any rate, to obtain such improvements as lights, water works, street railways and things of that character. I think it is unwise therefore to limit it to so short a time as to make it difficult to obtain the improvements themselves.

Taking a class of fifty-seven cities, which I looked into, somewhat larger than any cities we have here, and I find twenty-six of them limit the franchise to fifty years, three of them were perpetual, one was for ninety years, sixteen or seventeen were thirty years and one twenty-four years. So that the limit that we are placing here upon franchises is far below the average limitation placed by cities of very considerable larger population than the cities we have here, and for that reason I have offered the amendment increasing the life of the franchise to fifty years instead of twenty.

Mr. Weakley was recognized by the Chair.

MR. SAMFORD (Pike)—I desire to ask the gentleman a question. I see that some misapprehension appears with reference to the power to grant franchises as contained in this section. It says: "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 right 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 therefor or the highest per centage of gross annual receipts," and so on.

Does that have the effect of granting to corporations, cities and towns, the right to dispose of a part of the streets?

MR. WEAKLEY—It grants the use of the streets for the purpose of operating street car lines, water works, electric lights, etc.

MR. SAMFORD (Pike)—Suppose they wanted to grant the right to put a building in the street, would that——

MR. WEAKLEY—Nothing but a public utility could be permitted to use the street under this Section.

Mr. President, the question of the proper management and disposition of municipal franchises is one of the most important

questions before the American cities today. I am unalterably opposed to the granting of a municipal franchise, in any event, for a period longer than thirty years. I will admit—

MR. WALKER (Madison)—Will the gentleman yield to a question?

MR. WEAKLEY—Yes sir.

MR. WALKER (Madison)—Would not the prohibition contained in this Section apply to a railroad proposed to be run through a town, so it could not acquire from the city for a period longer than the time limit, the right to run the railroad through its streets?

MR. WEAKLEY—Probably so. I do not see that a steam railroad has any more right to the use of a street than a street railway, an electric railway.

I will admit that an examination of the length of franchises granted to the various public utility corporations by cities of the United States will disclose the fact that the majority of these franchises are granted for a considerable length of time. There is a franchise granted to a street railroad in the city of New York that has several hundred years yet to run, but the tendency of moden times is for the public to retain control of the streets and public ways of the city as far as possible, and the question is what length of time would it best suit the interest of the public to part with the control over their streets.

I have taken occasion, since this matter came before the Committee, to make investigations, and I find that it is the unanimous opinion of the mayors of twenty-five leading cities in the United States that the length of the franchise ought not to exceed twenty-five or thirty years, and a great number of those people go so far as to say that there should be reserved to the city the right of readjusting this franchise at the end of every ten years.

It used to be the case, gentlemen of the Convention, that these franchises were given away, and I believe it is the case in Alabama today.

MR. BOONE—Except in Mobile.

MR. WEAKLEY—I believe the gentleman says except Mobile, but if I read the paper from the city of Mobile aright it is proposed that the Street Railroad in the city of Mobile shall have its franchise so extended as to expire eight years from this time and in consideration of the grant to use the streets by the street railroad electric light and power company, they will furnish certain electric lights for the city building, and beyond that so far as my information goes, they received no compensation. Now, gentlemen, this Constitutional Convention has limited or will limit the

power of the cities of his State to raise money by taxation. It certainly ought to prescribe some means by which they can get some compensation for the use of the streets. This is no new proposition. It is a method of raising revenue that is in operation in a number of large cities of the country. Why, in the city of Nashville, a franchise has recently been granted to the gas company for a period of only twenty years, and the contract provides that at the expiration of ten years the city shall have the right to purchase the plant at its actual value and not including the value of the franchise. The gas company in the city of Nashville pays a license or privilege tax of $700 per annum. It pays a tax of 1 1-2 per cent. upon the assessed valuation of its property, which is $900,000, the total tax being $13,500 and, in addition to that, for the use of the streets it pays to the city of Nashville 5 per cent. on its gross receipts, and in addition to that the contract provides that the price of gas shall never be exceeding $1 a thousand.

MR. DENT—I would like to hear the construction of the Committee upon this proposition. You provide here there shall be no right of ways granted by any city to any corporation except the one offering the highest sum therefor, or the highest per centage of gross receipts. Would not that provision prevent a city from granting a right of way to a railroad.

MR. WEAKLEY—Yes sir, unless paid something for the street.

MR. DENT—And suppose a railroad was in any town and another was coming there that would be a rival road, wouldn't that road in the town be better able to pay for the use of streets than the new road, and wouldn't it cut it off?

MR. WEAKLEY—I presume the new road would buy its right of way.

MR. PITTS—Section, in the ninth line, "the firm, association or corporation to whom such franchise is granted shall be liable for any damages inflicted upon the property or abutting properties."

MR. WEAKLEY—Property of abutting proprietors, that means.

MR. PITTS—I would like to ask the gentleman if that wouldn't prohibit electric railways on the streets.

MR. WEAKLEY—No sir, I think not.

MR. PITTS—Would it allow a man who owns abutting property to claim damages for use of the streets. Don't you think that would prevent electric cars from going on to——

MR. WEAKLEY—I do not think it means that.

MR. PITTS—What is the damage to abutting property.

MR. WEAKLEY—The gentleman understands the Supreme Court decided that the operation of a street railroad is not an additional burden of servitude, but the gentleman must bear in mind that it frequently happens that a street railroad in constructing its lines will construct them without regard to the property upon which it abuts and so construct the road by placing it too near the sidewalk or otherwise, or by changing the grade as to damage to the property of individuals.

MR. PITTS—On the street.

MR. WEAKLEY—Yes sir.

MR. KYLE—I would like to say that we have a case in point. The Chattanooga Southern Railroad is arranging to build a line from Gadsden to Birmingham, through Oneonta, going through our town. Now how will they get through there if they cannot get a charter for more than twenty years. You say they shall not be granted for more than twenty years.

MR. WEAKLEY—This Section says that the city authorities shall not grant the use of its streets more than twenty years.

MR. HOOD—Carrying out further the question of my colleague, there are four other railroads there. Suppose in the extension of the Chattanooga Southern Railroad, these railroads should bid higher than the Chattanooga Southern Railroad for the right of way, how would the Chattanooga Southern ever get through?

MR. WEAKLEY—I do not know that I can answer that proposition.

MR. HOOD—Might not this proposition prevent competition? For instance, in electric light plants and street railroads, one being already located and having a great advantage over the proposed one and thereby having a great advantage in this competition.

THE PRESIDENT—The time of the gentleman from Lauderdale has expired.

MR. VAUGHN—I have an amendment.

The Secretary read the amendment as follows: "Amend by striking out all after the word 'and' where it appears the last time on line nine."

MR. VAUGHN—I simply want to amend the section.

THE PRESIDENT—It is not in order. There is an amendment pending to extend the time fifty years.

MR. VAUGHN—I desire to amend that.

THE PRESIDENT—The amendment is not in order unless the gentleman desires to amend the amendment.

MR. ————I move that Section 4 and pending amendment be laid upon the table.

Upon a vote being taken there were 47 ayes and 35 noes and the section and amendment were laid upon the table.

The Secretary read Section 5 as follows:

Section 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.

MR. WEAKLEY—I desire to withdraw Section 5 and offer a substitute to that.

The Secretary read the substitute as follows:

Amend by striking out Section 5 and insert in lieu thereof the following:

Section 5. No person, firm, association or corporation shall be authorized or permitted to use the streets, avenues or alleys of any city, town or village for the construction or operation of any public utility or private enterprise without the consent of the proper authority of such city, town or village, being first had and obtained."

THE PRESIDENT—The gentleman from Lauderdale asks unanimous consent to substitute the section just read for the Section as reported by the Committee. Is there objection?

MR. HARRISON—I object.

THE PRESIDENT—The question will be upon the adoption of the substitute as proposed by the Committee. If the gentleman from Lauderdale desires to discuss it the Chair will recognize him.

MR. HARRISON—I desire to suggest to the Chairman of the Committee what I rose for. I think the amendment is really better than the original, but I think the report of the Committee on Corporations better than either, and it belongs in that Article and I ask that he postpone this and that it be considered along with the report of the Committee on Corporations.

MR. WEAKLEY—I desire to state that the substitute offered conveys the same idea contained in Section 5 of the printed report,

but the verbiage, I think is slightly different and as the gentleman from Lee suggested, I think it is an improvement. It simply provides that no person, firm or corporation can use the streets of a city for the purposes of carrying on any business without first obtaining the consent of the proper municipal authority. I think that this is an important provision and that it ought to go in to that section pertaining to municipal corporations. I move the adoption of the substitute.

MR. MERRILL—Don't they have to obtain the consent of the municipality under the law now?

MR. BOONE—No, sir, the legislature does that.

MR. HARRISON—It is immaterial to me where it goes. We have the article in the present Constitution under the general subdivision of corporations and it has been treated by that Committee, and it covers that article not only as the original article reads here, "street railways, etc." but it covers all railways and in very general terms and I submit especially as the Chairman to the Committee who has the floor. I will read Section 18 of the report on corporations which I think is rather an improvement on the substitute and I think it properly belongs in that article.

Section 18 reads as follows: Sec. 18. Rights, privileges and easements for public utilities over, along and under the streets of incorporated cities and towns shall not be granted, except by the proper legal authorities of such incorporated cities and towns.

I think it properly belongs in this report. It is there in the old Constitution under that head and we have acted on it and I have no private opinion but I submit that there is really nothing in this report that ought not to go under the head of corporations or taxation and I think that the Convention will see as we progress, and while the Chairman of the Committee has so clearly agreed with the Committee on Corporations, I thing the phraesology is a little better. I think it probably belongs there and the Committee on Harmony can arrange it, I move that this section be postponed and considered along with that of the Committee on Corporation.

MR. BOONE—I think it very inexpedient that every section that comes up here should be passed to be taken up at a future date. We want to get through with these reports. If this Convention is of the opinion that the article as reported is better than the Corporation Article which is the last one on the report, which took weeks and weeks to get in here, and finally got here, and now everything is to be tied up because it is to be the last, I object to it. If the Convention thinks it is better covered in that I would rather see them table this than to put the whole work back. The Committee on Harmony are working every night trying to get their work up for this Convention when it is ready to adjourn to put their work before the Convention, and if everything is to be staved

off to the last day they cannot do it, and I for one would rather see it tabled than put in that attitude.

MR. HOWZE—It seems to me that the President of this Convention or some one has made a great mistake in establishing this Committee on Municipal Corporation. After changing what has been done, as my friend says, there is no place in it for Committee on Corporations. I submit if there is any necessity for the Article on Municipal Corporations and I insist that there is, this section properly belongs in that article. It is upon the subject of municipal corporations, and these municipal corporations should regulate the affairs of the different municipalities especially as to matters of franchise. It seems to me this Convention has been very hasty in its action already upon the report of this Committee. It is a report that has been thoroughly adjusted by it and they have presented some fine sections which should be in the Constitution of the State especially in the matter of Municipal Corporations and I do insist that better respect should be paid to the articles presented by this Committee. I hope that this section will not be relegated to be put in behind this Article on Corporations. It belongs here and I think we ought to put it here. It is a fine article and should be adopted. Municipal corporation should regulate these things. It is important that they should and if we are to have an Article on Municipal Corporations this is the place for this section.

MR. COLEMAN (Greene)—Men will differ upon questions of this character. This State has existed a good long while and has had several Constitutions. We have never had an article upon municipal corporations before and the discussion this afternoon makes it clear that at this time there is no necessity for an article upon municipal corporation. I have examined it section by section through and to the very best of my ability have found only two of these sections which, it seems to me, ought to be in the Constitution. The legislative power is ample for all the provision which they have set up here, and if they are incorporated in Section 24 of the present Constitution, all previous discussions in the first part of this report would have been disposed of and satisfactorily by constitutional provision, which has been adjudicated by the Supreme Court of this State time and again. Now, it may be that at the close of Section 7, if I am not considered out of order would be a very proper place for the amendment suggested the other day by the delegate from Montgomery, Mr. Macdonald, and Section 7, where certain named towns have been excepted out of the operation of the general law.

MR. BOONE—I rise to a point of order. The question under consideration is the substitute offered by the Committee to Section 5, and the gentleman is not addressing himself to that substitute.

MR. COLEMAN—I was aware of the position, and I stated if I may be permitted to call attention to it.

MR. BOONE—I make the point of order.

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

MR. COLEMAN—I move to lay Section 5 and the substitute on the table.

THE PRESIDENT—The substitute was accepted unanimously by the Convention. The motion is to lay the section as amended upon the table.

MR. WHITE—I call attention to the fact that the substitute was not unanimously accepted. The gentleman from Lee objected.

MR. HARRISON—I withdraw the objection.

THE PRESIDENT—The Chair will again submit the question of the accepting the substitute. Unanimous consent is asked that the substitute may stand in lieu of the original. Is there objection? The Chair hears no objection. Thereupon the gentleman from Greene moves to lay upon the table the section as amended.

Upon a vote being taken, a division was called for, and by a vote of ayes 34, noes 44, the motion to table was lost.

MR. BOONE—I move the previous question on the section as amended.

MR. GRAHAM (Montgomery)—I will ask the gentleman from Mobile if he will not withdraw his motion for the previous question in order that I may offer Section 18, under the report of the Committee on Corporations as a substitute.

MR. BOONE—I decline to withdraw.

THE PRESIDENT—The gentleman declines to withdraw. The question is, shall the main question be now put?

Upon a vote being taken, a division was called for, and upon a further vote being taken, there were ayes 41, noes 34, and the previous question was ordered.

THE PRESIDENT—The question is on the adoption of the section as amended.

MR. HARRISON—I call for the reading of it.

The Secretary read as follows:

"No person, firm, association or corporation shall be authorized or permitted to use the streets, avenues, or alleys of any city, town or village for the construction or operation of any public utility or private enterprise without the consent of the proper authorities of such city, town or village, being had and obtained."

The previous question has been ordered and is not debatable.

MR. HARRISON—I just wish to ask the chairman of the Committee—I just heard it when read the second time—what would become of the right——

THE PRESIDENT—The question is not debatable.

MR. GRAHAM (Montgomery)—I desire to ask unanimous consent to make a suggestion to the chairman of the Committee which I think will be accepted.

The consent was granted.

MR. GRAHAM (Montgomery)—I suggest to the chairman of the Committee the insertion of "public places," so it would read "streets, alleys and public places." There is a distinction between public places, streets and alleys.

MR. WEAKLEY—The committee will accept that amendment.

THE PRESIDENT—The Chairman of the Committee asks unanimous consent to incorporate the amendment suggested by the gentleman from Montgomery. The Chair hears no objection. The question recurs upon the adoption of the section as amended by the substitute offered by the chairman.

A vote being taken, the section as amended was adopted.

The Secretary read Section 6 as follows:

Sec. 6. The General Assembly shall not enact any laws 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 privileges and license taxes in the State.

MR. WEAKLEY—I desire to say for the information of the Convention with reference to this section that it is designed to meet a situation, or prevent the recurrence of a situation, which exists in Alabama today. I will illustrate this by saying that the Southern Express Company has procured the passage by the Legislature of a law authorizing it to do business in this state upon the payment of a certain license to the State, and it has been held by the Supreme Court in a case originating in the city of Anniston that this license paid to the State was in lieu of all other licenses which could be charged to the Express Company for doing business in Alabama. As the gentlemen in the Convention know, in the cities in this State, every person, firm or corporation that is engaged in business in the city limits pays into the city treasury a certain privilege or license for doing business in that city. The railroads, the street railroads, the telegraph companies, the telephone companies and all other corporations and individuals pay this license,

but there is not a town or city in Alabama that has been able to collect a license from the Southern Express Company on account of this decision. I submit, gentlemen, that it is not right or proper to allow the Legislature to barter and traffic with corporations at the expense of the municipalities in this State, and if it is right and proper that all corporations should pay this license, it is right that this particular corporation should pay it. This explains the section as introduced.

MR. FOSTER—I presume, Mr. President, that the object of this section was, as stated by the chairman, though the section itself speaks as if it were a privilege to pay a privilege atx. It seems to me to be a little ambiguous. Now, Mr. President, I am not in sympathy with the object of this section. I think we have trimmed down the powers of the Legislature enough already, certainly we ought not encroach upon this vital power of furnishing revenues to the State government. We have already cut down the tax limit from seventy-five to sixty-five, we have curtailed the power of the Legislature upon all these local matters and now this section proposes to put these cities and towns absolutely above the power of the Legislature in this matter of levying privilege or license taxes. The gentleman has stated that the Southern Express Company is by law exempt——

MR. WADDELL—You overlook the fact that they cut down the tag tax.

MR. FOSTER—I did not say anything about the tag tax, I do not know what has become of that tax. It has been here so often. Now, it is true, Mr. President, that under Section 50 of Article IV of the present Constitution, the court has decided that a city or town cannot levy a license tax upon the Southern Express Company because a general law was adopted by which the privilege tax was fixed at four thousand dollars and the Express Company is required to pay that amount into the State. I do not know whether that is an adequate privilege tax or not, I do not pretend to say, but I think this Convention ought to leave it to the Legislature to say whenever they think it proper that the State should take all the privilege taxes which ought to be paid to the exclusion of the cities and towns, that the Legislature ought to be able to say whenever they deem it necessary that the State shall collect all the privilege and license taxes which in its opinion any business in the State can bear. This is not only true of the Southern Express Company, it is true of the Pullman Palace Car Company, steam boats and probably some other things.

MR. BOONE—Will the gentleman permit a question.

THE PRESIDENT—Will the gentleman yield to the gentleman from Mobile.

MR. FOSTER—Certainly.

MR. BOONE—Are you not familiar with the proposition as announced by the Supreme Court of the United States that no city can collect a tax upon a steam boat navigating one of the navigable rivers of a State?

MR. FOSTER—I am not talking about the United States. I am talking about the policy of the State of Alabama——

MR. BOONE—I contend that the State of Alabama cannot do it.

MR. FOSTER—I do not know. I yielded to a question, not to a discussion by the gentleman from Mobile. I was speaking of the policy of the Legislature, and the folly of this Convention, as I conceive it, of taking away from the Legislature the power of putting into the State treasury the privilege taxes that they see fit to collect. Now, Mr. President, suppose the Legislature deems it necessary to keep this high privilege tax upon these companies of four thousand dollars, if you put it in the power of every town and city in this State to levy a privilege tax upon any of those corporations now exempt from the special privilege taxes, you would simply make it impossible for them to do business in this State at a profit. You either do that or the Legislature has got to give up what goes into the State treasury, or a large part of it. I must confess that I am not very much in favor of a privilege tax anyway. In my opinion privilege taxes are a tax upon industry. Whenever they are put upon anything which does not specially need police protection.

MR. HOOD—Are other Express Companies subject to that provision you speak of?

MR. FOSTER—I don't know whether it applies to other Express Companies in the State or not. I say this is an attempt to perpetuate privilege taxes on the part of the cities and towns, and this fiction of police protection is a fiction for the purpose of getting privilege taxes. It is a tax upon business, a tax imposed upon honest effort to make a living. I move to lay the amendment upon the table.

MR. BOONE—Please withdraw that for a moment. Do you want to discuss it yourself and not permit the committee to discuss it?

MR. FOSTER—The committee has already discussed it. However, I withdraw my motion.

MR. BOONE—This section as embraced in this article was introduced in this Convention by the delegate from Montgomery, Mr. Graham, and we thought it fair and right that any corporation which has the police protection (which the gentleman from Tuscaloosa says is nothing) that uses the streets, that has fire pro-

tection for their buildings where they have offices, and have every municipal care and guardianship thrown around them, that it was not fair to the city that they should pay a certain lump sum to the State and that should absolve the corporation from paying any license taxes. Every merchant, every corporation in this State, every railroad has to do it, and why should the Southern Express Company be exempt. In the last Legislature I believe there was passed through the House a bill which abolished this and allowed each city and town to have their proportion of what was due it in the way of license tax on a fair basis. That bill went into the Senate, to a certain committee there, and was lost, and we ask that it be put into the Constitution of the State. It is fair and right and just in the opinion of this committee. I suppose gentlemen will argue that all municipal license taxes should be abolished and thereby cripple a great many of the cities and towns in this State, practically cause a suspension of municipal government therein. He says that the State should have the right at all times to take unto itself to the exclusion of every town and city every license tax. I suppose the gentleman would favor the abolition of the tax on insurance companies in Mobile and Montgomery and thereby strike down the fire departments in both of these cities. That is the trend of his argument. Go a step further with the plenary power in the Legislature and say all license taxes shall be taken by the State. I think that this Convention is not prepared to go so far, and I do not think that they approve of the view that these corporations who come into a community and do business and make money, use the streets, have the benefit of fire protection, of water and sewerage and every other utility that you can get in an urban population, and escape all privilege taxes, the committee does not think it just nor right and hopes the Convention will adopt this section. There is no reason why these corporations should be exempt.

MR. O'NEAL—Permit me to ask a question. Are they less able to pay a privilege tax than a poor lawyer or doctor?

MR. BOONE—I think not, sir. As the gentleman from Lauderdale suggests, the doctor, the lawyer, the merchant, and the mechanic, no matter how humble he may be he has got to pay a tax in his business, and why should not the Southern Express Company or any other corporation pay it?

MR. deGRAFFENREID—If this Section is not adopted, will there be anything to prohibit the General Assembly from exempting lawyers or doctors under privilege tax in a town or city?

MR. BOONE—No sir, but it prevents them from taking all the taxes. It prevents the State from stripping the municipalities of all taxes whenever it sees fit. That seems to be the view of the gentleman from Tuscaloosa, and he wants to go further and the State appropriate to itself the right to take all these taxes on corporations coming to the cities and towns of Alabama.

MR. WALKER—Under this Section if adopted, would it not be within the power of the Legislature to impose a license tax on any corporation or business and to withhold the power from municipalities by simply failing to grant them the power to impose a license tax on such business?

MR. BOONE—It may be, sir, if this Convention should go further and abolish the charters of all municipalities of this State, but unless it does that, it cannot do it, because every one of them have a right to levy a reasonable license tax.

MR. WALKER—Could not the Legislature repeal these acts.

MR. BOONE—Yes sir.

MR. FOSTER—Is there anything in the Constitution to prevent the Legislature from authorizing cities and towns to collect a tax on everyone of these corporations?

MR. BOONE—No, sir, but it has been the experience of men who have fought this thing here and tried to get it through the Legislature for the past ten years, that it could not be done, that is the information I get from the gentleman from Montgomery who introduced this. The people of Montgomery and Mobile and Birmingham have tried to get it through the Legislature, but it could not be done and that is the reason we are trying to put it here. We do not appear here in the interest of corporations, but in the interest of the whole people.

MR. GRAHAM (Montgomery)—I cannot hope to present any stronger argument to the Convention than has already been presented by the gentleman from Mobile, but I will attempt in my feeble way to give some few reasons that I have why this Section in the Constitution should be adopted. By reference to the Civil Code of Alabama you will find that Section 3914 exempts express companies from paying municipal licenses. Section 3915 exempts sleeping car companies from paying municipal licenses. Section 3913 exempts Building and Loan Associations from paying municipal licenses. How long, Mr. President, before every other association or every other business in the State of Alabama that is capable of mustering a lobby in the General Assembly and forcing the passage of such laws as these? They are unjust, they are unfair to the various municipalities of Alabama. Who protects their property? Is it the State of Alabama? Nominally, yes, really it is the municipal corporation, towards the government of which they expend not $1 except the small amount paid in taxes upon office furniture, a few horses and old wagons. That is all the property upon which the Southern Express Company or other express companies pay in the city of Montgomery and other cities. Sleeping car companies own no property in the State of Alabama, not one single solitary dollars' worth, and yet they are exempt from paying a license to the city of Montgomery, Mobile or Birming-

ham, or any of the municipalities in the State of Alabama for the protection which is afforded them under the law. Is that fair and just, is it right that the Legislature of the State of Alabama should exempt these people from paying licenses in these municipalities, when if anything should happen they would come to the municipalities for protection and unless that protection was granted there would be a howl from one end of the State of Alabama to the other. I am not in favor of oppressing these people. It is contrary to all the views I have ever entertained in reference to government, to oppress any one person or any one business, no matter what its character, for the benefit of others. I say it is unfair, and it is unjust, that relief should be given to certain individuals and to certain corporations and that same relief denied to other individuals and other corporations. Why sir, as was stated to you by the gentleman from Mobile, these people get the benefit of our police system, they use our streets, they get the benefits of water and light and the general protection which a municipal corporation gives to a business of this character.

MR. FOSTER—Don't they pay for the water and lights?

MR. GRAHAM—Yes sir, but suppose they move outside of the corporate limits of the city of Montgomery, where do they get the water and lights?

MR. BOONE—Do they not get fire protection?

MR. GRAHAM—Yes, and use the streets possibly more dilateriously than any other class.

MR. BOONE—Pay any vehicle license?

MR. GRAHAM—No sir, nothing of the kind. I know that these corporations and associations have friends in this Convention, have friends in every assembly, and I am a friend of each of them, but I do not think, Mr. President, that they are entitled to an exemption under the law, and a distinction made in their favor which results in injustice to other people. The effect of this law if it is carried to its legitimate conclusion, would be to deprive every municipality in Alabama of the right to levy and collect a privilege tax to carry on the very purpose for which it was organized, and when you do that, it were better for the State of Alabama that this Convention should repeal every charter given to a municipal corporation and undertake to administer their affairs itself. Justice and fairness, in my opinion, demand that this Section of the proposed Constitution should be adopted by this Convention.

MR. CUNNINGHAM—Suppose a city depends entirely upon certain industries for its very existence and prosperity, and suppose that the health of the community demands that the corporate limits of that city should be extended and in such a way as not to

include the industries, can the Legislature under the present Constitution exempt these industries from municipal taxation?

MR. GRAHAM—They have been doing it, whether they can or not.

MR. BOONE—They cannot under the Constitution we have adopted.

MR. CUNNINGHAM—If this Section is adopted they could not do it?

MR. GRAHAM—They could not.

MR. CUNNINGHAM—That is the reason I am opposed to the Section. There is an aspect of the question that has not been discussed here. Take the town of Ensley which depends entirely upon its industries. To use a hackneyed expression, "It is the goose that lays the golden eggs," and yet the circumstances are such that to give the people of the Community the benefit of free schools, sanitation and police protection, together with all the other advantages of municipal government, it will be necessary at no distant day to extend the corporate limits of the town, and yet I dare say that there is not to be found in the community a man who would not be willing to extend the corporate limits, and except these industries from municipal taxation, that is to say, the industry itself, and not the real estate upon which the industry is placed. Now, I have been informed that could be done under the present Constitution.

MR. BOONE—I rise to a point of order. There is nothing under consideration in reference to corporate limits. The Section that is under consideration is license taxes.

THE PRESIDENT—In the opinion of the Chair the point of order is well taken, the question with reference to corporate limits has been laid upon the table.

MR. CUNNINGHAM—I understand that, Mr. President, and if the Chair rules that the adoption of this section will prevent the extension forever of the limits of any city in the State of Alabama, so that my remarks would be out of order, and, of course, I would be out of order, but I do not so read the section.

THE PRESIDENT—The Chair will rule that the question of extension of corporate limits of a city is not germane to the question now before the Convention, and the gentleman is not in order to discuss it.

MR. CUNNINGHAM—Well, then, Mr. President——

MR. BOONE—Will the gentleman permit me for one moment——

MR. CUNNINGHAM—Not right at this time. I say, for example, if the corporate limits of my town already embraced these industries, and they were to exempt them, if you adopt the section it could not be done, and in that way deprive the people of the community in which these industries are located of the advantages of municipal citizenship.

MR. BOONE—Was the gentleman not aware, as a delegate in this Convention, that we have already passed an Article preventing exemptions from taxation?

MR. CUNNINGHAM—Then I see no use for it, and I am opposed to the section.

MR. BOONE—There is a distinction between licenses and taxes as the Supreme Court has held.

MR. CUNNINGHAM—I read the section "licenses or other taxes. Now, I don't know what "other taxes" means except an ad valorem tax. That is the way I read the section.

MR. BOONE—It is tax or licenses and the section as passed has reference only to ad valorem.

MR. CUNNINGHAM—Well perhaps, it does; I am not lawyer enough to see the distinction. It strikes me, however, if this provision is adopted, the idea I am trying to advance is that a municipality might want to exempt industries from paying municipal taxes in order to give the advantage of citizenship in their city. If they are deprived of that, I am opposed to the section.

MR. O'NEAL—You were in favor of every municipality having the power to exempt any industry from taxation?

MR. CUNNINGHAM—Certainly.

MR. O'NEAL—Don't you want to give the municipality the power to tax if they desire.

MR. CUNNINGHAM—Yes.

MR. O'NEAL—That is the purpose of this section. It prevents the Legislature from denying the right to any city or town in the State the right to impose a license tax upon industries, etc.

MR. WEATHERLY—Mr. President, I favor the idea of allowing a municipality to impose a license or tax upon any corporation that does business within its limits. I think that is right and I think that power should be amply reserved to the municipalities of the State, but I desire to call the attention of the Convention to a contingency which might arise in the future somewhat like the contingency or situation that has arisen with reference to the taxation of railroad corporations. Wherever a railroad or other like corporation does business through a continuous part of the

territory of a State, running through one county after another, or one city after another, if the county or municipality is alive to its own independence and free action in the levying of taxes, it gives rise to inequalities and injustice, hence it has been found necessary in the State of Alabama, and in a great many other States; in fact, I believe, in nearly all the States of the Union, if not all, in the matter of taxation of railroad property to put the power of taxation in the hands of a State Board.

MR. GRAHAM (Montgomery)—Isn't it a fact that railroad companies in Alabama pay these taxes in every town and city through which they pass?

MR. WEATHERLY—Certainly they do; I freely admit that, and I say the other corporations ought to do it, too. I am not making that point, but I am making the point that you ought not to withdraw it from the power of the State of Alabama, in case need should be, to take upon itself the right of levying all these taxes uniformly and distributing pro rata the license taxes to the municipalities. That is the proposition. I do not think that the State of Alabama should collect a municipal tax, a privilege tax, and put it in the Treasury, and deny it to the municipality, but the time may come when the State of Alabama may want to say to its people, "I take back to myself the power or levying these taxes." "I will levy a privilege tax for the city of Montgomery of so much upon a certain corporation and for the city of Mobile of so much," and then the State of Alabama will distribute it to the cities equitably. This section prohibits the State of Alabama from doing anything of that sort.

MR. BOONE—I will ask you if the purpose of this section is not to prevent the State from taking to itself all these licenses and what you urge is not applicable to this section because the State could levy the tax and distribute it under this still to the cities and towns?

MR. WEATHERLY—I haven't so read it. It says that "the General Assembly shall not enact any laws 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 privileges and license taxes in the State."

As I read that, it prohibits the payment of any privilege license or license taxes to the State, and thereby relieving them of paying it to the city or municipality.

MR. BOONE—Isn't the object of that section to prohibit them from taking those licenses away from the city?

MR. WEATHERLY—Certainly, but I say it goes further than that.

MR. BOONE—Does it prevent the State levying a license tax and distributing it under an equalization scheme?

MR. WEATHERLY—I think it does. I think it would prevent the Legislature from passing a uniform law of that character. That is the very thing that section prohibits, and it is too broad. I will vote for a section which will simply impose the duty upon these municipalities of paying privilege taxes and so regulating that it will be done equitably, but I am opposed to the section as it stands. It is too broad, because it prohibits the State, in case public policy should require that it should take into its hands the duty of regulating these things, from doing it, and we ought not to pass the section in the language in which it is framed.

MR. BEDDOW—I call for the previous question on the section.

The main question was ordered.

THE PRESIDENT—The question is on the adoption of the section as reported by the Committee.

Upon a vote being taken Section 6 was adopted.

MR. FOSTER—I voted for the section for the purpose of moving to reconsider tomorrow, and I make that motion now.

Mr. Waddell here took the chair.

Section 7 was read as follows:

Section 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 subdivision 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 reissuance 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 street and sidewalk improvement, or 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.

MR. BROOKS—I have an amendment.

The amendment was read as follows: Amend Section 7 by inserting after the word "assessed," in the thirteenth line thereof, the following words: "In whole or in part."

MR. BROOKS—That is in line with the language employed in the Article on Taxation on the same subject. Without that amendment it would require that the amount of obligations incurred by issuance of bonds must be for the assessment of the whole of the abutting property. Now the proposition is that where the assessment is against the property in whole or in part, they shall have the right to incur these obligations.

MR. MACDONALD—On the fifth of last month, when the report of the Committee on Taxation was before the Convention I proposed an amendment to the article reported by that Committee and that particular amendment was laid on the table and ordered printed, and it was the order of the Convention that it was to be considered when Report No. 13 on Municipal Corporations was considered. That amendment to the report of the Committee on Taxation is germane to this particular portion of the report of the Committee on Municipal Corporations, and therefore it seems to me it should be taken up now. I will read this amendment and the Chair will see that it is germane at this particular moment:

"Amend article reported by the Committee on Taxation by adding the following as an additional section No. 11:

Sec. 11. No city, town or other municipality, shall make any assessment for the cost of sidewalk or street paving, or for the cost of the construction of any sewers, against property abutting on such street or sidewalk so paved, or drained by such sewers, in excess of the actual increased value of such property by reason of such sidewalk or street paving, or by the construction of such sewers. And the burden of proving such increased value of said property shall be on the city, town or other municipality in all proceedings brought to enforce the collection of such assessments. And such assessments shall in no case exceed I per cent of the assessed value of said property."

MR. O'NEAL (Lauderdale)—You do not embrace grading in that do you?

MR. MACDONALD—No, sir; sidewalk and street paving includes grading. Now, as I say, Mr. President, that matter is germane right here. Mr. Brooks was incorrect in saying that in the article proposed by the Committee on Taxation, municipalities were given the power to assess the whole of such cost on abutting property, but the expression in that report was "in whole or in part."

The President here resumed the chair.

MR. BROOKS—The gentleman misunderstood me. I said this amendment was in line with the action taken by the Committee in that report.

MR. MACDONALD—Yes, sir. Now I would ask the Convention to pay particular attention to what I say—

MR. O'NEAL (Lauderdale)—Do you offer that as an amendment?

MR. MACDONALD—No, sir; I offer it in the way it was offered before as an amendment to the report of the Committee on Taxation, and the order of the Convention was that it should be considered at this time. I am speaking of the proposition that was ordered by the Convention on the fifth day of July to be taken up and considered along with the report of the Committee on Municipal Corporations and I called the attention of the then occupant of the Chair this morning to the fact——

MR. O'NEAL (Lauderdale)—I rise to a point of order. If the gentleman is correct in his statement as to the previous order of this Convention, it occurs to me that the amendment which he proposes will come up after we complete the consideration of this section. Is it to be taken first or last, or when? It strikes me we cannot take it up now.

MR. MACDONALD—I will call the attention of the Chair to the fact that the occupant of the Chair this morning, at my instance, stated to me that it would be taken up at that point of the report of this Committee where it was germane.

THE PRESIDENT—The amendment which the gentleman from Montgomery offers purports to amend the article reported by the Committee on Taxation. In its present form, it would not be germane to the report of the Committee on Municipal Corporations.

MR. MACDONALD—I called the Chair's attention to the fact that the order of this Convention was that it should be considered upon the consideration of this report. You will see it upon the back, and the journal bears me out and the printed copies bear me out.

THE PRESIDENT—The order is that it be laid upon the table and ordered printed, to be considered when the report of the Committee on Municipal Corporations is considered?

MR. MACDONALD—And I called it up at the time of the consideration of the report on municipal corporations.

THE PRESIDENT—If it was offered for consideration now by the gentleman, no matter when it was offered, if it purports to be an amendment to the Article on Taxation, it would not be in

order as an amendment to the report of the Committee on Municipal Corporations.

MR. MACDONALD—I will offer it then, as an amendment to this particular section, as an amendment to the amendment offered by Mr. Brooks.

THE PRESIDENT — The gentleman might offer a new amendment, but the present amendment, in its present shape would not be in order.

MR. MACDONALD—May I inquire of the Chair when it would be in order?

THE PRESIDENT — The Convention might postpone further consideration of any proposition, but when it came up for consideration, it would be a question of whether it is in order, and whether it is germane or relevant.

MR. MACDONALD—I merely make the inquiry in view of the formal order of this Convention setting this matter down as a special order to be heard upon the report of the Committee on Municipal Corporations.

THE PRESIDENT—It is perfectly proper that the gentleman should call it up for consideration now, and when he calls it up for consideration, the Chair would be forced to rule that it is not proper and germane to anything the report of the Committee on Municipal Corporations has brought to the attention of the house, because it purports to be an amendment to the Article on Taxation.

MR. MACDONALD—Then I offer it as an amendment to the amendment proposed by the gentleman from Mobile.

MR. O'NEAL (Lauderdale)—I make the point that it is not germane.

MR. WEAKLEY—I am authorized on the part of the Committee to accept the amendment offered by the gentleman from Mobile and I ask unanimous consent to accept it.

The consent was given.

THE PRESIDENT—The Chair will recognize the gentleman from Montgomery to offer any amendment he desires to this section.

MR. MACDONALD—Now I offer that amendment which has just been sent up an as amendment to that section.

MR. WEAKLEY—I make the point of order that the amendment is not germane to any proposition before the house.

MR. MACDONALD—I call the attention of the Chair to the fact that the latter part of this section says: "This section shall not apply to the renewal, refunding or re-issuance 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 street and sidewalk improvements or sanitary or storm sewers, the cost of which is to be assessed against the property abutting said improvements or drained by such sanitary or storm water sewers."

THE PRESIDENT—The ruling of the Chair was based more on the form in which the gentleman placed his amendment than on its substance. Upon its face it purports to be an amendment to the article on Taxation.

MR. MACDONALD—An error into which I was led by the Convention itself at the time it was presented.

MR. BOONE—I rise to a point of order that the amendment was laid upon the table and cannot be considered unless it is taken from the table.

THE PRESIDENT—It seems to the Chair that it appears from the endorsement on the back that the ordinance was tabled and could not be considered until taken from the table.

MR. MACDONALD—Then I move to take that particular ordinance from the table.

MR. O'NEAL (Lauderdale)—It is offered for what purpose?

MR. MACDONALD—For consideration now.

MR. COLEMAN (Greene)—Why not make the amendment germane by leaving out the caption and move to amend this section here?

MR. MACDONALD—I offer this amendment to this section.

The amendment was read as follows:

Amendment to Section 7:

"Amend by adding thereto the following:

"No city, town or other municipality shall make any assessment for the cost of sidewalk of street paving, or for the cost of the construction of any sewers, against property abutting on such street or sidewalk so paved, or drained by such sewers, in excess of the actual increased value of such property by reason of such sidewalk or street paving, or by the construction of such sewers. And the burden of proving such increased value of said property shall be on the city, town or other municipality in all proceedings

brought to enforce the collection of such assessments. And such assessments shall in no case exceed 5 per cent. of the assessed valuation of the said property.

MR. BOONE—I rise to a point of order. This section of the report of the Committee on Municipal Corporations deals exclusively with the subject of the issuance of bonds by cities, towns and villages in this State, and, dealing with that, there is nothing in that particular section about sidewalks and improvements except in the way of issuing bonds for the purpose. Now this amendment deals with the limitation upon the power of the city to make an assessment on abutting property owners and shifts the burden of proof upon the city, of proving the increased value of the property of the owner, hence I claim that it is not germane to the section under consideration.

THE PRESIDENT—The authorities seem uniform that the question of the consistency or inconsistency of amendments is a question for the Convention to decide, and where an amendment is offered which involves a question that has been previously passed upon by the Convention, the authorities seem to be uniform that that question cannot be again renewed except through the medium of a motion to reconsider, but the mere fact that an amendment may not be fully consistent or seem altogether compatible with the matter before the Convention, the authorities all seem to hold that it is not a question for the Chair to settle, but it is a question for the Convention to consider, and they can either accept or reject the proposition as they may think it consistent or inconsistent. The Chair will overrule the point of order.

MR. MACDONALD—I am glad that we have been relieved from a lot of parliamentary snarls about which I know nothing at all, and I have lived too long to undertake to learn them.

As I say, it makes no difference to me or to any one interested in the amendment suggested by me at what place or at what time in the Constitution or the consideration of the articles this proposition comes in, because justice, honesty and right should be welcome wherever it comes and in whatever place it comes.

Gentlemen of the Convention, when the report of the Committee on Taxation was before the Convention, a proposition was made, and to some extent at least, adopted by this Convention which indirectly, if not directly, vested or authorized the vesting in municipal corporations of the power to assess against abutting property owners the entire cost of the paving of streets and sidewalks and the construction of sanitary sewers. I called this Convention to observe the danger of the proposed power to municipalities. I cited to them (and there are gentlemen familiar with the facts of the case cited to them) the hardships to which citizens of various towns had been subjected by reason of the exer-

cise of the power vested, or supposed to be vested, in municipalities to assess against abutting property owners either the whole or a part of the cost of such improvements. I was met at that time, mainly from the great city of Birmingham, with the remarkable statement that the citizens of that great town, unlike those who reside in any other portion of the State of Alabama or in the world for that matter, clamored at the doors of the City Council or Board of Aldermen of the city of Birmingham for permission to be taxed. It was said they desired to pay the cost, and the whole cost, of sewers and the pavement of their streets and sidewalks. I said then, and I say now, that Birmingham was a paradox, but my views, and I dare say the views of the representatives of Jefferson, have changed somewhat on that subject as to the actual state of facts that exist in Birmingham. There has been presented to this Convention, since the time when the Committee on Taxation made its report, two long petitions signed by the citizens of Birmingham and the owners of a large amount of realty there, one petition stating that the signers owned a million and a half dollars of real estate, protesting against the granting of any such unlimited power. There was another petition signed by certain men protesting against the unlimited power of taxation or increase of debt by municipalities, and it is a singular thing, Mr. President and gentlemen of this Convention, that one of the main cases in the Supreme Court reports of this State wherein the validity of such assessments was brought in question, came from the city of Birmingham. I allude to the case of Klein against the city of Birmingham. Now the question, though outside of all those matters is the justice and equity of the matter. I can state to this Convention without fear of successful contradiction, that under the rule now obtaining in the city of Montgomery, where one-half of the costs of paving the streets in some instances, and where the entire amount of laying the sidewalks, is charged against the abutting property owner, that it has resulted in ruin to many citizens; that men have been deprived of their homes, and if they have not been deprived of their homes, they have had them saddled with debts they can never meet, and all for what purpose? So that other people in the city of Montgomery or in other municipalities similarly situated in this State might have good streets to walk on, and the municipal officers might be able to brag to succeeding generations of what they had done.

I stated that absolutely the only just basis for any such taxation as this, and I will challenge any honest man from an honest mind to deny it, is that the assessment against the abutting property owner should be limited to the actual benefits his property derives from such assessment, and that all above that was confiscation of the property of a private individual for the benefit of the public without any just compensation to him whatever. I said that that was the rule approved of in the text books and that was

the rule approved of by the Supreme Court of Alabama in the case I just alluded to of Klein against the city of Birmingham, because the decision in that case upheld the validity of assessments which were questioned there on the sole ground that the charter of the city of Birmingham provided that such assessments should be based upon benefits to the property owners.

MR. BOONE — What did the court say in the case from Montgomery of Birdsong against the City Council?

MR. MACDONALD—They said exactly the same thing. I happened to be of counsel in that case, and I know what they said. They said that the charter of Montgomery, in that it predicated such assessments upon the benefit to property owners was not susceptible to the attack I made upon it, and they based their whole decision upon the use of the word "benefited" in that section of the charter to which they referred, and an inspection of the case will show I am entirely correct.

MR. GRAHAM (Montgomery)—I understood the gentleman to say a few moments ago that people had been ruined.

MR. MACDONALD—Yes, sir.

MR. GRAHAM—Name a solitary one whose property has been confiscated.

MR. MACDONALD—I will give the gentleman the information privately, but before this Convention I decline to expose the poverty and ruin of any man.

Now I say that is the rule established by the Supreme Court of the United States. That is the rule laid down in Dillon on corporations, and that is the only rule that addresses itself to the sense of justice of any man. Because people want fine streets, "tasselated pavements," as my colleague from Montgomery, Mr. Sanford, said; because they want sidewalks that suit the eye of the aesthetic, why should a citizen be compelled to contribute more than his share of the public burden? Where is the difference? When you say to a man that you have got to pay something more than you receive benefit for; that I am going to take out of your pocket money for which you have received no consideration whatever, what is the difference between that and absolute robbery under the forms of law?

Now, what do I ask in the amendment I suggest? Do I ask anything more than common justice? I had hoped that this amendment would have been received by those who are on the other side of the question, and I was led by certain remarks made to suppose it would be received, but it seems it is going to be resisted now, and I appeal to every man in this Convention to stand by me in a matter, the absolute justice of which, in my opinion,

as an abstract matter, will not be denied upon the floor of the Convention. Sophistry may intervene, eloquence may set its charms upon the Convention, but let every man consider in his own mind as to whether any law, organic or statutory which authorizes the fixing of a liability for the payment of money by any citizen, without any consideration whatever, has any support in morality or justice, I might read you authority after authority, and refer you to case after case, laying down the same proposition, and they are open for the inspection, and possibly familiar to the knowledge, of every lawyer. I appeal to you, gentlemen of this Convention, who do not live in cities, to consider this question. With just as much justice could a county that lays out a road and constructs it through your land assess the entire cost of such an improvement aginst your plantation as the municipalitias of this State could assess the entire cost or half the cost of a street in front of your house. There would not be a particle of difference in the principle. Now then they say that these suggestions, if carried into effect, may result in injury to the municipalities and prevent their larger progress and prosperity. Sometimes, Mr. President, one imagines that the car of progress and prosperity is the car of Jugernaut that crushes to death its worshippers and those who are in front of it.

MR. BOONE—Mr. President and gentlemen of the Convention, this Section which purports to limit the power to improve streets in the towns and cities of Alabama would be more aptly worder, in my judgment, if it expressed the idea that no further pavements or sewers should be constructed in any city, town or village in Alabama. I apprehend that a large number of gentlemen of this Convention are familiar with the principle as announced in many of the decisions of the Supreme Court of the United States and of our own Supreme Court, that the benefits which have accrued to the property by the improvement must be taken into consideration. Now I challenge the gentleman to show to me a single law, either in the Constitution or in the statutes of any State, that puts the burden of proof of showing the increase of value to the property upon the cities.

Let us look for a moment at how you go to meet this burden of proof. Pavements have been laid down in Montgomery, and we Alabamians hold with pride that it is one of the best cities in point of public improvement in the whole State, and yet how could the city meet the burden of proof that a certain building on Dexter Avenue was benefited in dollars and cents up to a certain amount? It is one of the most difficult things in the world to do. It is one of the most difficult things to say just how much in actual value that property has been benefited by the laying of the pavement.

MR. SANFORD (Montgomery)—How would you assess it, then, except by the benefit received?

MR. BOONE—I would assess it according to the Barrett law in Indiana, which has stood the test of the Supreme Court of the United States, and which is the only way it can be done. That provides that before an improvement shall be made there shall be a hearing given the abutting property owner and that he shall have the right to be heard on the question of benefits by the City Council; that whenever the improvements were made, after hearing all the evidence on the subject, a ruling or decision as to what the benefits were that had thereby accrued should be made, and that the property owner should be guaranteed the right to appeal and take that question before a jury as to whether it was benefited in the amount assessed or not, and that is the only way, in my judgment, in which it can be done constitutionally, so as to give to the abutting proprietor his day in court, and I would be opposed to giving it in any other way.

MR. SANFORD (Montgomery)—I will ask you if that has not been done in many of the towns in Alabama which have assessed large sums against their property, in some instances amounting to confiscation?

MR. BOONE—If that is so, I would not be in favor of doing anything that would prohibit any man from having his day in court on any question, but I am opposed to this amendment putting the burden of proof of such increased value upon the city or town. I ask any gentleman in this Convention how you would go to prove the actual increased value that had accrued to that place? At most it is speculative. At most it is problematical. Isn't it rather as the Supreme Court of the United States said in the case of Norwood against Baker, head note one, "The principle underlying special assessments upon private property to meet the cost of public improvements is that the property upon which they are imposed is peculiarly benefited, and that, therefore, the owners do not, in fact, pay anything in excess of what they receive by reason of such improvement." If you look at that case and look further at the case of Williams against the District of Columbia, you will find that that matter has been pressed upon the courts of this country, and there is not a text writer and not a decision to be found, (and I challenge any gentleman to show it) in America which lays down any rule by which we can measure accurately in dollars and cents the benefits derived by the owner of abutting property on account of the putting down of sidewalks or streets or pavements. This is a matter, it seems to me, of great importance.

It further limits the cost to 5 per cent. It may be that a man owns a vacant lot. In my city there are unfortunately many such lots on the principal streets, where the owners keep them year

after year and won't build on them and won't sell them. They stop progress, and a man has simply a vacant lot there. He keeps it there, and you cannot make the cost on that vacant lot more than 5 per cent. under this amendment, consequently there would be a break in your pavement, and a man next door that pays on the same space, the same front footage on the avenue, pays his 5 per cent. on say $10,000, while the man who owns the vacant lot adjoining, pays 5 per cent. on the value of the vacant lot.

MR. SANFORD (Montgomery)—It is the difference in the value of the property.

MR. BOONE—But he arbitrarily stands in the way of the Jugernaut the gentleman referred to. You have got to keep up with the procession if you come into cities and towns, and we ought to have progress. We have not, and I say it with regret, a first-class city, such as is known in general parlance in this country, within the State of Alabama. We hope to have them in years to come, but I say that, if this amendment is adopted, as I say in the opening, you had better name it an amendment to prevent the development of cities and towns in this State.

MR. COLEMAN (Greene)—I offer an amendment.

The amendment was read as follows:

"Amend the amendment by striking out so much of the amendment as places the burden of proof upon the municipality and so much of it as limits the assessment to five per cent."

THE PRESIDENT—The question will be upon the amendment to the amendment by the gentleman from Greene.

MR. MACDONALD—I ask unanimous consent to accept the amendment.

The consent was given.

MR. COLEMAN—Please read it as amended.

The amendment as amended was read as follows:

"No city, town or other municipality shall make any assessment for the cost of sidewalk or street paving, or for the cost of the construction of any sewers, against property abutting on such street or sidewalks so paved, or drained by such sewers, in excess of the actual increased value of such property by reason of such sidewalk or street paving, or by the construction of such sewers."

MR. BOONE—If the delegate from Greene would substitute the words "actual benefits" for "actual values"——

MR. COLEMAN—I will accept that. I hope the gentleman will accept the amendment.

MR. DENT—I move that the Convention take a recess of ten minutes in order that the Committee may be able to get together.

MR. O'NEAL—I move that the section be recommitted to the Committee. It is an important matter and should be properly considered. I move that the section be referred to the Committee to report in the morning.

The motion was carried.

Section 8 was read as follows:

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 seven percentum 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.

MR. WEAKLEY (Lauderdale)—I desire to state that Section 8 of this report was considered by the Convention at the time the report of the Committee on Taxation, and a substitute to Section 8 was adopted by this Convention. I, therefore, ask unanimous desire to withdraw Section 8 from the consideration of the Convention.

There being no objection, it was so ordered.

THE PRESIDENT—The Secretary will read Section 9.

MR. LONG (Walker)—Before the section is read, I ask unanimous consent to introduce a short resolution.

The Secretary read the resolution as follows:

Whereas, The delegates to this Convention appreciate the consideration of the Montgomery Street Railway Company in not making said delegates wait at the Capitol steps for a car more than fifteen or twenty minutes in the hot sun every day when the Convention adjourns at 1 o'clock, and seldom less than fifteen minutes at Court Square for a transfer car; and, (Laughter).

Whereas, The sagacious business management of the said Street Railway Company, in catering to the additional passenger traffic caused by the daily sessions of the Convention, with their modern, noiseless, roomy, high-class cars, is deserving of attention; and,

Whereas, It adds to the pleasure of a ride down Dexter Avenue when the thermometer is 104, to have seventeen or twenty-five delegates standing in the aisle, and two or three of more than average weight occupying each narrow seat, (Laughter.)

Therefore, be it resolved, That the thanks of this Convention be not tendered to the Montgomery Street Railway Company for their great courtesy, consideration and efficiency in hauling delegates and visitors to the Convention in modern and elegantly furnished cars who have always paid full fare.

Referred to Committee on Incidental Expenses. (Laughter).

The Secretary read Section 9 as follows:

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.

MR. KIRK (Colbert)—I have an amendment.

The Secretary read the amendment as follows: "Amend Section 9 by adding thereto the following: 'Provided, the provisions of this section shall not apply to the cities of Sheffield and Tuscumbia.'"

MR. KIRK—I anticipate the Committee will accept that as an amendment. If they do, I do not care to argue it. If they do not accept it——

MR. WEAKLEY—I have no particular desire to interfere with the local conditions of the cities of Tuscumbia and Sheffield. At the same time, I can see no reason why every city in the State should be limited in its capacity to create debts, and those places be exempt. I think there should be same limitation placed upon those two cities as is placed upon others. Now, the section which was adopted by this Convention permitted certain cities within the State having a population of less than 6,000 to contract debts to the amount of 5 per cent of its assessed valuation, with the permission to increase that. I say certain cities were allowed to incur debts to the extent of——

THE PRESIDENT—Does the gentleman from Colbert yield to the gentleman from Lauderdale?

MR. KIRK—No, sir; I just asked if the Committee would accept it, and the Committee declines to accept it. I will ask the Secretary to read this petition as a part of my remarks.

The petition was read as follows:

Sheffield, Ala., July 8th, 1901.

To the Hon. James T. Kirk, Montgomery, Ala.:

Dear Sir—At a special meeting of the City Council of Sheffield, held this day, for the purpose of taking some action with regard to the limitation to be placed on the debt creating power of municipalities, the following was unanimously adopted:

"The City Council of Sheffield, views with great apprehension the action of the Constitutional Convention in limiting the amount of indebtedness that the municipality can make, and it asks its representatives in said Convention Hon. James T. Kirk and Hon. A. H. Carmichael, to do their utmost to relieve it from the burden of these provisions.

"The debt of the city at present, is about fifteen (15) per cent of its assessed value and the character of its growth will necessitate its making the debt larger, or it will be smothered in its infancy. With the limitations provided for in the proposed article, the debt of the city will be more likely to grow from the defaulted interest; the real danger will be that these provisions, though of some good effect elsewhere, will result in death to our municipal life.

"In municipalities like this, unlike those of slower growth, the ordinary rules do not and cannot be made to apply. The work ordinarily done gradually must here be done at once. Its public duties must be performed, or if not, the law will place on it an involuntary indebtedness against which the provisions of the Constitution cannot protect it.

"We ask that the debt-making power of Sheffield be limited only by its borrowing capacity, believing that with the limitation provided for on the power of taxation, there is no danger of its unduly mortgaging its future.

Your very obediently,

J. R. Coleman,

Clerk of City Council, Sheffield, Ala."

MR. KIRK—Mr. President and gentlemen of the Convention, from the reading of the petition you will see that the city of Sheffield had their attention directed more directly to Section 8, which has been adopted, and was adopted at the time the report of the Committee on Taxation was being considered. That stipulated a

limitation upon the power of cities to create a debt, which I believe amounts to 7 per cent or 8 per cent. You will see from that petition from the city of Sheffield, that that city has already an indebtedness equal to twice the limitation that has been put upon cities by that provision in the new Constitution. The result of it is that Sheffield would not under that eighth clause be permitted to increase her indebtedness until a portion of it, or all of it had been paid. Now the condition of Sheffield is this: It is unable to pay the interest on its bonded indebtedness. That debt will necessarily be increased by its failure to pay the interest. In addition to that she has undertaken to build a city hall, and a large school building, both of which are standing there today, and have been standing there for several years, incomplete. Those buildings with perhaps thirty or forty thousand dollars invested in them are worth absolutely nothing to her, and if she is not permitted to increase her indebtedness or to make another debt, the whole forty or fifty thousand dollars on this debt on these buildings are worth absolutely nothing to her, and she is unable to pay the interest on the debt. Now this petition was submitted to the Committee on Taxation, and they made an additional report to the first report made by them in which they advised that Sheffield and Tuscumbia be exempt from the provision of this Section 8, allowing them as requested by the city to create as much indebtedness as it can, the tax rate being the only limit placed upon that city. Now if this provision is made to apply to the cities of Tuscumbia and Sheffield, our hands are absolutely tied. We cannot do anything at all, but to sit there and rot. That is the result of it. If a provision of this kind, gentlemen, had been in the law before the cities had created this indebtedness then, perhaps, it would be a wise thing, but with that indebtedness and unable to take a step further, you tie the hands of those two towns absolutely. They will not be able to do anything for themselves, or for their creditors. Gentlemen, you have frequently seen men who were very much in debt, and by incurring an additional indebtedness they were able to accumulate something and pay the entire debt. That is the only salvation in the world for these two places, that is that they be turned loose and be permitted to manage their own affairs as best they can. They are already strangulated, already have a debt twice the limit you propose to put upon them, and it is absolutely impossible for them to pay it, and if you tie their hands, so they cannot make one step forward, what advantage is it to them, and what advantage is it to their creditors. Their creditors may say "Why, we will hold your bonds, and force you to pay." But, gentlemen, I do not believe this Convention proposes to make a collection agency of itself. There was no limitation upon the power of these towns to create a debt when this debt was created. The creditors knew at the time the debt was created that there was a limitation upon the power of taxation,

and it can hurt no one. No other city is hurt by their being excluded from the provisions of this section, and I do not believe this Convention under the circumstances will attempt to hold us down by the provisions of those two sections.

MR. WEAKLEY — As I started out to say, I think there should be some limitation imposed upon the debt creating power of all municipalities. I do not see why any town in the State should be exempted. This Convention has seen fit to put a limitation upon the power of municipalities having a population of less than 6,000, on 5 per cent of the assessed valuation of all the property with the privilege of increasing that to 8 per cent for the construction of electric lights, waterworks and sewers. All cities above 6,000 population and certain other named cities were allowed the privilege of creating a debt to the extent of 7 per cent of its assessed valuation, together with the additional debt for the purpose of constructing sewers, and water works and some other utilities. I think that the cities of Tuscumbia and Sheffield come under either one of these two limitations. I do not think we should adopt three different methods of dealing with the cities of the State upon this question of debt. If the town has gone too far to be embraced in the first limit, which I understand to be the case, then let it come in as other towns of the State which have been named, Gadsden, Woodlawn, Ensley and others, and insert the names of these two cities in this second class of cities. That is the only suggestion I have to make.

MR. DENT—I would like to ask the Chairman of the Committee, to call his attention to what seems to me to be an inconsistency.

I understand you have withdrawn Section 8. Section 9 says, "No city, town or village whose indebtedness exceeds the limitations herein imposed."

MR. WEAKLEY—I have an amendment to offer when the pending amendment is disposed of which will meet the views.

MR. CARMICHAEL (Colbert)—I want to say, Mr. President, that to most members of the Convention this section may be of little interest, but to the cities of Sheffield and Tuscumbia, it is of supreme importance. This being true, I cannot see what objection the members of this Convention would have to the adoption of that amendment. All that we ask is to be allowed to work out our own salvation with fear and trembling. A man in that condition, involved and indebted as we are, must necessarily have some difficulty in contracting further indebtedness, and yet we ought to be allowed an opportunity. Most of the members of this Convention know that Sheffield is what is known as a boom town. These towns do not operate like other towns. They contract an indebtedness, a large indebtedness, with the hope and expecta-

tion that their population will increase; that their wealth will increase, and that they will be enabled to pay the indebtedness at maturity. In this way the bonded indebtedness of Sheffield was contracted during the boom days. Both of these towns, Tuscumbia and Sheffield, have acts which have been passed authorizing the founding of their indebtedness at a lower rate of interest. There are certain improvements they must make, certain debts they must contract, necessary for municipal life. Now, under this provision here of Section 9, as I take it, the cities of Tuscumbia and Sheffield will be unable to contract a single dollar of indebtedness until their indebtedness shall be reduced within the limitation provided in this section. When will that be? Sheffield has already an indebtedness of 15 per cent of the assessed valuation of its property. Tuscumbia probably has an indebtedness of 10 per cent of the assessed valuation of its property, and it is a matter of impossibility at the present time, unless those towns grow, it is a matter of impossibility for them to reduce their indebtedness within the limitations which these gentlemen propose to put upon them. Now, I believe this section ought not to be in here at all.

MR. CARMICHAEL—Yes, sir; certainly.

MR. SANFORD—You say you wish the privilege of going further into debt in order to pay out. If a man is sunk to his armpits in quicksand, how can he get out of the quagmire by going over his head?

MR. CARMICHAEL—When you find a man sunk in the quicksand to his armpits, you don't hit him over the head and kill him for that reason. (Applause). Now, I say that there bondholders ought to stand on the same footing as other creditors.

I do not know, and am unable to tell, from whence these gentlemen have gotten their idea. I received a communication from some bondholders' association at Baltimore, and it suggested a plan of this sort. I do not know whether this section has been dictated by the bondholders of this State or not, but I insist that a bondholder ought to stand on the same footing as any other creditor. The doctrine of caveat et emptor ought to apply to them the same as to others. Why should we come in here and say that a municipality shall act on a different principle from that of an individual? An individual is allowed to go out and contract as much indebtness as he can contract.

MR. CUNNINGHAM—If there is a mortgage on a piece of property for five thousand dollars, and then there is another mortgage placed on it for five thousand, that is a good second mortgage, is it not?

MR. CARMICHAEL—Yes, sir.

MR. CUNNINGHAM — And cannot be collected until the first is paid?

MR. CARMICHAEL—Yes, sir.

MR. CUNNINGHAM—Then in the issue of bonds is this applicable there? Now, as to all the bonds of the first issue, covering the entire property of the city, the bondholders there would be upon a level, but if there were another issue——

MR. CARMICHAEL—The bonds cannot be issued except by a vote of the people.

MR. CUNNINGHAM—But this point is this: You said that a bondholder should have the same rule applied to them as to individuals. Now, the question is has a bondholder the same rule? The man who takes a first mortgage has the first lick at the property. A man who takes a second mortgage has the second lick at the property, and the third man the third lick, but if you issue three series of bonds, don't all come in alike?

MR. CARMICHAEL—But don't the second bondholders understand that when they buy these bonds?

MR. CUNNINGHAM—I suppose they do; yes, sir.

MR. CARMICHAEL—The second-class bondholders understand that, and, after all, as to whether interest on the bonded indebtedness is ever paid, depends entirely upon the honesty and integrity of the municipality. Now, we do not propose, and it is not supposed that the cities of Sheffield and Tuscumbia shall go into the market and try to find a sucker, but we say this ought not to be placed upon them. This burden ought not to be placed upon us. It will be a matter of time, and a long time, before we are able to fund out indebtedness and contract further indebtedness, but this proposes to last forever, or for a number of years. This proposition is to be placed in the Constitution, which says we cannot contract any further indebtedness until our indebtedness is reduced below the limitation placed upon it. Now, gentlemen of the Convention, as I said before, this is a serious matter for these two cities. The people up there are very much interested in it. We, of course, would not feel very much interest in the ratification of this Constitution if it meant our death. I beg the members of this Convention to adopt this amendment. It can do no harm. It will do us good. In the name of our people, we ask it.

MR. COLEMAN — The Convention has been very liberal with towns and cities in excepting them from the operation of various sections in this Constitution because of their conditions. We find two cities making application upon the same ground. I cannnot see any harm that will result to the State in allowing those cities as they say to make the best of their conditions, and

I hope that the Convention will accept or adopt the amendment offered.

MR. BOONE—The committee desires this amendment to be put in for the purpose of harmonizing this section with what the Constitution has done in other articles already adopted.

The Secretary read the following amendment:

"Amend Section 9 in the second line after the word 'county' by inserting between that word and the word 'until' the following 'except as otherwise provided in this Constitution.'"

Mr. Weatherly took the chair.

THE PRESIDENT PRO TEM. — The question is on the adoption of the amendment offered by the gentleman from Mobile.

Upon a vote being taken the amendment was adopted.

MR. KIRK—Now I move the adoption of the amendment I offered.

Upon a vote being taken the amendment was adopted.

MR. BOONE—I move the adoption of the section as amended.

MR. WEAKLEY—Mr. President, when this report was originally drafted Section 8 was a part of the report of the Committee on Municipal Corporations. This section has been withdrawn and the report referring to the debt limit will be included in the report of the Committee on Taxation. Section 9 reads that "no city, town or village, etc," exceeds the limit herein imposed." We desire to offer an amendment to strike out the word "herein" and insert after the word "impose," line two, the words "by this Constitution." I ask unanimous consent to insert that amendment.

The Secretary read the section as amended.

There being no objection the amendment was ordered.

MR. BOONE—I offer this amendment to be added at the end of the section.

The Secretary read the amendment as follows:

Amend Section 9 by adding thereto the following: "Or from issuing bonds already authorized by law."

MR. WEAKLEY—I will state that bonds "already authorized by law" to be issued were especially excepted from the operation of the debt limit as heretofore adopted by this Constitution, and it was thought best to add that clause to this section. I ask unanimous consent for the amendment to be allowed.

THE PRESIDENT PRO TEM.—The chairman of the committee asks unanimous consent that the amendment just read be adopted. Unless there is objection the section will be amended as stated.

There being no objection the amendment was ordered.

MR. BOONE — I now move the adoption of Section 9 as amended.

The Secretary read the section as amended as follows:

"No city, town or village, whose present indebtedness exceeds the limitations imposed by this Constitution shall be allowed to become indebted in any further amount, except as otherwise provided in this Constitution, until such indebtedness shall be reduced within such limit; provided, however, that nothing contained shall prevent any municipality from issuing bonds in renewal, or for refunding obligations already existing, or from issuing bonds already authorized by law. Provided, the provisions of this section shall not apply to the cities of Sheffield and Tuscumbia."

THE PRESIDENT PRO TEM. — The question is on the section as amended.

Upon a vote being taken the section as amended was adopted.

MR. SAMFORD—I move that we adjourn.

Upon a vote being taken there were 50 ayes and 29 noes, and thereupon the Convention adjourned.

In proceedings of 58th day, second page, third column, the remarks of Mr. Morgan M. Smith of Autauga are attributed to "Mr. Smith (Autauga)." Inasmuch as Autauga county is represented by two delegates by the sir-name of Smith—Messrs Morgan M. Smith and Mac. A. Smith should have appeared to designate the delegate who addressed the Convention.

SIXTY-SIXTH DAY

MONTGOMERY, ALA.,

Thursday, Aug. 8, 1901.

The Convention met pursuant to adjournment, was called to order by the President, and opened with prayer by Rev. Mr. Andrews, as follows:

O. Lord, our Heavenly Father, we thank Thee for another night's refreshing sleep. We thank thee that we are privileged to see the light of another day and to stand upon this, the threshold of a new day, and look out upon its possibilities. As we look, Lord, upon what is before us today, we tremble in our own weakness. We realize how little qualified we are for the discharge of the duties before us, and we pause ere we begin our work, to pray Thy blessings upon us. We beseech Thy help in all that we have to do, and to let Thy strength supply our weakness, and let us feel that we are guided by a higher power, and sustained by a divine hand. We pray Thee, O, Father, that Thou wouldst bless this Convention; help the presiding officer in the work which he has to do. Help each one of the members; may each one discharge his duty in the fear of God, knowing that he must answer for everything he does, both to his people and to his God; and may the Lord bless the Convention and bless its work. May it redound to the good of the people and to the glory of our triune God. We pray for our people; we pray that God may smile in prosperity upon our beloved State, so that all of our people, in every walk of life, may prosper and may feel the everlasting arms about them, and may the Lord be with them all. Bless those in authority over us. Give them wisdom, our Father, and give them fairness and justice, and may the Lord direct all of our people. Direct each one of us, until, through Thy mercy, we have finished the work here below, and ended the journey we have begun, and then give us, we pray Thee, death in Thy faith, and an abundant entrance into the home of the righteous and good, we pray Thee, through the riches and grace of Christ, our Redeemer, Amen.

On a call of the roll 82 delegates responded to their names.

MR. SANFORD (Montgomery)—I rise to an inquiry of parliamentary information: Can a motion to reconsider a section that was defeated yesterday be made now to be considered tomorrow?

THE PRESIDENT—Under the rules it can be made today, and it can only be considered tomorrow by the action of the Convention. The Convention might set it down for a hearing, might make it a special order for some future day.

MR. SANFORD—I move then that Section 4 of the report of the Committee on Municipal Corporations be reconsidered and that next Wednesday be set apart for its consideration.

THE PRESIDENT—The gentleman will allow the Chair to suggest to him that this motion would be proper after the approval of the journal. The journal has not yet been approved.

Leaves of absence were granted as follows—Indefinite leave to Mr. Foster on account of sickness; indefinite leave to Mr. Tayloe on account of sickness; indefinite leave to Mr. Stewart on account

of sickness; leave to Mr. Fain, Assistant Doorkeeper for Friday and Saturday.

MR. CRAIG—I notice some, either clerical or typographical errors in the remarks I made yesterday as reported. I do not wish to take up the time of the Convention in correcting them here, and I would ask leave of the Convention to put them in writing and hand them to the Clerk if that is proper.

Leave was granted.

MR. SANFORD (Montgomery)—I rose, Mr. President, to make a motion to reconsider Section 4 of the report, but I am informed by the Committee that they have prepared a substitute which will be offered, and therefore, I will not make the motion.

MR. BANKS—I ask unanimous consent to have the body of this petition read.

THE PRESIDENT—Will the gentleman withhold his request until the journal is approved.

Report of the Committee on Journal approving the journal for the sixty-fifth day of the Convention was read and adopted.

The petition presented by Mr. Banks was read as follows:

To the Constitutional Convention, Montgomery, Ala.:

We the undersigned citizens of the State of Alabama do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective self-operative provision to that end.

Seale, Ala., July 23, 1901.

O. T. Geckeler, teacher; W. A. Parham, teacher; Ben Jennings, merchant; James M. Wright, planter; C. H. Dudley, farmer; H. B. Perry, merchant; W. C. Henry, merchant; J. L. Henry, merchant; G. A. Ferrell, farmer; H. A. Ferrell, teacher; R. H. Holland, city clerk; J. A. Mickerstaff, farmer; I. C. Evans, and many others.

MR. SANDERS—In the report of the proceedings of yesterday, I am reported as not voting on ordinance 409. I was present and voted for the adoption of that ordinance.

THE PRESIDENT—The journal has it correct. It must be a mistake in the published report.

MR. HANDLEY—I ask unanimous consent to have a petition read.

The consent was given.

The petition was read as follows:

Petition No. — by Mr. Handley.

To the Constitutional Convention, Montgomery, Ala.:

We the undersigned citizens of the State of Alabama, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in session in Montgomery to incorporate in the proposed Constitution some effective self-operative provision to that end.

Roanoke, Ala., July 23, 1901.

J. J. Arnett, farmer; O. F. Smith, farmer; O. J. Trent, Jr., farmer; W. H. Knight, physician; C. R. Power, mechanic; F. B. Barrett, farmer; C. E. Lee, mechant; W. A. Waters, butcher; R. R. Ryan, grocery; T. R. Burgess, merchant; G. R. Cheney; T. S. Foster, clerk, and many others.

Referred to Committee on Corporations.

MR. NORWOOD—I ask unanimous consent to have a petition read.

The consent was given.

The petition was read as follows:

Petition by Mr. Norwood:

To the Constitutional Convention, Montgomery, Ala.:

We, the undersigned citizens of the State of Alabama, and county of Lowndes, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective self-operative provision to that end.

Letohatchie, Ala., July 23, 1901.

E. Farrior, merchant; C. W. Powell, M. D.; J. H. Payne, merchant; J. W. Cook, planter; W. M. Garrett, A. R. Garrett, mer-

chant; S. E. May, merchant; R. H. L. Garrett, M. D.; M. W. Sanderson, clerk; R. Farrior, clerk; F. C. Claghorn, planter; W. E. Whitney, planter; C. E. McDonald, planter; S. D. Suggs, clerk, and many others.

Referred to Committee on Corporations.

MR. MALONE—I ask unanimous consent to have a petition read.

The consent was given.

Petition was read as follows:

To the Constitutional Convention, Montgomery, Ala.:

We, the undersigned citizens of the State of Alabama, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective, self-operative provision to that end.

Dothan, July 23, 1901.

Ed Nix, druggist; W. J. Baxley, lawyer,; Orum Nix, drug clerk; W. S. Johnson, dentist; Dothan Hardware Co., per J. N. Cunton, manager, merchants; T. F. McCarty, contractor; H. E. Jordan; R. D. Crawford, attorney; C. Z. Sanders, merchant; A. M. Seay, E. J. Kirkland, farmer; Dothan Variety Works, per J. W. Baughman; and many others.

THE PRESIDENT—The secretary will call the roll of delegates for the introduction of ordinances.

MR. ASHCRAFT—I move a suspension of the rules, and that the all of the roll of delegates and the call of the roll of standing committees be dispensed with this morning.

THE PRESIDENT—The Chair should call attention to a motion to reconsider that was entered by the gentleman from Hale on yesterday.

MR. deGRAFFENREID—We are in the middle of the report of the Committee on Municipal Corporations, and I make that motion, but request the House to let it lie over until the report of the Committee on Municipal Corporations is disposed of, and then I will ask to be allowed to take it up. I don't want to split this report in two by motion. If the House will permit it, I ask unanimous consent for it to be done in that way.

MR. GRAHAM (Talladega)—I object.

MR. deGRAFFENREID—I gave notice on yesterday that I would make the motion. I did not make the motion. Under the rules of the House, I would have a right to do so at any time between now and 1 o'clock. I simply gave notice on yesterday.

MR. deGRAFFENREID—Mr. President, here is what I said in the stenographic report.

THE PRESIDENT—The gentleman from Hale will suspend a moment. The Convention will be governed by the official Journal of the House.

The secretary here read from the Journal as follows:

"Mr. deGraffenreid moved to reconsider the vote by which the article was ordered to a third reading."

MR. deGRAFFENREID—I move that that motion be set down for hearing immediately upon the completion of the article before the Convention.

MR. GRAHAM (Talladega)—I make the point of order that it first requires the motion to suspend the rules before that motion can be entertained.

THE PRESIDENT—In the opinion of the Chair, and the Chair so ruled, when the matter of suffrage was before the Convention, when the Convention has any matter before it, it can proceed with its consideration, or postpone its consideration to such future time as it may desire. In the opinion of the Chair it would not be necessary to suspend the rules.

MR. GRAHAM—If the President will hear me, the rules fix a time for consideration by the Convention, and it cannot be arbitrarily put at another time without the consent of the Convention. This is a motion to reconsider, and it is not subject to the ruling made when the article on suffrage was being considered. Further more, the Chair made that ruling before engrossment, this is a question of reconsideration, and not a question of regular consideration. The rules fix that it shall be considered immediately after the approval of the Journal, on the day succeeding that on which it is moved, but if moved in the succeeding day it shall be forthwith considered. The ruling of the Chair on the other occasion would have no effect on this matter. It would require a suspension of the rules without reference to what the chair would previously have ruled. I refer to rule 27.

THE PRESIDENT—The Chair is familiar with rule 27. In the matter referred to on the report of the Committee on Suffrage, the question was presented. It was a motion to reconsider the vote made by the gentleman from Jefferson relating to the right of foreigners to vote, a motion to reconsider and a motion made to postpone the consideration of the motion to reconsider until after

Section 6 had been concluded. Now, it is true that the rule says that when a motion to reconsider is entered it shall be considered on the next day, and so the rule says that when the consideration of any report from any general committee is made a special order, it shall be taken up and considered when reached. For instance, we take up the report of the Committee on Municipal Corporations just as we take up any report when made a special order, and the rules require that it be taken up and considered, but that does not deny to the Convention the right, if it sees fit, to postpone further consideration. It would paralyze the business of the Convention to take from it the right to dispose of business as it pleased. The point of order is overruled.

MR. GRAHAM—Mr. President—

THE PRESIDENT—The Chair does not care to hear further from the gentleman from Talladega.

MR. GRAHAM—I want to know if this question was raised with the Chair when the matter on suffrage was under consideration?

THE PRESIDENT—No point of order was made, but the Chair gave the matter careful consideration, and the Chair has no doubt on the question that the Convention may postpone consideration of any question before it if it sees fit.

MR. GRAHAM—One other question—will the Chair permit me?

THE PRESIDENT—The Chair does not care to hear any further argument.

MR. GRAHAM—I do not wish to argue it.

THE PRESIDENT—The gentleman is arguing it.

MR. GRAHAM—I beg pardon——

THE PRESIDENT—The Chair does not care to hear any further discussion upon this point. The motion of the gentleman from Hale is that further consideration of this motion to reconsider be postponed until after the consideration of the report on municipal corporations is concluded.

MR. PETTUS—On that, I call for the ayes and noes.

The call for the ayes and noes was sustained.

MR. GRAHAM (Talladega)—I want to understand the motion. To postpone until when?

THE PRESIDENT—Until after the Convention finishes the report on municipal corporations.

MR. GRAHAM—I move to lay the motion to postpone upon the table, and demand the ayes and noes upon that—no, I will withdraw that motion.

MR. HOWZE—I rise to a parliamentary inquiry.

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

MR. HOWZE—I desire to know whether the journal shows that the motion to reconsider was made on yesterday, or whether at this morning hour?

THE PRESIDENT—It was entered on yesterday.

MR. HOWZE—Notice was given yesterday?

THE PRESIDENT—The journal shows the motion was entered. The question is on the motion of the gentleman from Hale to postpone consideration of his motion to reconsider the action of this Convention whereby the article on Judicial Department was ordered to a third reading, until after the report of the Committee on Municipal corporations is concluded.

The roll call resulted as follows:

AYES

Messrs. President,
Barefield,
Browne,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
deGraffenreid,
Eley,
Eyster,
Ferguson,
Glover,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Randolph,
Inge,
Jackson,
Jones, of Wilcox,
Kirkland,
Knight,
Lomax,
Lowe (Jefferson),
Macdonald,
Martin,
Norwood,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Opp,
O'Rear,
Parker (Cullman),
Pearce,
Reese,
Reynolds (Henry),
Rogers (Lowndes),
Samford,
Sanford,
Selheimer,
Smith, Morgan M.,
William (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson (Clarke),
Winn,

TOTAL—49

NOES

Ashcraft,
Banks,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Bulger,
Byars,
Cofer,
Craig,
Davis, of Etowah,
Dent,
Espy,
Fletcher,

Foshee,	Miller (Marengo),	Sanders,
Gilmore,	Miller (Wilcox),	Sloan,
Graham, of Talladega,	Mulkey,	Smith (Mobile),
Hood,	Murphree,	Smith, Mac. A.,
Howze,	Norman,	Sorrell,
Jones, of Hale,	Oates,	Spragins,
Kyle,	Palmer,	Walker,
Lowe (Lawrence),	Pettus,	Watts,
McMillan (Baldwin),	Phillips,	White,
McMillan (Wilcox),	Pitts,	Whiteside,
Malone,	Porter,	
Merrill,	Rogers (Sumter),	

TOTAL—49

ABSENT OR NOT VOTING

Almon,	Henderson,	Moody,
Altman,	Hinson,	Morrisette,
Beavers,	Howell,	NeSmith,
Burnett,	Jenkins,	Pillans,
Case,	Jones, of Bibb,	Renfro,
Cornwall,	Jones, of Montgomery,	Reynolds (Chilton),
Cunningham,	King,	Robinson,
Davis, of DeKalb,	Ledbetter,	Sollie,
Graham, of Montgomery,	Leigh,	Waddell,
Greer, of Perry,	Locklin,	Weatherly,
Heflin, of Chambers,	Long (Butler),	Willet,

PAIRS

AYES	NOES
Long (Walker),	Studdard,
Bartlett,	Burns,
Vaughan,	Hodges,
Proctor,	Chapman,
Foster,	Weakley,
Duke,	Freeman,
Sentell,	Fitts,
Grant,	Parker (Elmore),
Searcy,	Maxwell,
Kirk,	Spears,
Stewart,	Tayloe,
Wilson (Washington),	Thompson,

And the motion to postpone was lost.

MR. GRAHAM (Talladega)—I desire to make a point of order that other business has intervened since the reading of the journal this morning, and that a motion to re-consider is not now in order, because the gentleman himself has put in a motion to postpone, and has thereby lost his right to reconsider. He cannot

take advantage of his own wrong. Several petitions were read, and he made a motion to postpone his motion to reconsider, and he cannot take advantage of his own wrong to come before this Convention.

THE PRESIDENT—Upon what does the gentleman base that motion? On any rule of the Convention?

MR. GRAHAM (Talladega)—Yes sir, it must take place immediately after the approval of the journal. I base it on Rule 27, which I tried to get before the Convention awhile ago. A petition has been read, and the gentleman has made a motion himself: "If made on the same day, shall be considered immediately after the approval of the journal on the day succeeding that on which it is made."

THE PRESIDENT—The Chair ruled on that question sometime since and the ruling of the Chair was that when a motion is entered, say on yesterday, it is, under the rules, a special order, and it is the duty of the Chair to place the matter before the Convention, and it is not a matter which can be waived by any delegate. It is a matter before the Convention to be considered before disposed of. Now then, this special order was brought before the Convention. Thereupon the gentleman from Hale moved to postpone further consideration, and the Convention by a tie vote refused to postpone, and so the question is now before the Convention for consideration.

MR. GRAHAM—I acquiesce cheerfully in the ruling of the Chair until it gets to the point where, after petitions were read, but the gentleman's own motion brought other business between then, and the reconsideration, and he ought not to be allowed to push this matter. I know the Chair's ruling on the point, and petitions were read and I make no point on that, but I make the point that he was lost on his own act and he ought to stay lost.

THE PRESIDENT—It does not seem to the Chair that the gentleman could waive his motion to reconsider by merely submitting a motion to postpone the consideration of that identical motion.

MR. GRAHAM—If the Chair will permit me, I will withdraw the point of order. I now move a reconsideration of the vote whereby the article on judiciary was ordered to a third reading, and upon that (I do not care to discuss it) the purpose is well known, I move the previous question and call for the ayes and noes.

MR. GRAHAM (Talladega)—I desire to make a point of order——

THE PRESIDENT — The gentleman will wait a moment please. Let the Chair state the question. The gentleman from

Hale moves to reconsider the vote whereby the article of the Judicial Department was ordered engrossed and to a third reading, and upon that moves the previous question.

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

MR. GRAHAM (Talladega)—That the report of Municipal Corporations is a special order for this hour, and cannot be displaced except upon a suspension of the rules.

THE PRESIDENT—The Chair would rule that a motion to reconsider under the rules, has precedence of the report of the Committee on Municipal Corporations. The Chair will overrule the point of order.

The question is shall the main question be now put? The main question was ordered.

THE PRESIDENT—The question is upon the motion to reconsider and upon that the ayes and noes are demanded. Is the call sustained.

The call was sustained.

Upon the call of the roll the vote resulted as follows:

AYES

Messrs. President,	Haley,	Opp,
Barefield,	Handley,	O'Rear,
Browne,	Heflin, of Chambers,	Parker (Cullman),
Cardon,	Heflin, of Randolph,	Pearce,
Carmichael, of Colbert,	Howze,	Reese,
Carmichael, of Coffee,	Inge,	Reynolds, of Henry,
Carnathon,	Jackson,	Rogers (Lowndes),
Cobb,	Jones, of Wilcox,	Samford,
Coleman, of Greene,	Kirkland,	Sanford,
Coleman, of Walker,	Knight,	Sheheimer,
deGraffenreid,	Lomax,	Whiteside,
Eley,	Lowe, of Jefferson,	Williams (Barbour),
Eyster,	Macdonald,	Williams (Marengo),
Ferguson,	Martin,	Williams (Elmore),
Glover,	Norwood,	Wilson (Clarke),
Grayson,	O'Neal (Lauderdale),	Winn,
Greer, of Calhoun,	O'Neill, of Jefferson,	

TOTAL—50

NOES

Altman,	Bethune,	Bulger,
Ashcraft,	Blackwell,	Byars,
Banks,	Boone,	Cofer,
Beddow,	Brooks,	Craig,

Cunningham,	Malone,	Porter,
Davis, of Etowah,	McMillan, of Baldwin,	Rogers (Sumter),
Dent,	McMillan (Wilcox),	Sanders,
Espy,	Merrill,	Sloan,
Fletcher,	Miller (Marengo),	Smith (Mobile),
Foshee,	Miller (Wilcox),	Smith, Mac. A.,
Gilmore,	Mulkey,	Smith, Morgan M.,
Graham, of Talladega,	Murphree,	Sorrell,
Hood,	Norman,	Spragins,
Jones, of Bibb,	Palmer,	Walker,
Jones, of Hale,	Pettus,	Watts,
Kyle,	Phillips,	White,
Lowe, of Lawrence,	Pitts,	

TOTAL—50

ABSENT OR NOT VOTING

Almon,	Howell,	NeSmith,
Beavers,	Jenkins,	Pillans,
Burnett,	Jones, of Montgomery,	Renfro,
Case,	King,	Reynolds (Chilton),
Cornwall,	Ledbetter,	Robinson,
Davis, of DeKalb,	Leigh,	Sollie,
Graham, of Montgomery,	Locklin,	Waddell,
Greer, of Perry,	Long, of Butler,	Weatherly,
Henderson,	Moody,	Willet,
Hinson,	Morrisette,	

PAIRS

AYES	NOES
Bartlett,	Burns,
Proctor,	Chapman,
Sentell,	Pitts,
Duke,	Freeman,
Harrison,	Oates,
Grant,	Parker (Elmore),
Searcy,	Maxwell,
Kirk,	Spears,
Long, of Walker,	Studdard,
Vaughan,	Hodges,
Foster,	Weakley,
Stewart,	Tayloe,
Wilson (Washington),	Thompson,

And the motion to reconsider was lost by a vote of 50 ayes and 50 noes. (Loud and prolonged applause).

THE PRESIDENT—The special order for consideration is the report of the Committee on Municipal Corporations.

Mr. Boone sought recognition.

MR. COLEMAN (Greene)—I had the floor.

THE PRESIDENT—The recollection of the Chair is that the gentleman from Greene had the floor and was discussing the question when the Convention recommitted the subject he was discussing to the Committee on Municipal Corporations.

MR. COLEMAN—I was discussing it, and time was allowed then to say whether the amendment would be accepted.

THE PRESIDENT — Thereupon a motion was made and carried to recommit that amendment to your committee.

MR. BOONE—The committee authorizes me to offer this substitute for Section 1 of the report which was tabled yesterday, and I offer it.

The substitute read as follows:

Substitute for Section 1 of the Article on Municipal Corporations so that Section 1 will read as follows:

Municipal Corporations shall have the right to sue and shall be subject to suit in the courts of this State.

MR. BOONE—The committee—

MR. DENT—I rise to a point of inquiry. As I understand it, the Convention tabled Section 1. I do not see how you can very well offer a substitute for a section that is on the table.

THE PRESIDENT—It could not be done. The only proper parliamentary motion would be to take section 1 from the table, with the notice that the gentleman proposes to offer as a substitute this section, if the Convention takes it from the table.

MR. BOONE—Then I make the motion to take Section 1 from the table, and will offer this substitute for it.

A reading of the substitute was called for and the substitute read.

THE PRESIDENT—Now the motion of the gentleman from Mobile is to take from the table Section 1, and he gives notice that if the Convention takes it from the table, he will offer as a substitute the section which has just been read, and which is recommended by the committee.

Upon a vote being taken, a division was called for, and by a vote of 46 ayes and 25 noes, the motion to take Section 1 from the table prevailed.

MR. BOONE—Mr. President, the substitute of the Committee is introduced for the simple purpose of making it plain in the

fundamental law of this State that a municipal corporation can be sued and shall be subject to suit, and why do we think that that is material? Because if you will turn to the Declaration of Rights, you will find a provision in there that the State of Alabama shall never made a defendant in any suit at law or in equity. We think this is material to put in the Constitution because the converse of this proposition appears in the declaration of rights in reference to the State, which may be said to be the parents patria of these, its children, the municipal corporations of the State; they are all subject to the State; the State brought them into being, and the State can abolish them. Now, we think that this does not create any new cause of action. It was in the Constitution before that all corporations should be sued and should be subject to suit in all the courts of this State, and we just simply say that municipal corporations shall have the right to sue, and shall be subject to suits in the courts of this State.

MR. O'NEAL (Lauderdale) — That does not apply to municipal corporations.

MR. BOONE—But sir—

MR. HOOD—Haven't the courts of this State held that the word "corporation," as used in the present Constitution, had not reference to municipal corporation?

MR. BOONE—Yes, sir; and that is the very reason, gentlemen of the Convention that we want to put it in the Constitution, that Municipal Corporations can be sued.

MR. HOOD—One other question. Will not that section authorize the garnishment of the revenues of the city on a judgment?

MR. BOONE—It will not in my opinion.

MR. HOOD—The Supreme Court—

MR. BOONE—I am perfectly familiar with the principle the Supreme Court has announced that a garnishment on judgment was a suit.

MR. HOOD—Now would not this authorize the garnishing of the revenues of the city?

MR. BOONE—I understand. It seems to be the view that gentlemen constituting this committee are the weakest body that has yet appeared before this Convention, but at the same time with great deference to the learning of the gentlemen, I say that nobody who will read this section would content that it confers a right because it says it shall be subject to suits in the courts of the State or that it would abolish or change the decisions of the courts on questions of public policy, as to when a municipal corporation should be sued, and——

MR. HOOD—We have nothing in the present Constitution authorizing suits against municipal corporations, have we?

MR. BOONE—Not expressly, and that is why we want it in there. We don't want it to put in the power of the General Assembly to say that no municipal corporation shall be sued, because we think that in carrying out the governmental functions, if they trespass upon the rights of a citizen, or wrong a citizen, they should be liable to suit.

MR. WALKER (Madison)—Would not a provision of this kind raise the very serious question as to the power of the Legislature to limit the right of bringing any kind of suit by garnishment or otherwise against a municipal corporation, and isn't it dangerous on that account?

MR. BOONE—I would ask the gentleman if he thinks it dangerous for the Legislature to provide that a suit shall not be brought against a county unless it shall have been first filed with the Board of County Commissioners. There are other sections which authorize the bringing of a suit against a county.

MR. WALKER—My answer to that is, under the present law, regulations of that sort are left to the Legislature. I do not want to put in the Constitution, that such regulation will not be left to the Legislature.

MR. BOONE—Do you contend that this section that says suits are to be brought would be any inhibition on the power of the Legislature to bring this suit?

MR. WALKER—I do not go that far.

MR. BOONE—It is a good thing that we have freedom of expression among the delegates, and that the fact that a man has held a superior position in life to another, his opinion has not always got to go. Now, gentlemen on behalf of the Committee, I ask that this section be adopted.

MR. HOOD—I certainly did not intend to question the profound learning of the gentleman who preceded me, nor to question the learning and ability of the committee, that has presented this question, but, Mr. President, it certainly does leave the question in doubt as to whether the Legislature could regulate suits against cities, should this provision be placed in the Constitution. It is undoubtedly true under the present Constitution that cities and municipalities may sue and be sued. The gentleman confesses that proposition. He admits to the Convention that there is no provision in the present Constitution authorizing suits against cities or authorizing cities and towns to bring suits. Then why the necessity of placing a provision in this Constitution which is open to construction by the courts of the State, and certainly will leave the question in grave doubt?

MR. BOONE—May I ask a question? Could the Legislature take away the right to sue and be sued now?

MR. HOOD—Not if this provision is placed in the Constitution.

MR. BOONE—But if we do not put it in there?

MR. HOOD—Probably it could, but certainly there is no body of men that will ever gather in the legislative halls of Alabama would be so foolish as to take away from the cities and towns of this State the power of suing and being sued. Then why encumber this article with that section, which is to say the least of it doubtful in its construction. The question propounded by the distinguished gentleman from Madison, no doubt has appealed to every member of this Convention.

Will that not authorize a judgment creditor of a municipal corporation to bring suit by garnishment and thereby reach the revenues and income of the various cities and towns in this State?

MR. BOONE—May I ask the gentleman a question? If a garnishment cannot now be made against a city?

MR. HOOD—It cannot.

MR. BOONE—Do you mean to say that a writ cannot issue and the question is not whether or not the income is necessary, or if it is a part of the taxable revenues of the city. Do you deny that proposition?

MR. HOOD—It has been decided by the courts of this State that it was against public policy to garnish the revenues of a city, but the court has held that by a process of mandamus, you could reach the surplus funds of a city.

MR. BOONE—And they have not held that a garnishment would lie.

MR. HOOD—To reach the income or revenues of a city?

MR. BOONE—On land or property of a city, which was not used for the purpose of carrying on the government?

MR. HOOD—It can be reached probably by process. I am not familiar with any such case that the gentleman refers to, but certainly it has been uniformly held in Alabama, and every other State in the Union, so far as I know, that you cannot reach the revenues of a city by process of garnishment or othr summary processes or proceedings. Therefore, Mr. President, I move to lay the amendment on the table.

MR. COLEMAN—I hope the gentleman will withdraw that.

Mr. Graham (Talladega) took the chair.

The motion to table was withdrawn.

MR. COLEMAN—Mr. President and delegates of the Convention, this is an untried innovation upon existing law, and to my mind, it is attended with very serious consequences. The question propounded by the member of the committee demonstrates itself the danger to be encountered by the adoption of this section. He asks the question, could not the Legislature pass a law prohibiting suits against a city, were it not for this section that he proposes to introduce in the organic law. Now if this section prohibits the Legislature from passing a law which will prevent suits being instituted against cities, where is the line to be drawn, where the Legislature can prescribe what suits shall be brought and what shall not be brought. The very proposition and the very question of the gentleman who represents the committee demonstrates on its face the danger of putting in the organic law such a provision as this. Under existing laws, cities may be sued in all proper cases regulated by statute.

Put it in the organic law that cities shall be sued and shall sue, and who is to determine the discretion of the Legislature if the Legislature can say that this suit or that suit or the other suit shall not be brought, then this section which he proposes to introduce in the organic law, is wholly inoperative because the power would still be in the Legislature to prescribe what suits shall be brought, but if the Legislature cannot prescribe those suits because of the introduction of this section, it shows upon its face the extent to which litigation may be instituted against a city. I appeal to this Convention to consider the danger of embarking upon new fields of legislation. There is not a case that can be imagined at this time where a city ought to be sued where the provision is not ample and there should be no such limitation of restriction put in the organic law of the State, not at least until we have further light from the courts than we have at this time.

MR. WHITE—I heartily approve of the section proposed by the Committee, and I have heard no good reason advanced why that section should not be adopted. Under the law of Alabama today, towns and cities may sue and be sued. Well under that law, giving them the right to sue and be sued, you cannot take from them the revenues necessary to carry on the municipal government. In other words, placing this in the organic laws does not give any other rights than those which are now possessed either by the city or those having claims against the city, the only difference is that it makes it permanent.

MR. COLEMAN—Don't you know that where a city may be sued, is provided by statute.

MR. WHITE—No, I don't know anything of the kind.

MR. COLEMAN—I would like to know then, where you get the power?

MR. WHITE—By law.

MR. COLEMAN—What law?

MR. WHITE—The law of the State.

MR. COLEMAN—Isn't that statutory law?

MR. WHITE—Of course, I had not understood you. The right to sue and be sued is given not by the Constitution, but by statute. It it is right by statute, why is it not right by the Constitution.

MR. COLEMAN—Will you permit another question?

MR. WHITE—I have not the time, but never mind. I will answer you.

MR. COLEMAN—Does the statute provide for the instances in which a city may be sued?

MR. WHITE—No, it says may sue and be sued, and leaves it to the common law to say wherein they are liable. That is the law of the land. They simply may be sued in cases where there is a cause of action and this does not create any cause of action, simply gives a right to sue in cases where there is a cause of action, and it takes away from the Legislature the right to deprive a citizen of the right to bring suit against a city where he has a cause of action. We are just entering upon a period when municipal corporations are becoming the owners of public utilities. We are just entering upon an era when they own the water works, lighting plants, sewers, and a vast amount of other things. In other words, they are taking the place of other corporations, and individuals in supplying the public with public utilities. I say it is right when they contract liabilities in connection with these things, to give a man the right to bring suit whose property or whose labor they have taken. Now the great cities of Alabama may soon get control of the Legislature of Alabama and the citizens may be at the mercy of the powerful cities in the State, and it is proper and right that in the organic law of the State, we shall implant a principle which cannot be destroyed by legislative action, that whenever a cause of action exists against a city, that the citizen shall have the right to maintain a suit thereon. What right had the city of Birmingham to buy $100,000 worth of lumber, and then to have the Legislature to say that the man who sold it cannot sue for it? What right had the city of Birmingham to put the stone in the city building, and say to the quarry men, we shall not pay you, and defy you, because the Legislature says you shall not sue us. What right has the city of Birmingham to throw slush and sewerage over half of the county of Jefferson and Tuscaloosa, and the man

whose home is ruined by the emptying of the sewerage upon him and his property has no redress on earth? I say it ought to be written in the organic law of Alabama, and written there to stay, and I hope the section will be adopted. I regard it as the most important section that has been reported by that committee and I now move the previous question upon it.

PRESIDENT PRO TEM—The gentleman from Jefferson moves the previous question upon the substitute, as I understand now before the House. The question is shall the main question be now put?

The main question was ordered.

THE PRESIDENT PRO TEM—The question is upon the adoption of the substitute.

Upon a vote being taken, a division was called for, and a further vote being taken, there were 40 ayes and 43 noes, and the substitute was lost.

MR. WEAKLEY—On yesterday, Section 2 of the report on Municipal Corporations was laid on the table.

I now move that Section 2 be taken from the table and referred to the Committee on Corporations, and that this Committee be discharged from further consideration of the section.

THE PRESIDENT PRO TEM—The gentleman from Lauderdale moves that Section 2 which was on yesterday laid on the table, be taken from the table and referred to the Committee on Corporations.

MR. COLEMAN—Permit a parliamentary inquiry. As I understand, Section 1 was taken from the table, and a substitute offered for it.

PRESIDENT PRO TEM—It was reconsidered and a substitute was offered and lost, the present occupant of the Chair understood from the President.

MR. COLEMAN—But it had to be taken from the table for a substitute to be offered to it.

PRESIDENT PRO TEM—The former occupant of the Chair notified me that the question had been reconsidered for the purpose of offering a substitute.

MR. COLEMAN—That brought Section 1 before the Convention, and the substitute was defeated, and that leaves Section 1 before the Convention.

PRESIDENT PRO TEM—The gentleman is right.

MR. COLEMAN—I move to lay Section 1 on the table.

Upon a vote being taken the motion to table prevailed.

PRESIDENT PRO TEM—The gentleman from Lauderdale moves to take Section 2 from the table and refer it to the Committee on Corporations.

A vote being taken the section was referred.

MR. WEAKLEY—I move that Section 4 of the report of the Committee on Municipal Corporations, which was on yesterday laid upon the table, be taken from the table for the purpose of offering a substitute. I ask that the substitute be read, before the vote is taken.

PRESIDENT PRO TEM—The question is on the motion of the gentleman from Lauderdale.

MR. HOWZE—My recollection is that that section was referred back to the Committee.

PRESIDENT PRO TEM—The Journal shows that it was laid upon the table. The question is upon the substitute which the gentleman desires to be read before a vote is taken.

The secretary read the substitute as follows:

"No county, city, town, taxing district or other municipal corporation shall be authorized or permitted to grant any franchise or privilege for a term of years unless the application for such franchise or privilege shall have been duly advertised and bids received therefor publicly and shall award the same to the highest and best bidder, but it shall have the right to reject any and all bids. This section shall not apply to a trunk railway nor to cities or towns or other municipal corporations having less than 2,500 population."

PRESIDENT PRO TEM—The question will be upon the motion of taking Section 4 from the table.

The motion to take from the table prevailed.

PRESIDENT PRO TEM—The section which has just been read, is in order.

MR. BOONE—The object of the committee in putting this section into the Constitution is for the purpose of preventing the general councils of cities and towns from giving away valuable franchises and privileges, which belong to the public, without any consideration therefor. That is in the charter of nearly every important city in the Union, and it is in the Constitution of Kentucky, and we thing it is important to put it in the Constitution of this State to prevent the bartering away by Councils of franchises of the people without any consideration whatever.

MR. COBB—Why do you exempt towns under 5,000 inhabitants?

MR. BOONE—We did that because of the fact that many members of this Convention said they did not think it wise. The smaller towns wanting these things to come there, do not want them shut up and be prevented from granting these franchises if they see fit. We did that in deference to the opinion of many members of this Convention. When we get to a town the size of Montgomery, Mobile, and Birmingham—where they are asked to give franchises for oil pipes or putting down gas, or the thousand and one utilities of a public nature—it is to prevent the giving away or granting of these valuable franchises in perpetuity for nothing. This committee is trying to have our Constitution uniform to the Constitution of other States. In Philadelphia the other day, a franchise was sold for $600,000, and so it is in all the larger cities, in Milwaukee, St. Louis, Cincinnati, Louisville, Cleveland, Pittsburg and in Mobile, we have in our charter that they cannot give away any more franchises. The delegate from Lauderdale (Mr. O'Neal) introduced substantially the same ordinance before the committee. We thought it better to provide exactly the machinery, the mode by which it should be done, and how the bid should be secured, but the Convention differed with us, and tabled it.

Now we put in the Kentucky provision, except we do not put in any term of years. The Kentucky provision reads as follows:

No county, city, town, taxing district 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 20 years. (We have left out any term of years) "on privilege for a term of years such municipality shall first, after due advertisement, receive bids therefor publicly and award the same to the highest and best bidder, but it shall have the right to reject any or all bids. This section shall not apply to a trunk railway." And the committee has added "nor to cities or towns or other municipal corporations having less than 5,000 inhabitants."

We think that it is in the interests of the people of the State, and we ask the Convention to consider it favorably.

MR. DENT—What do you understand the Committee to mean by "trunk railroad?"

MR. O'NEAL—That is the word used in the Kentucky Constitution.

MR. BOONE—Yes.

MR. O'NEAL—I would like to ask——

MR. BOONE—Now just one minute. I have not a duplex mind, and I will answer the gentleman from Barbour first. My understanding is it means a trunk line running through a town, with lateral branches or switches to go to the yard or workshops, or warehouses, diverging out from the main trunk. Take the Louisville and Nashville, where it runs through Mobile from One Mile Creek on southwardly, its tracks and its necessary switches are a part of the trunk line, but if it wanted to build a line we will say out St. Anthony Street to the western limits of the city, that would not be a trunk line. That is my understanding. It seems to me to have a well defined meaning. Now I will answer the gentleman from Lauderdale.

MR. O'NEAL—Isn't it any necessary part of a line?

MR. BOONE—Yes, any necessary part, necessary switches, etc., which are a complement of the trunk line. Now the gentleman from Mobile?

MR. BROOKS—I want to ask my colleague if the substitute submitted by the Committee contains any provisions as to the mode of compensating for franchises given?

MR. BOONE—No sir, I think that would be a matter of legislation. We attempted to go into that question in the Article which was reported by the Committee, but the wisdom of the Convention tabled that, and now we put in general terms that can be filled out by the Legislature.

MR. BROOKS—Then as I understand, instead of granting a franchise upon a percentage basis, a city may grant it for a lump sum?

MR. BOONE—Yes, or in such manner as in carrying this Article into execution the Legislature might regulate.

MR. BROOKS—There is another question that I desire to ask my colleague. Under this substitute, it leaves out the length of time that a franchise might be given. I want to ask if a corporation applying for a franchise, if they could not get enough votes in the Council, could not get a franchise for a hundred years.

MR. BOONE—If it were not for another Section which my colleague Mr. Smith moved to amend yesterday, which comes up subsequent to this, and which limits the time. The Committee suggested twenty years and he moved to make it fifty years, and that comes up subsequently. We cannot put it all in one Section.

MR. HOWZE—Is it in the Section as you announced it?

MR. BOONE—It is not, sir, it is not in the substitute as read.

MR. HOWZE—You said in the substitute.

MR. BOONE—It is in another Section, it is not in the substitute, we took it out.

MR. MURPHREE—I would like to offer an amendment so as to not confine it to cities of 5,000, but to put it at 6,000.

MR. BOONE—The Committee will accept that.

MR. O'NEAL—I object to that, I think where a town has 6,000 inhabitants the franchises are worth something.

MR. BOONE—On behalf of the Committee, I am authorized to accept the amendment.

MR. O'NEAL—I object.

THE PRESIDENT PRO TEM—The Clerk will read the amendment of the gentleman from Pike.

The amendment was read as follows:

"Amend the substitute so as not to apply to towns and cities of less than 6,000 inhabitants."

THE PRESIDENT PRO TEM—The gentleman asks unanimous consent, but the gentleman from Lauderdale objects to the amendment.

MR. MURPHREE—I offer the amendment.

THE PRESIDENT PRO TEM—I recognize the gentleman from Pike.

MR. MURPHREE—I do not wish to make a speech, I simply wish to offer the amendment.

THE PRESIDENT PRO TEM—The question will be upon the amendment of the gentleman from Pike.

MR. CUNNINGHAM—In my judgment no article in this Section on Municipal Corporations that has as much intransic merit as the one now under consideration. Ambitious towns, especially those that are just starting and are looking forward to metropolitan proportions, with no money in the treasury, but with broad and splendid streets, unilluminated, and untraversed by street railways, are ambitious for these utilities, and often franchises are given to corporations for the purposes of illuminating the town, and streets railways, and so forth and so on. When a town is in its infancy, and therefore the franchises at that time is not worth much, but in the course of time, the city of Birmingham, for instance, in ten or fifteen years, a franchise that was given, say as a bonus to enterprising capitalists to build a street railway a few blocks, with the right, however, to all the streets of the city, or to a gas company, in the course of fifteen or twenty years, would be worth, in all probability, a half million or a million dollars. I am quite sure

that today the city of Birmingham or Mobile or Montgomery, could sell the franchises they have given away, for a million dollars in each of these cities. In my judgment, there is no more important limitation that can be placed upon city authorities than the giving away of franchises belonging to the people. The late Capt. Enoch Ensley, Mr. President, who was a capitalist and developer in this State for many years, had an idea in regard to the city of Ensley, which was named after him and his purpose was that all franchises should be sold or that the city should take stock in all these public utilities to be used for the education of the children. He had statistics which I have not at my disposal, showing that had these franchises been disposed of for a consideration, a part of the revenues or a part of the stock of the corporations in the great cities of this country, it would practically remove the necessity for municipal taxation. Why, Mr. President, it is outrageous for city authorities to give away these important franchises, and I am opposed to the amendment offered by the gentleman from Pike. Very few cities start with 6,000 population, very few, indeed, and I do not know of any and yet these franchises can be given away by these cities in their infancy and when they shall have reached the limit proposed by this amendment of 6,000, why then it is too late; the franchises have been given for these public utilities, and therefore it would be of no effect. Now, it ought to be made to apply to the whole business, to towns, cities and villages, but in deference to the Committee, I am willing to yield a certain number on that line, but I would suggest that not over 2,000 or 2,500. Take my own, for instance, today in its infancy with only one street railway, with no gas and other practical utilities, that would be worth in the course of twenty years $200,000 or $250,000, maybe a half million. It would not come within the limits of the Constitution and therefore all these things could be given away. I am opposed to the city authorities having the power to give away hundreds of thousands of dollars of valuable franchises, and for that reason, Mr. President, I shall move to lay on the table the substitute offered by the gentleman from Pike, with the view of making a motion to limit it to 2,000. I will ask, is it capable of further amendment? Is an amendment now in order?

THE PRESIDENT PRO TEM—No sir, not at this time. Section 4 was taken from the table, a substitute was offered, and an amendment to that, and another amendment to that is not in order.

MR. CUNNINGHAM—Then I move to lay it on the table.

MR. MERRILL—I ask the gentleman to withdraw the motion to table.

MR. DENT—Won't you withdraw it?

MR. CUNNINGHAM—Will the gentleman renew it?

MR. DENT—No, sir, I will make no promise.

MR. CUNNINGHAM—I have no desire to limit the discussion upon the question.

MR. MERRILL—Give us a change to be heard and to discuss it. Withdraw it.

MR. CUNNINGHAM—I will withdraw it, but I want an opportunity to offer an amendment at some place limiting it to twenty-five hundred.

MR. COBB—I move to lay it on the table.

MR. MERRILL—I think I have the floor.

THE PRESIDENT PRO TEM.—I recognized the gentleman from Barbour. When the gentleman from Jefferson withdrew his motion, the Chair recognized the gentleman from Barbour.

MR. MERRILL—It strikes me that the adoption of this section will be a thrust at local self-government. It is my impression that cities and towns ought to be allowed to manage their own affairs, and that no such restriction ought to be placed upon them. Why is it that they are prevented in this manner from managing their own affairs? Where is the necessity for it? It will operate very largely to the damage of some of the cities in Alabama. To illustrate, suppose a city has but one line of railroad, or one corporation controlling all the lines leading into that city. It matters not whether the city be young or old, that railroad and that corporation is squeezing the life out of that city, and it is the desire of the people of that city to obtain another line there and this proivsion in the Constitution, Mr. President, would cut them off from the right they now possess to give this competing line an opportunity to come in even by a donation of the privilege of the right of way over their streets. I know the situation, Mr. President, because the town that I came from is in that condition now, and I ask the gentlemen upon this floor to stay their hands and not place upon us the shackles and prevent us from obtaining other roads that will assist us in our natural and proper growth.

MR. CUNNINGHAM—Will the gentleman permit a question? Does the gentleman from Barbour argue that this section gives to any particular corporation an exclusive franchise?

MR. MERRILL—Oh no, no, of course not, you do not apprehend my position at all.

MR. CUNNINGHAM—Then has not the city of Eufaula the power to give additional franchises, if paid for?

MR. SMITH—I do not like to explain personal matters, but to illustrate the situation: The city of Eufaula has three railroads all under one corporation and we are now making an attempt, and

the prospect of success is fine, for another road to come in there, and the people in a mass meeting, and the City Council in its meeting, have agreed to donate not only the right of way, but to give them terminal facilities in that city, and I say it would be of more benefit to the people to have that other road than all the other franchises would be worth. It gives the power to the corporation now there to come in and bid against this corporation that is now coming.

MR. BOONE—I would like to ask the gentleman a question. Under the last Federal Census is not Eufaula a town of less than five thousand inhabitants?

MR. MERRILL—I understand what you are striking at, but they have a proposition here to reduce it to two thousand. I asked the committee to put in six thousand.

MR. BOONE—The committee accepted it.

MR. MERRILL—But there is a disposition on the part of some of the delegates to cut it down to 2,000, but it is wrong in principle, because I am in favor of local self government, and if the authorities elected by the people to run and take care of their municipality are so corrupt, or can be influenced so as to sacrifice these great rights belonging to the city, it is a matter for the people that elected them, and ought not to be put in here in the way of a prohibition. Why, it would enable these corporations that are there, who have the power and who have the means of bidding up to a point which would exclude all other railroads from coming in there, and I ask the gentlemen of this Convention to consider the matter well before taking such action as will cut off from some of the cities that are attempting to grow, though not young now, but are being throttled by corporations already there. Give them a chance to get in their place, to break down monopoly and give competition, and thereby benefit the people who live there.

MR. SAMFORD (Pike)—I would like to hear the substitute read in order that I may act intelligently.

The Clerk again read the substitute.

MR. KYLE (Etowah)—The town I represent is in the condition of Eufaula. We have four railroads there and we want another, which we believe we are apt to secure. If the limitation is reduced to two thousand, as proposed by the gentleman from Jefferson, we will be unable to give them the right of way through the town.

MR. O'NEAL—Why not?

MR. KYLE—Because the other roads will bid up and cut them off.

MR. O'NEAL—It does not apply to railroads.

MR. KYLE—It does not apply to trunk railroads, but they must be in towns of less than 5,000. We have forty six hundred people and therefore it would cut us out. Then the idea of requiring smaller towns to sell their franchises is perfectly absurd. We want these utilities. We cannot grow or prosper without these utilities and if investors are required to come in and pay for them, the result will be we will not get them. Therefore, we are opposed to any measure that cuts us out of electric light plants, railroads and street car lines in any of the smaller towns of the country. My friend, Cunningham, is from the town of Bessemer and many street car lines permeate his city under charters now, and therefore he is safe. We are not in that position. We want more roads and better roads.

MR. CUNNINGHAM—Does not the substitute expressly say that it does not apply to trunk lines of railroads. That is what it says.

MR. O'NEAL—In any kind of town?

MR. CUNNINGHAM—That is what it says: The argument of the gentlemen from Barbour ought to defeat it if those were not expressly excepted.

MR. MERRILL—I desire to ask how long a road has to be to be a "trunk line?"

MR. DENT—Possibly, as the amendment now stands, it might not affect the town in which I am so much interested, but actually if the amendment proposed by the gentleman from Jefferson is offered, it would. As stated by my colleague, this is evidently a blow at local self-government. That is a recognized Democratic doctrine. There is a great disposition among people and it was the disposition of our friends across the Mason and Dixon line, to undertake to be guardians for the people, and tell them what they ought to do, and how they ought to do. I am sorry to see any such spirit as that creeping in among the Democrats of Alabama. Now, Mr. President, in the Convention of 1875, the gentleman who represented the County of Walker, made a speech here in which he said that everybody and everything ought to be allowed to do as they pleased with their own truck, and to some extent when there was no corruption in it, and no fraud in it. I think that is a pretty good doctrine to stand up to. Now, take the question of franchises as to letting the streets. We have a corporation in our town that has the privilege of using the streets for the purpose of lighting them. The service is not entirely satisfactory. Under this clause, which is now under consideration, suppose we wanted a rival company to come in there. Before we could grant them the privileges of the streets for that purpose, the right would have to be put up and sold to the highest bidder and it might enable the corporation that is already there, whose service is not satisfactory, to pay such

a price as to cut off that competition. Now, I understand there is an effort being made to get a new street railway in the city of Montgomery, and if there is any force in the resolutions offered yesterday by the gentleman from Walker, it looks as if they need it. What sort of position would the city of Montgomery be in when they come to offer this franchise if this clause is in force before they could grant it?

MR. WEATHERLY—Would not that also apply to new gas companies and water companies?

MR. DENT—Yes, sir, certainly. I was coming to all that. Any of these franchises. But suppose the law was in force, how could the city of Montgomery, unless it was put up to the highest bidder, secure a competing line for a street railway. Why, the one here might, as a matter of life and death, as a matter of money, bid more than the one coming in could afford to bid, and it looks to me that the whole thing is vicious, and I move that the section and amendments be laid upon the table.

MR. BOONE—I object to the word vicious, because it seems to be patented or registered here.

MR. DENT—I stand corrected, I should not have used it.

MR. BOONE—Everything they don't want is vicious, vile or dangerous.

THE PRESIDENT PRO TEM—The gentleman from Mobile is out of order.

MR. DENT—I beg the gentleman's pardon, that was a slip of the tongue. I meant to say wrong in principle.

THE PRESIDENT PRO TEM—The question is to lay the section and substitutes on the table.

Upon a vote of 51 ayes and 26 noes, Section 4 with the substitute and amendment were laid upon the table.

THE PRESIDENT PRO TEM—The question recurs on Section 10.

MR. BOONE—Section 4 was taken from the table.

THE PRESIDENT PRO TEM—But by this vote it is laid on the table again.

MR. deGRAFFENREID—I have an amendment to Section 10.

THE PRESIDENT PRO TEM—Section 10 is next in order.

MR. O'NEAL—An amendment is not in order. The section has not been read.

MR. deGRAFFENREID—I ask that the section be read.

MR. SANFORD (Montgomery)—I call attention to the minority report to Section 10.

The Secretary read Section 10 (with the minority report) as follows:

Section 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 each 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 twenty thousand 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 the last 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 on 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 craft 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 voters of such city at a special election to be called by the Mayor, and if a majority of such qualified voters thereat shall ratify the same, it shall 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 law 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 internals of not less than four years by proposals therefor, submitted to the Legislative authority of the city to the qualified voters thereof 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.

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 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 or community, the right to establish or amend its own charter, but all municipal charters shall be granted or amended by special law or 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.

MR. ASHCRAFT (during the reading)—I rise to a point of order. The reading of the report of the minority is not in order. The proposition just submitted, and not the substitute offered by the minority is the only thing in order.

THE PRESIDENT PRO TEM.—I thought that was what the Clerk was reading. I am informed by the Clerk that the specific article is not set out, except in this general way. The Clerk will proceed.

MR. SAMFORD (Montgomery) — I offer that substitute which has been read.

MR. deGRAFFENREID—I desire to offer an amendment.

THE PRESIDENT PRO TEM.—The gentleman from Montgomery has the floor.

MR. deGRAFFENREID—I will ask to be allowed to introduce an amendment.

MR. SANFORD—After I get through. Mr. President, the distinguished chairman of the committee, when he said that municipalities in this country were growing to be very important, was right, and if he had gone further and said that the municipalities in this country were a great danger to rights and property of the people, he would not have been wrong. Of all the dangers to the people today, the powers granted and exercised, or usurped by the municipalities are the most to be dreaded. Under the pretense of one policy or another, we have taken full possession of the communities that dwell within their limits. Now, my fellow delegates, of all the governments that obtain in America, the most important to the citizen is the municipal government. Your treaties with regard to the Philippine Islands or Porto Rico or tariffs, or any other government, or the acts of Congress or the acts of the Legislature, even do not touch so nearly the people living in these municipal corporations. It regulates them in everything. It even tells them that they shall not spit in a particular part of the street. It regulates what they shall do for their own improvements. They cannot make a side-walk without being under their special supervision. They cannot make a pavement unless it is done according to the rules, laws and directions of the Mayor and Council, or the City Engineer. It has become a source of oppression to the people. They are great evils, instead of great benefits, and as an evidence, gentlemen, of the great truth that whatever is planted grows unless it is destroyed. These cities originally were intended as places of refuge from oppression of great wrongs of marauding gangs of robbers.

MR. FITTS (Tuscaloosa)—Don't they make the property owner pay for putting down a rock pavement, and then fine him the cost of the delimitation of the boundry for spitting on it. (Laughter.)

MR. SANFORD—Yes, sir, they do that, or if he spits in a public conveyance he is fined for it. It goes even to the regulation of his morals. They may make it necessary for you to tip your hat to a lady with your left hand instead of the right. Now let me say that at one time they were a source of great protection to the people, but they have become a menace to their rights and to their property. Now this particular ordinance No. 10 says you shall divide these great dangers into four classes; classify them. For what purpose? Why do you want the city of Montgomery put into four distinct ranks or orders. Do you wish to give those

of one rank more power and right and privilege than those of another? Why should those in number one rank have more rights than those in number two rank, or in number three or four. Why should a city like Montgomery, of 13,000 white people and 17,000 darkies or negroes, have more rights than Eufaula or Greensboro or Troy. Why should you make the classes if you make them to burden them when the people in those cities object to those classifications. If it is for the purpose of giving them rights, privileges and liberties which are not bestowed upon other portions of the State, then the remnant of the State object to the discrimination and therefore in that case there should be no classification. That is one part of Section 10. The other part is cities having twenty thousand or more than twenty thousand inhabitants should make their own charters. There is no gentleman in this Convention but who knows that charters are nothing more than the collection of great prerogatives. Franchises were formerly in the hands of the king, in monarchial governments, in our country they are in the hands of the State. Now, why should these franchises belonging to the State be conferred upon cities having 20,000 or more inhabitants, and not upon one having ten thousand or less. Why should you make a discrimination of the rights and powers and liberties and privileges among our people anywhere in this country. Shall Montgomery with thirty thousand inhabitants have more rights than Huntsville with ten or Florence with eight or Eufaula with six or seven or Greensboro with two thousand? Why should they have more right? Have they any more virtues, except in proportion to their numbers, than any other community in the State of Alabama? Why should you make this discrimination, this distinction? Why not make it a general law? I admit that a city of twenty thousand population may have more power. Why? It has more muscle, and it may have more wealth, but should not have more rights and privileges or liberties than a city of two thousand or of fifteen hundred population. I am standing here for the people, and not for privileged communities. Why look at the wrongness of allowing a city council to make its own charter? It appoints nine men who have been in town long enough (five years) they say for the purpose of being indoctrinated by the aldermen (and they are not always men of heroic virtue or Roman civilization) but many of them are insolvent and bankrupt in fortune and in character (laughter.) And yet these men are to apply to the Circuit Judge and ask him to appoint nine men who have lived here not less than five years and make a charter. Many of them are incompetent. Look at the charters which have afflicted the people of Alabama in the different parts of the State, proposed by councilmen, or proposed by committees they have appointed. Some of them are excessively oppressive. Some of them say you cannot walk the streets without paying your tax, and so much for the privilege of going from your house to the market, or from your place of employment or labor. These are all wrong. Give the

cities the right to make their own charters. Mark you, this says "subject only to the Constitution" which will prevent them from establishing great hells in their place. It does not say "contrary only to the laws of the Constitution and upon this subject the Constitution is profoundly silent. What will prevent them from establishing pool rooms? Gift enterprises are forbidden, but other enterprises of the same kind—cockpits, race tracks, prize fighting establishment and everything that pertains to immorality.

The President resumed the chair.

THE PRESIDENT—The time of the gentleman has expired.

MR. deGRAFFENREID—I have an amendment to offer.

The Secretary read the amendment as follows:

Provided, that nothing contained in the Constitution shall affect the charter of any town, city or village now in existence in which charter there is contained a provision against the sale, exchange, barter or giving away of spirituous, vinous or malt liquors, intoxicating drinks, liquors or beverages, or in which there is any regulation of the sale or giving away of spirituous, vinous, or malt liquors, intoxicating drinks, liquors or beverages, but such charter of such towns shall remain as they now exist until they are altered, changed or vacated in the manner provided by law at the time of the adoption of this Constitution.

MR. deGRAFFENREID—Mr. President and delegates of the Convention, that amendment is simply introduced for the purpose of allowing, so far as I am concerned, the town of Greensboro to retain its present charter. I do not know that it is a fact, but I suspect it is true, that the town of Greensboro, is the only town in Alabama in which it is provided that no liquor shall be sold in that town. That provision was placed in the charter of the town of Greensboro because of the establishment of the Methodist Church of an institution of learning at that place. Greensboro as you know is the place where the Southern University is located. When the church determined upon Greensboro as the place for the location of the University, it was placed in the charter of the town that no liquor should be sold or given away within the town of Greensboro or within four miles of the town. I do not know, and I doubt very seriously whether any of the delegates to this Convention know what effect of section 10, or even of the amendment to the section will have upon the various towns and cities of the State of Alabama. So far as I am personally concerned I am opposed to the adoption either of Section 10 or of the minority report, but I have put this clause in here so that if the Convention disagrees with me the Convention will allow the charters of Greensboro to remain as it is until that charter is altered or changed in accordance with the laws of the State as it now exists. As I understand it they propose

to classify the towns of the State of Alabama and put them in four classes, in effect destroying the charters of each town as they now exist, because each town of a particular class will have the same rights and privileges, and be subject to the same restriction, and have the same power as all other towns of the same class. Well, now, Greensboro does not possess under the present law all the privileges, powers or rights of other towns under the franchise, and so far as I am advised a large majority of the people of that town are satisfied with the charter of the town as it now exists because of the fact that it is prosperous as it now exists, that it is a good moral community, and if they should pass a general law in the State which would change the charter of that town with reference to the sale of whisky, perhaps the first thing to be done would be the removal of that university to some other town, which the people do not want done. It might not have that effect. It grows out of my fears because I believe it will take the Supreme Court twenty years to tell us what to have done in towns of the various classes, if either Section 10 or the minority report is adopted.

MR. WEAKLEY—I desire, Mr. President, to state to the Convention that in adopting the section upon the report of the committee on local legislation this Convention has decided that no special act shall be passed by the Legislature incorporating any town or city in this State. Anticipating the action of the Convention in that respect, and considering the resolution bearing upon the matters set out in Section 10, the Committee on Municipal Corporations proceeded to consider and recommend to this Convention a scheme for the organization and classification of cities, which so far as their investigation extended was the best they knew how to present to this Convention. I desire to say, gentlemen, that in my opinion one of the great evils resulting from local legislation has been the fact that every municipal corporation in the State of Alabama has to come to the Legislature for its charter. The census reports show that there are now 203 municipal corporations in this State, and that in 1890 there were 110. All of these new corporations have to be chartered by the Legislature, and on taking into account the various amendments which have been passed to city charters, there being in my town particularly three amendments at the last Legislature—a great body of this increased legislation has been demanded by the need of the municipal corporations of Alabama. Other States in the American Union have felt the same trouble, and the result is today the Constitution of sixteen States in the United States provide for all cities in the State being classified and governed by general laws. No matter what this Convention may do with this section as reported by the committee, in view of your action already taken this Convention will be compelled of necessity to adopt a certain portion of the section whether it establishes it all or not. So far as the committee is concerned it does not make any difference to them, but I say if you desire and

if you wish to provide for the incorporation and government of any city in Alabama not now incorporated, all of that part of Section 10 beginning with the words "Federal census" on line 10 must be adopted by this Convention. So far as the committee is concerned the amendment offered by the gentleman from Hale is not objected to. There is no desire on the part of this committee to interfere with any prohibition laws now existing in the State, or to interfere with the rights of any city to conduct and operate a dispensary system, or to interfere with any regulation with regard to the restraint or the sale of liquor. But, Mr. President, it is insisted that some general system than that now prevailing shall be adopted by the people for the purpose of forming suitable governments for the municipalities of this State. You take by way of example the city of Anniston. It has a perfect and almost complete law for the assessment and collection of taxes, and in my own town the assessment and collection of taxes is influenced only by the disinclination of the people to see their names in the papers. You take the city of Florence as another illustration where we have a perfect and almost complete system of street improvements, the result of an act passed by the Legislature, and other cities in the State have never been able to procure such legislation. We say gentlemen that if all towns in the State having similar population, similar situation and similar institution, were to combine their ability and their experience and their wisdom in this matter the result would be a more perfect and complete system of municipal governments. As it now is the question of a municipal charter is only a question of the shrewdness and ability of the particular City Attorney who happens to have charge of the matter.

One word more upon the subject of classification. No man who understands the first principle of municipal government will contend that a city like Montgomery, Mobile or Birmingham should be governed by the same system of laws that should govern a village of less than 1,000 people, and a village or small town of that size should not have the same authority in all matters that a large city has.

MR. SANFORD (Montgomery)—Why not?

MR. WEAKLEY—The reason is that in a larger place, there is a better organized government, and they are better able to pay experienced and skilled men for executing the laws and carrying out the requirements of the charter. In a city of small size, it is not necessary to have a regularly organized and equipped fire department, nor is it necessary to have, as large cities have, a large police force. Neither is it necessary for them, as large cities do, to maintaining an engineering department, nor is it necessary for them to have departments of sewers and public works and all those things which a large city requires, and a small one does not.

It is the experience and opinion of those people who have studied this matter that the magnitude of the interests involved in a large city are such that it is not wise to submit them to the operation of the general law which should apply to the small cities, and consequently this Committee has reported a scheme by which any city in this State having a population of more than 20,000 people may frame its own charter to conform to the needs of the particular city. I consider, gentlemen, that that is the highest type of local self-government. This is no new proposition. It is embraced in the Constitutions of the State of California, of the State of Missouri, of the State of Washington and of the State of Mississippi, and under the operation of this provision in the Constitution, the cities of St. Paul, Minneapolis, St. Louis and San Francisco, have all adopted, by a vote of the people, municipal charters which are pronounced by experts in that line, to be a marvel of city government. I see no reason why the cities of Birmingham and Montgomery might not be able to do the same thing. I say, gentlemen, that the city charters which have been adopted by the legislatures have been the product of the Board of Aldermen and the city attorney? I say that, under this scheme, the city charters in the cities of this State will be a result of the vote of the people. It is provided that upon an application to a Circuit Judge a commission shall be appointed to frame a charter and provide for a government for the city, and then submit it to a vote of the people. Now, Mr. President, another proposition: If there are any cities in this State that are satisfied with the existing conditions and satisfied with the charters which they already have and do not want them taken away from them, if it is thought best for them to continue under the charter which they now have until they need an amendment, then let this section be amended, so as not to apply to cities of this State until it is adopted by a vote of the people of that city.

Then the proposition would be that there would be embraced in the law of this State a provision whereby the cities may be classified, and a general law would be passed governing all cities of the same class, to become effective only when it was adopted by the voters of that particular city. So far as I am personally concerned, I would not object to such an amendment.

MR. SAMFORD (Pike)—I desire to know if the Committee will except the city of Troy from the provisions of that section?

MR. WEAKLEY—I have no objections at all.

MR. SAMFORD (Pike)—In case we cannot lay it all on the table, I want to do that.

MR. O'NEAL (Lauderdale)—I simply desire to call the attention of the Convention to the fact that this minority report, in effect repeals several provisions already adopted on local legislation. The Article on Local Legislation which has already been

adopted by this Convention provides that the General Assembly shall not pass any local or special laws granting a charter to any corporation, or incorporating any town, city or village, or amending, confirming, or extending the charter of any city or village." It was the opinion of this Convention that by general laws, the charters of every city in the State could be amended. Now, the minority report contains this provision: "The General Assembly shall grant to no municipality or community, the right to establish or amend its own charter, but all municipal charters shall be granted or amended by special law;" so the minority report authorizes special laws to amend the charters of corporations. It reopens all the evils of local legislation which this Convention has curtailed. The reports of the acts of the last legislature show an immense volume composed principally of amendments of charters of municipal corporations. Now, I am sure this Convention has no disposition to undo the work it has already accomplished, and therefore, I move to lay upon the table the minority report.

MR. SAMFORD (Pike)—I desire to amend the motion of the gentleman from Lauderdale by moving to lay—

THE PRESIDENT—The motion is not amendable. The motion of the gentleman from Lauderdale is to lay upon the table the minority report.

MR. COLEMAN (Greene)—Will you withdraw is please?

MR. O'NEAL—I will withdraw it if you desire to discuss the matter. Will you renew it?

MR. COLEMAN—Yes, I will renew it.

THE PRESIDENT—The Chair will call the attention of the gentleman from Lauderdale to the fact that there is an amendment to the amendment offered by the gentleman from Hale that is the pending question.

MR. O'NEAL—Then I move to lay the amendment and the minority report on the table; but I will withdraw my motion.

MR. COLEMAN (Greene)—Mr. President and gentlemen of the Convention, I listened very attentively to the able Chairman of this Committee to see whether or not there was any necessity for any provision, or subdivision, of Section 10, and he did not bring forward a single argument to show that all the power which he proposes to embody in a Constitutional provision, could not be exercised at this time by the legislature. He says in Section 10, down to the word "census" on line ten, must necessarily be retained, but, Mr. President, the law already provided, authorizes the legislature to pass general laws, and there is nothing there provided for that has not already been provided. Now, it is dangerous as I said before when we tamper with the organic law, es-

pecially provisions which have not been construed by the Supreme Court of this State, and we ought to be very careful not only in the general form of statutes or ordinances, but in the selection of any word for when courts come to construe, great difficulty arises when you take into consideration the entire instrument to arrive at the meaning of particular parts. I need but call the attention of delegates to this Convention to the number of decisions which have been rendered upon construing the Constitution of 1875. There are over 100 appeals already taken and the law is just coming to be generally understood by the profession.

So far as the classification of the cities is concerned, if it becomes necessary, it can be done. We have heard a great deal of the barefoot boy and the horny-handed farmer. In this State it is proposed to build up an aristocracy of municipalities, and an aristocracy which takes away from the State the power to revoke a charter, because the Legislature can never revoke a charter granted under this Constitution. The tenth section already provides for that. Now you have heard the objections to the minority report, and surely if anything is subject to criticism it is Section 10 now under consideration. The gentleman moved to lay upon the table, and I agreed to renew his motion, but I will extend the motion to lay Section 10 upon the table, and the minority report upon the table, and the amendment upon the table.

MR. ASHCRAFT—No gentleman on this floor has been yielded to more courteously than the gentleman who moves to table.

MR. COLEMAN—I got the floor by a promise to renew the motion.

MR. ASHCRAFT—You promised to renew the motion to lay the amendment upon the table.

MR. O'NEAL—If my colleague desires to discuss it, I hope the gentleman will withdraw the motion for a moment.

MR. COLEMAN—Of course I will withdraw it.

MR. ASHCRAFT—Mr. President and gentlemen of the Convention, if we belong to that class of citizens who live so far in the past that we believe we should have the right to spit upon the sidewalk and in the public buildings and in the street cars, then gentlemen, vote to lay this proposition on the table; but if we believe that we belong to that class of people who are for progress, who believe that people who are assembled together in great bodies have some rights as a body, as well as individuals, then let us consider well what is our opportunity here to institute that progress, and consider well also how long it will be before we have such another opportunity. We cannot treat lightly this question. In the article on local legislation, we resolved that we would permit no special legislation in the adoption or amendment of munici-

pal charters. I ask, gentlemen, on this floor to consider how they are to be adopted or amended unless some provision like this proposed by the majority of the committee is adopted. I speak as well against the report of the minority as in favor of the majority, and I shall undertake to call your attention for a brief moment to the advantages proposed by the majority——

MR. WALKER (Madison)—I desire to ask the gentleman if, in his opinion, the prohibition of local and special legislation involves the necessity of conferring upon each municipality in this State the powers of the Legislature?

MR. ASHCRAFT—It does not, and the majority report undertakes to confer upon no city, except those above twenty thousand inhabitants, that power. Each city under 20,000 inhabitants must be organized and governed under the form of a common charter to be provided by the Legislature for its class. When the Legislature is called upon to perform that great responsibility, it will perform it under the sanction of such responsibility; but when the Legislature undertakes to charter one town, the attorney for the town comes here and has his local member to propose the measure, then, regardless of whether or not it is in the interest of the whole people, whether or not it regards the interests of the town, or of the residents of the town, it goes through. Under the proposed plan, cities of each particular class will unite to see that they receive charters which mean progress; which mean that the people as a whole will be protected. All those institutions which make for the moral and social uplifting of the town are uniform. Every city will be interested in each proposition. No single one of them will have opportunity to secure special advantages, and there will be no combinations against those things which are for good.

MR. HOOD—Do you think because one city, say one of these four classes, has the right to sell whisky, and is in favor of the selling of whiskey, that all other cities of the same class should sell whisky?

MR. ASHCRAFT—We have carefully guarded against any proposition of that kind in the article on local legislation by providing that nothing in this Constitution shall be so construed as to prevent the Legislature from enacting local laws regulating or prohibiting the sale of spirituous liquors.

MR. COLEMAN—Would not the provision be equal in power to any other provision in the Constitution if it is put in there?

MR. HOOD—If one city of a certain class does not care to own its own water works, do you think that all other cities of the same class should be prevented from owning their own water works?

MR. ASHCRAFT—No such proposition is involved here. It is not proposed that the Legislature shall compel any city to own

its own water works. It is not intended to throttle the voice of the people. If a majority of the cities of a class so desire they will be able to secure to their people the right to vote upon the question of whether they shall own their public franchises, and which of such franchises they will own. If each city is given that right under a classification who can object to the people having the right to be guided by the experience of a majority of the cities and who then can say that some other course ought to be pursued. You have here the product of the careful consideration of the Committee. Men sneer at the proposition and ask you to vote against it because you may limit the right to spit on the sidewalks. I ask you who is it that has lifted the city of Memphis from the quagmire in which it was, when the yellow fever infested it and destroyed its citizens, into one of the most beautiful cities of the South? It was not the men who wanted to spit on the sidewalk, but the progressive men who believed that the whole body had some rights and who understood these great questions of municipal government, and if we want to make progress let us unite on this majority report and let the Legislature enact general laws that will be the product of the combined effort of all the men skilled in municipal affairs of this State.

I now renew the motion to lay the minority report and the amendment to it on the table.

MR. deGRAFFENREID—I demand a division of the question.

THE PRESIDENT—The question is on the amendment offered by the gentleman from Hale.

Upon a vote being taken, the motion to table the amendment prevailed. The question then recurred on the motion to table the minority report.

Upon a vote being taken, the motion to table the minority report prevailed.

MR. SAMFORD (Pike)—I hope that the eloquent appeal of the gentleman from Lauderdale will not have the effect of sweeping the Convention off of its feet. I have never attempted to sweep this Convention off its feet by my eloquence. If I ever have, I have failed, and I trust his success will be the same as mine. This proposition, it occurs to me, with reference to this Section, as reported by the Committee, reminds me of a little anecdote with regard to a fellow who was contrary to the whole world. He didn't want anything in common with anybody, and he said that when he died and went to purgatory, he was going to make application to get a little fire and brimstone and go off and start a little purgatory of his own.

The source of all corporate power is from the State. It has been so recognized since this has been a State, and it has always been the policy of this State to reserve to itself the right to revoke any charter it has given. It becomes necessary sometimes to revoke charters of municipal corporations. It becomes necessary sometimes to revoke charters of other corporations, but the effort of this Committee is to place in the organic law of the land such a provision as will take away from the State the right to revoke charters in municipal government. It is an effort upon the part of this Committee to put into the organic law the right of certain cities in this State, and more as the inhabitants grow, to organize themselves into a separate government, and without the power of the State Government, through its Legislature, to control it. The whole proposition is wrong. The whole theory is wrong, when it comes to placing it in the organic law of the land. I do not deny the proposition that it is a fine scheme, as suggested by the Chairman of the Committee. It possibly is a good scheme, and possibly ought to be enacted into law by the General Assembly, but this Convention ought not to put it beyond the power of the General Assembly, the legislative body of the State, to amend, revise, correct or do anything that it sees proper with regard to its own creatures. I therefore move to lay the Section on the table.

MR. BOONE—I hope the gentleman will allow the Committee the opportunity of closing on this matter.

MR. SAMFORD (Pike)—The Committee declined to withdraw a few minutes ago when I wanted to discuss it, and I now decline to withdraw.

MR. BOONE—I say to the gentleman that the Committee as putting in an amendment.

THE PRESIDENT—The motion of the gentleman from Pike is that Section 10 be laid upon the table.

Upon a vote being taken, a division was called for, and the motion to table Section 10 prevailed by a vote of 65 ayes and 24 noes.

MR. WILSON (Clarke)—On yesterday the gentleman from Tuscaloosa gave notice that he would make a motion to reconsider the vote by which Section 6 was adopted. He has been called away on account of illness, and I desire to make that motion now.

MR. WEAKLEY—I rise to a point of order. The motion to reconsider has not been made.

THE PRESIDENT—I will call the attention of the gentleman from Lauderdale to Rule 27. The rule, as the Chair interprets it, means that when a motion is made to reconsider on the same day on which the Section is adopted, it shall be the special order,

to be considered immediately after the approval of the Journal, but if it is entered on the following day, it may be entered at any time during the morning session. Rule 27 says: "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 immediately after the approval of the Journal on the day succeeding that on which it is made; but if first moved on such succeeding day, it shall be forthwith considered; and when a motion for a reconsideration is decided, that decision shall not be reconsidered, and no question shall be twice reconsidered."

MR. FITTS—This notice to reconsider was given on yesterday afternoon.

THE PRESIDENT—The notice was given yesterday afternoon, but that is not tantamount to making the motion. The motion must be entered.

MR. FITTS—The motion should have been entered within the hour immediately succeeding the reading of the journal of this morning?

THE PRESIDENT—The rule does not so declare. The rule declares that if the motion was entered on yesterday, it is to be considered immediately after the reading of the journal, but if not entered as in this case, but merely notice given, it may be considered any time during the morning session.

MR. FITTS—I thought the motion was entered on yesterday. I made a mistake.

THE PRESIDENT—It would bring up the same question if it was entered on yesterday. It was the duty of the Chair to lay it before the Convention, because it was a special order, and the gentleman would not be denied his right. It would be the special order which was passed over by oversight.

MR. VAUGHAN—The stenographic report has it that the motion was made on yesterday afternoon.

THE PRESIDENT—If the motion was made yesterday, it would be the special order, and it would be the duty of the Chair to lay it before the Convention, and if the Chair neglected or failed to do it it ought not to cut off the gentleman's right. It would be just like a report of any standing committee was made the special order, and if the Chair ran over it in the order of business it would not displace it. It would still be the special order, and ought to be submitted to the Convention for action.

MR. VAUGHAN—The stenographic report has him as saying: "I vote for the section for the purpose of moving to reconsider tomorrow, and I make that motion now."

MR. deGRAFFENREID—If there is to be any question about it, I now make the motion to reconsider.

THE PRESIDENT—If the motion was made on yesterday, then it is the duty of the Chair to lay the matter before the Convention as the special order for consideration, and the delegate does not lose his right simply because the Chair neglected to call it to the attention of the Convention.

MR. O'NEAL—I move to lay the motion to reconsider the vote by which Section 6 was adopted, on the table.

Upon a vote being taken the motion to reconsider was tabled.

THE PRESIDENT—The Chair will call the attention of the Convention to the fact that the gentleman from Tuscaloosa, Mr. Foster, did not move to reconsider, but gave notice that he would move on tomorrow to reconsider, and the Convention is governed by the journal and not by the stenographic report.

Section 11 was read as follows:

Section 11. No city, town, village or other municipal corporation other than provided for in this article shall levy or collect a higher rate of taxation in one year on the property situated therein than one-half of one 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 sixth day of December, 1875, and the interest thereon a tax of one 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 one per centum to pay the expenses of the city government and may also levy a tax not to exceed three-fourths of one per centum to pay the debt existing on 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 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 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.

MR. WEAKLEY—The Committee authorizes me to offer this amendment.

The amendment was read as follows:

Amend Section 11 by adding at the end of said section the following:

"And provided, further, That the purpose for which such special tax is sought to be levied shall be stated in such election call and if there is a revenue derived from such tax, it shall be used for no other purpose than that stated."

MR. WEAKLEY—I now offer an amendment to the amendment.

The amendment to the amendment was read as follows:

"By adding after the word 'law,' in line sixteen and one-half of Section 10, the words 'or now authorized by law to be issued.'"

MR. WEAKLEY—I ask unanimous consent to accept these amendments.

MR. BROWNE—Before that is put I rise to a question of parliamentary inquiry. Section 7 of the Article on Taxation was laid upon the table to be taken up and considered with Section 11 of this article. Now what condition is that section in. Is it here? It was to be taken up and considered with Section 11 of this article. Section 11 of this article is up for consideration. The motion was that the other be laid upon the table to be taken therefrom and considered with this section. Both sections have reference to taxation by cities, towns and villages. The Convention placed itself in that attitude. I just wanted to know where they are.

THE PRESIDENT—The present occupant of the chair was not in the chair when that order was made.

MR. BROWNE — That order was made in July. It was done on the motion of the chairman of this committee against my protest.

MR. WEAKLEY—I suppose there will be no objection to taking up Section 7 of the article on taxation and offering Section 11 of this report as a substitute for that.

THE PRESIDENT—The Chair ruled when the report of the Committee on Local Legislation was before the Convention, and a

part of the Committee on Local Legislative Department which bore upon the same subject was brought before the Convention at the same time under a similar order of the Convention that the only method that occurred to the Chair whereby the matter could be properly considered would be that one section would be offered as an amendment to the other, so the several propositions brought in by the Committee on Legislative department, which affected local legislation, were thereupon taken up and considered paragraph by paragraph as amendments to the report of the Committee on Local Legislation. Now, it is competent for the Convention to take up the section which is reported by the Committee on Taxation and offer it as an amendment or as a substitute for this section or when the report of the Committee on Taxation is up for consideration. It would be competent now for the Convention to displace the report of the Committee on Municipal Corporations and take up the report of the Committee on Taxation, and this section might be offered as an amendment to the report of the Committee on Taxation.

MR. BROWNE—Didn't the Convention displace it when they adopted the motion made by the chairman of the committee that it should be taken from the table and should be considered when this section was considered? Didn't they do it then?

THE PRESIDENT—Well it would be in the power of the Convention to consider two reports at once, if they determined so to do, it might be confusing to do so. It can only properly be brought in as an amendment. The Convention must either displace the report of the Committee on Municipal Corporations and take up the report of the Committee on Taxation, when this section may be offered as an amendment to it, or the section as reported by the Committee on Taxation may be offered as a substitute or amendment for this section. It is a mere matter of procedure.

MR. WEAKLEY—I ask unanimous consent to accept for the committee the two amendments which have just been proposed.

MR. O'NEAL—Let us hear them read.

THE PRESIDENT—They have been read in the hearing of the Convention.

MR. O'NEAL—Will the Chair state them?

THE PRESIDENT—The Chair could not undertake to state them from memory. Does the gentleman desire they be read again?

MR. O'NEAL—Yes, sir. I do not care to give my consent to something I do not understand. I have forgotten them like the Chair.

The amendments were read as requested.

Consent was given for the committee to accept the amendments.

MR. O'NEAL (Lauderdale)—Is the section open to amendment.

THE PRESIDENT—Yes, sir.

The Chairman recognizes the gentleman from Winston.

MR. HALEY—I have an amendment to offer.

Mr. Weakley sought recognition.

THE PRESIDENT—For what purpose does the gentleman desire to speak?

MR. WEAKLEY—I thought the question was upon the adoption of the section.

THE PRESIDENT—It is the custom of the Convention to recognize gentlemen to offer amendments and the Chair has recognized the gentleman from Winston.

The amendment offered by the gentleman from Winston was read as follows:

"Amend Section 11 of the report of the Committee on Municipay Corporations by striking out the word 'Attalla' where it appears in line 17 of the report."

MR. HALEY—I move the adoption of the amendment, and upon that I call for the previous question.

MR. DAVIS (Etowah)—I do hope the gentleman will withdraw that amendment. He is not from Etowah county, and we have three delegates on the floor representing Etowah county and for him to spring a question like that and demand the previous question I submit is unfair.

MR. HALEY—I withdraw the motion.

MR. DAVIS—I trust the Convention will not adopt this amendment. As I stated, Etowah county has three delegates on the floor of this Convention, and we three have agreed amongst our selves, and we believe we can represent Etowah county. We believe that we are doing what the people of Attalla want when we include Attalla in this list. Ten years ago the city of Attalla issued $50,000 worth of bonds for which they received $45,000 in cash. With the $45,000 she built an electric light plant, a water works plant and a public school. She paid the interest on those bonds for one or two years and then she defaulted. Never since then has she paid any more interest. Today she belongs to the list of strangulated towns and she has affected a compromise with the owners of those bonds, whereby they propose to take $25,000

at the rate of 3 per cent. Now mind you, these bonds have been reduced to judgment, and the judgment amounts to something like $80,000 against the city of Attalla. They propose to cut this judgment 1-3 and to cut the rate of interest 1-2 on that 1-3 and to settle for $25,000 at 3 per cent. instead of $80,000 at 8 per cent. interest. The city of Attalla today has that electric light plant, that waterworks plant and that public school the proceeds of the money she received for these bonds. She comes here by her Mayor and Aldermen, and many of her leading citizens and asks that her hands be untied and that she be permitted to effect this compromise with her creditors. There is of course some objection. There never was yet a movement in the interest of progress where some croker or some man who is a drawback to civilization did not rise up and protest. The people of Attalla only ask that their hands be untied. They do not ask us here to put that 1-2 of 1 per cent. extra tax on her. They merely say, "Take off this constitutional provision which limits us to 1-2 of 1 per cent. and allow us by the votes of our qualified electors to say if we want it," and I believe, Mr. President, if the people of Attalla want to pay their honest debts, we, as a matter of right, should grant it to them, and submit it to a vote of the people, and for that reason, I believe, and hope, that the amendment will be tabled.

MR. BROWNE—It seems to me, Mr. President, that any provision for taxation, by either State, county or municipality should be placed in the article upon taxation. It seems to me that nobody can gain-say that proposition. I could never see any good reason why this Convention postponed the consideration of the Section in the Article upon Taxation until the report of the Committee on Municipal Corporations was up.

MR. BEDDOW—I rise to a point of order. The gentleman is not addressing himself to the amendment of the gentleman from Winston.

MR. BROWNE—I am coming to that.

THE PRESIDENT—The immediate question before the Convention is the amendment offered by the gentleman from Winston. Incidentally, it seems to the Chair that a delegate might discuss the merits of the Section as reported by the Committee as illustrating his objection to the amendment, but the main discussion, of course should be directed to the amendment.

MR. BROWNE—Now that is why I opposed this amendment. This Section has no place in the Article upon Municipal Corporations. Its proper place is in the Article upon Taxation, where it has been for the last twenty-five years.

Now it was ordered by the Convention that this Section be laid upon the table and be taken up and considered when Section 11 on Municipal Corporations was up for consideration. The time

for its consideration would be now. In order that the Article on Taxation that has been held up by a motion made by the Chairman of this Committee, unnecessarily, it seems to me, for about six weeks, in order that that Article can be made complete and go to the Engrossing Clerk for engrossment and the order to a third reading, I now move that this Section 11 be laid upon the table with all of the amendments. If they will allow me to make this explanation. As soon as that is done, if the order of this Convention is to have any effect, why then it comes up immediately, Section 7 of the Article on Taxation, for considertion, and if it is held that it does not necessarily of itself come up, I will then move to take that Section up, then the Committee can offer by way of substitute the Article which it has. I now move to lay the amendments and the Article on the table, as that is the only way to reach it.

MR. WEAKLEY—I hope the gentleman will not make the motion to lay the Section on the table, without giving the committee an opportunity to be heard.

MR. BROWNE—I refuse to withdraw it. My Section was laid upon the table against the Committee's protest, without having an opportunity to be heard upon it. As I say, it can do no harm, they can offer it as a substitute for the Committee on Taxation, that is the only way to bring it up.

MR. WEAKLEY—I will ask if he cannot offer his Section as a substitute to this just as well?

MR. BROWNE—I will not place myself in the ridiculous attitude of taking out of the Article on Taxation a Section upon the subject of taxation and placing it in the report of another Committee that has nothing to do with it.

MR. WEAKLEY—The gentleman declines to withdraw.

MR. BROWNE—Yes.

A division of the question was called for.

THE PRESIDENT—The question is to lay the amendment offered by the gentleman from Winston and the Section reported by the Committee on Municipal Corporations upon the table.

A division was called for and the first question will be on the motion to table the amendment offered by the gentleman from Winston.

Upon a vote being taken the motion to table was carried.

THE PRESIDENT—The question recurs upon the motion to table the Section reported by the Committee on Municipal Corporations.

Upon a vote being taken there were 41 ayes and 42 noes, and the motion to table was lost.

MR. COLEMAN (Greene)—In order that we may proceed in harmony with the order of this Convention at a previous day, I move to take up section 7 of the Article on Taxation at this time. We were considering the Article on Taxation, and when Section 7 was reached it was postponed to be taken up when we reached Section 11 of the present Article. It would seem, therefore, proper and in order that we should now proceed to consider Section 7 of the report of the Committee on Taxation.

THE PRESIDENT—The gentleman from Greene moves that Section 11 of the report of the Committee on Municipal Corporations be laid aside, and the Convention take up Section 7 of the report of the Committee on Taxation. Is the Convention ready for the question?

MR. HOWZE—I hope that motion will not prevail, for this reason, Mr. President, the section as reported by the Committee on Municipal Corporations is more perfect than the one reported by the Committee on Taxation. It is complete, it adds what we want to come in the section, and the section of the Article on Taxation does not. Let us adopt this now, and if the gentlemen wishes to displace this article the Committee on Harmonics can place it properly. I don't think it necessary that we should take up unnecessary time in parliamentary tactics and motions. It seems to me that the proper plan would be to adopt the section as reported by the Committee, and let it go to the Committee on Harmonics. It seems to me we are wasting time in these dilatory tactics.

MR. BROWNE—May I ask the gentleman a question?

THE PRESIDENT—Will the gentleman yield for the gentleman from Talladega?

MR. HOWZE—No, sir. This section on Municipal Corporations embraces everything in the section of the report of the Committee on Taxation, getting in these different towns and cities.

MR. CUNNINGHAM—I rise to the point of order that when a motion is to lay on the table until a definite time, when that time arrives, the subject is taken from the table without action of the Convention. The motion was to lay on the table Section 7 of the Article on Taxation, and it was to be taken from the table at the time Section 11 of this report was up for consideration, and therefore it comes from the table without any formal action of the Convention.

THE PRESIDENT—It seems to the Chair that that is correct, that when the Convention sets a matter over for consideration to a certain time that it would come before the Convention for

consideration. The chair does not know exactly how the Convention can consider two reports at one time, unless it displaces one of them.

MR. HOWZE—I understood the motion was to postpone consideration of this section and this report until the other could be taken up.

THE PRESIDENT—That is the pending motion, the Convention can lay aside the consideration of this section and take up Section 7 of the report of the Committee on Taxation.

MR. HOWZE—It was to that motion I was addressing myself.

THE PRESIDENT—The gentleman will proceed—

MR. HOWZE—I say, Mr. President and gentlemen of the Convention, let us end this matter. Here we are dilly-dallying over this thing, and likely to be at it another hour or two if we take up the report of the Committee on Taxation, because it is to be amended and it will take considerable time. Why take the time?

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

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

MR. COLEMAN—The question is up by the order of this Convention.

MR. HOWZE—On your motion?

MR. COLEMAN—I will discard the motion if necessary, but the question is up already. We have arrived at that time and that place when proceedings contemplated and provided for in our resolution when Section 11 was reached, it should be considered.

MR. HOWZE—I make the point of order that we are considering the report of the Committee on Municipal Corporations.

THE PRESIDENT—The Chair is of the opinion that notwithstanding the previous order of the Convention, Section 11 could not be displaced, unless by some action of the Convention. It seems to the Chair under the motion of the gentleman from Greene, it could be laid aside and Section 7 considered, provided the Convention was willing for that to be done.

MR. HOWZE—Repeating what I have said, I think we should end this matter and stop these dilatory tactics. I move to lay the motion of the gentleman on the table.

MR. COLEMAN—I ought to have an opportunity to reply.

THE PRESIDENT—Does the gentleman from Jefferson yield?

MR. HOWZE—No, sir.

THE PRESIDENT—It is moved that the section under consideration be laid aside and the Convention take up Section 7 of the report of the Committee on Taxation, and it is moved that that motion be laid upon the table.

A vote being taken the motion to table prevailed.

MR. BEDDOW (Jefferson)—I wish to offer an amendment.

The Secretary read the amendment as follows: "Amend Sectoin 11 by striking out of line four the word 'preceding,' and inserting in lieu thereof the word 'same.'"

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Jefferson.

MR. BEDDOW—In offering this amendment, while a small amendment, it is of great and vital importance to the municipalities of the State of Alabama. The words as reported in the report of the Committee, and to which I reserved the right to offer an amendment when the question came up, is in the exact words of the old Constitution. Under its provision, or under the provision of the old Constitution, it has brought about a great deal of trouble to municipalities throughout the State in the assessment of taxes. The law as it now stands, and as it will stand if this section is adopted as it now stands, requires the municipalities of the State to go one year back on the assessment made for State and county taxes and simply because the word preceding was put in the old Constitution. Under its operation it is necessary, the law requiring that the assessment of every municipality be gotten from the Tax Assessor's office, it is necessary to go to the court of record and get the assessment from the books of the present year and then make the assessment according to that of the preceding year. This has worked great hardship to the municipalities. As an illustration take the city of Ensley. Two years ago a lot there, possibly might be assessed at $50. At the next assessment for State and County purposes that same property might be worth six thousand dollars. There are a number of instances of that kind in that city. According to the law as it now stands, if the assessment was made on the valuation of fifty dollars on the preceding year, and this year assessed at six thousand dollars, notwithstanding the increase in value or improvement upon that lot, the municipality is required to assess at the sum of fifty dollars, whereas the State and County is assessed at six thousand dollars. The Supreme Court has construed the meaning of this constitutional provision, and in its decision it is intimated by the learned justice who delivered the opinion that it was a wrong, but that the Constitution requiring it the Court must adhere to what was just and right. In the case of the Elyton Land Company vs. Mayor and Aldermen of Birming-

ham in the year 1886, they assessed their property, and there was not included in the assessment a large amount of personal property which would have netted the municipality some four or five thousand dollars, but in the year in which the assessment was made on the personal property for State and County they had a large amount of personal property, and notwithstanding the fact that the city of Birmingham has passed an ordinance requiring them to pay taxes on the first day of January in the year in which the assessment was made, yet in construing this law the Supreme Court of Alabama said they were not entitled to the taxes upon this property. Notwithstanding that on the first of January it was within the confines of their municipality, and the result was that they lost the taxes on personal property to the amount of four thousand some odd dollars. The court in its opinion in this case said: "We have carefully considered the question raised because of its importance, and that it is brought for the first time before the court, and have arrived at the conclusion, announced with some reluctance, but with the policy or expediency of the constitutional provision we have no judicial concern. Our duty is to interpret it as it is ordained by the people. We are forced to hold that the provision of Section 20 of the charter of the city above questioned is unconstitutional."

Mr. President, what reason can there be to require a municipality to take the assessment of the preceding year, when it would be just as easy to get the assessment for the present year? The assessment is made during the last three months of the year, in October, November and December. This matter was brought to my attention by the tax collector of Jefferson county, and the various municipalities throughout out county, and with this explanation I am sure that the Convention will adopt this amendment and allow the assessment for the municipalities be made on the same year that it is made for the State and county.

MR. SAMFORD (Pike)—I desire to offer an amendment relating exclusively to the city of Troy. It is a local matter and I offer it as an amendment to the amendment.

The Secretary read the amendment as follows:

Amend by adding at the end of the section "and providing further that the additional tax authorized to be levied by the city of Troy shall be applied when collected exclusively to the adjustment of the present indebtedness of said city."

MR. SAMFORD—I desire to say simply that I have conferred with my colleague, Mr. Murphree, with reference to that addition, and he thinks it is wise, and I ask the Convention to adopt it.

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Pike.

MR. BEDDOW—I do not think it is germane to the amendment I offered. It relates entirely to a separate matter.

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

MR. SAMFORD—I think the gentleman is right and I will ask unanimous consent to withdraw the amendment for the present.

THE PRESIDENT—The gentleman from Pike asks unanimous consent to withdraw the amendment. The Chair hears no objection.

MR. CHAPMAN—I rise to support the amendment introduced by the gentleman from Jefferson——

MR. deGRAFFENREID—I will ask the gentleman to yield for a moment. The hour of 1 o'clock approaches, and I wish to introduce a short ordinance so that it may be referred to the proper committee.

THE PRESIDENT—The gentleman from Hale asks unanimous consent to introduce an ordinance. The Chair hears no objection.

The Secretary read the ordinance as follows:

Ordinance No. 445:

Be it ordained by the people of Alabama in Convention, that Section 28 of the article on judiciary heretofore adopted by this Convention be repealed and the following section substituted in its stead:

Sec. 28. A solicitor for each judicial circuit or judicial subdivision of the State, shall be selected in the manner to be prescribed by law, who shall be learned in the law, and who shall, at the time of his selection, and during his continuance in office, reside in the circuit or other territorial subdivision for which he is selected, and whose term of office shall be for four years, and he shall receive no other compensation than a salary to be prescribed by law, which shall not be increased during the time for which he was selected; provided, that this article shall not operate to abridge the term of any solicitor now in office, and provided further that the solicitors selected in the year 1904 shall hold office for a term of six years, and until their successors are elected and qualified.

Referred to Committee on Judiciary.

Leaves of absence were granted as follows: Indefinite leave to Mr. Kirk on account of sickness; to Mr. Long (Walker) for today; to Mr. Henderson for today; to Mr. Wilson (Washington) for the remainder of the week; to Mr. Stewart (Perry) for Friday

and Satuday; indefinite leave to Mr. Reynolds (Chilton) on account of sickness.

MR. HEFLIN (Chambers)—I ask unanimous consent to introduce a short resolution.

Leave was granted.

Resolution No. 289, by Mr. Heflin of Chambers:

Resolved, that it is the sense of this Convention that the Committee on Order, Harmony and Consistency of the Whole Constitution, be, and it is hereby instructed to offer a substitute or substitutes for Section 28 of the judiciary article to the Convention for its adoption or rejection.

MR. HEFLIN—I ask that the resolution be referred to the Committee on Rules.

The resolution was so referred.

THE PRESIDENT — The gentleman from Sumter (Mr. Chapman) has the floor.

MR. CHAPMAN—I would prefer if I could have the floor immediately after the recess.

A DELEGATE—I move that the Convention do now adjourn.

The motion to adjourn prevailed.

AFTERNOON SESSION.

The Convention met pursuant to adjournment, there being ninety delegates present upon the call of the roll.

THE PRESIDENT—The Convention had under consideration when it adjourned in the forenoon Section 11 of the report of the Committee on Municipal Corporations. There was pending an amendment offered by the gentleman from Jefferson. The gentleman from Sumter has the floor.

MR. CHAPMAN—At the close of the morning session the amendment of the delegate from Jefferson, Mr. Beddow, was the pending question. That makes a very slight apparent change in the section of the Committee. I shall address myself, Mr. President, entirely and only to that amendment. The old law has been, and is now, that the taxes of municipal corporations shall be assessed according to the State taxes of the preceding year. That means, Mr. President and gentlemen of the Convention, that a municipal corporation must wait until one year after the taxes for the State and county are paid or collectable before it can make an assessment upon the property of citizens in any municipality. There

is no reason, gentlemen, that I can see, why the assessments should not be made in a city or town during the same year that the assessment is made for the State and county. The reason I apprehend that the word "preceding" was put into the law was that the State and county assessments were not completed, in other words, they were not fixed, so that there could be no change in them until after the July term of the Commissioners' Court each year. It was then only a municipal corporation could ascertain what the State tax was upon property. Now that was predicted upon the idea that cities and towns were compelled to make their tax year different from the State and county. That now is an unfair and indeed a false presumption, because the municipalities can arrange its tax year, and should do it, so as to conform to the tax year of the State and county. What would be the result when the State tax for any year is finally adjusted in July, where they are allowed to raise or reduce assessments, immediately after municipal corporations can immediately assess its taxes. I would ask the delegates of the Convention to take one moment upon this. A municipal corporation under the law as it stand, does not have to send the Assessor around to take the assessment, he does not have to go out and ask each man what property he has to assess, the town assessor usually goes to the State tax book, and assessment books of the county, and from them he simply puts down the State tax and reduces it by half and that takes the town tax. In the ordinary town the assessor can do it in one day, and in a few days for a good sized city. Every municipality can make a tax year conform to that of the State, and before the Tax Collector for the State can have his books ready to collect his tax in the fall the Tax Collector for the town can have his ready and be collecting taxes. Now that is the only reason that I apprehend why it has been heretofore held in the law that the tax should be for the preceding year instead of the current year. Now we go into the practical effects of it. Let us take the practical results. It very often happens, Mr. President, in our town, I don't know how it is in other towns, that a great deal of property escapes taxation because the merchant who prepares for the fall trade moves in a stock of goods in August or September just before the time for assessment of taxes. He gets in a stock of perhaps $10,000 worth of goods. He sells the fall goods for that year and assesses for the State and county taxes, but before the time comes for the town to assess a year following, that man has disposed of his property and he is gone. He owns no real estate in the town, and the town loses the taxes upon that stock of goods. It not infrequently happens that this is the case. If a man owns real estate I concede that it makes no difference, because the tax assessor for the municipality fastens upon that real estate as for the State and county taxes, but it does not fasten upon personal property which has gone and disappeared and sold out by retail to every one, and there is no way in

the world to get any property upon which to levy a lien for town taxes. Now in so far as the illustration made by the delegate from Jefferson, it is immaterial, because the succeeding year the property will be assessed at its increased value, but it sometimes happens even that that is a hardship because a man assesses his real property, and suppose his house should be burned, and yet for the current year he is assessed at three or four times the value.

THE PRESIDENT—The time of the gentleman from Sumter has expired.

MR. COLEMAN (Greene)—Mr. President, perhaps there is more involved in the proposed amendment than would be thought upon first impressions. I have not been very favorable to the report of this Committee, but when it has a proper provision in it, I think it ought to be sustained, and I think it will be. I have but little to say in reply other than to read the law and to give the reason for fixing it upon the preceding year as contained in our decision rendered by the Supreme Court. The present Constitution has been in force for many years. It uses the precise language used by this report: "As assessed for State taxation during the preceding year." Now the reason assigned for that is very clearly stated by the Judge, who rendered the decision read this morning by the delegate from Jefferson. Here is the reason assigned for requiring cities and towns or municipalities to assess the taxes as assessed by the State the preceding year, and it has its force, and every one who listens to it will be impressed with the truth of it. This was rendered by Judge Clopton in the Elyton land case.

The court is discussing why the State places these limitations upon municipalities. "In interpreting limitations upon legislative power in State Constitutions, the nature and objects of the particular limitations should be kept in view." Now that sentence has a good deal in it, if you will remember it in connection with what followed directly, "and the causes in which they originated considered in the light of history and former constitutions; and such force and operation given to the language, consistent with its legitimate meaning, as may fairly remedy existing and apprehended evils, and accomplish the desired ends." Now that is the premise to the conclusion; "the framers of the Constitution were cognizant that no governing power is more liable to abuse than the taxing power, and also of its oppressive use and perversion by municipal authorities without regard to the interest of the citizen. They sought to prevent this by restricting the exercise of the power within moderate and protective limits."

Now he has stated the reason for it, and the very object had in view, to prevent the abuse of taxing powers by municipalities, which, as has been learned from long experience and observation,

are being constantly exercised, and he says of this that this very language was put there to prevent that very thing.

MR. BEDDOW—Does not that particular part of that opinion which you have read refer to the power of the municipality in assessing the value?

MR. COLEMAN—Yes, sir; and why the limitation was put, and this decision, if any one will take it and examine it from beginning to end, he will find in it not the remotest support to this proposition. On the contrary, it gives the reason why the limitation should be fixed, and it is perfectly clear when you take the very case mentioned by him.

Now the City Assessor in January, without any restriction or limitation, may assess the property at whatever he sees property and there is very little remedy for the man himself whose property is being assessed. But when he is required to come and take the assessment that has been fixed by the city, under proper authority, such as the assessor himself, and passed upon by the Probate Court, you have something clear, fixed, and is a protection, and it is not left in the hands of the municipal assessor at all. That is the reason of it. But it would be utterly impossible, with any consideration of fairness, to apply the principle contended for here. We have a fiscal year. We are bound to have it. That is fixed by law as the first day of October. The Probate Court meets in June of the following year, and at that time it is the duty of all parties whose property has been assessed to appear before that court, and if there are any alterations to be made—too much an assessment, too low a rate—there they are adjusted and finally determined, and that is the conclusion of the court in July.

Now, then, we have exactly what the Judge refers to here in speaking of it, a fixed, satisfactory, conclusive limitation upon their power. It is not left to the assessor. But even go still further, according to the doctrine advocated here, if the limits of a town were extended at any time after this fiscal year before the first day of January, why a man's property must be assessed although it was not subject to assessment at that time. If a party sees fit to build a house on his land, he is to be assessed that year, notwithstanding the fact that the fiscal year has terminated the October before; in fact, there would be no fixed way of assessing valuations and fixing taxation upon parties. There is a great deal in this. There is no hardship, though, in either, and there is no delay. Whenever the assessments are affixed and determined in July, the city assessor has nothing to do but go there and get the assessment already fixed and limited, and, as a matter of course, his duties are easy, and they are satisfactory. Where we have been working so long under a system so clear and which has given so much satisfaction, I do not think it would be wise policy to enter

upon a field of speculation, and I, therefore, oppose the amendment.

MR. COBB—When it says "the preceding year," doesn't it mean the preceding tax year, and if the taxes for the municipality are assessed in the very same year in which this final determination is made, wouldn't it be the preceding tax year which closes in July.

MR. COLEMAN—That is a matter of course, and that reminds me of another point in this decision. The gentleman said something about property escaping taxation. In the first place, the merchant is required to give in his property at the time he has the greatest amount of goods on hand during the year. Here it says:

"It is argued, that this construction exempts all property which may have escaped taxation during the preceding year, and all property which may come into existence after the completion of the State assessment. As to property which may escape assessment, the municipal officers on its discovery, have but to report the same to the assessor and collector, whose duty it then becomes to assess it." The fact is that every proposition that has been made has been fully discussed and determined upon, and the law ought not to be disturbed.

MR. deGRAFFENREID—I move to lay the amendment of the gentleman from Jefferson on the table.

On a vote being taken, the motion to lay on the table prevailed.

The following amendment by Mr. Murphree and Mr. Samford of Pike, was read:

"And provided, further, that the additional tax authorized to be levied by the city of Troy shall when so levied and collected be used exclusively in the payment of bonds and interest coupons thereon hereafter issued in the adjustment of the present bonded indebtedness of said city."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Pike.

Upon a vote being taken the amendment was adopted.

MR. ESPY—I have an amendment I desire to offer which was prepared by Mr. Lee of Escambia.

The amendment was read as follows:

"Amend Section 11 by adding the word 'Brewton' after the word 'Woodlawn,' in line 18."

Upon a vote being taken the amendment was adopted.

MR. LOMAX—I have an amendment.

The amendment was read as follows:

"Amend Section 11, reported by the Committee on Municipal Corporations, by adding the following:

" 'And provided further, that this Section shall not apply to the city of Montgomery, which city shall have the right to levy and collect a tax of not exceeding one-half of 1 per cent. per year upon the value of all taxable property therein fixed by State taxation, for general expenses, and an additional tax of not exceeding three-fourths of 1 per cent. per year upon the value of property therein as fixed for State taxation, to be devoted exclusively to the payment of its public debt, interest thereon and renewals thereof, and to the maintenance of its public schools and public conveniences."

MR. LOMAX — This amendment was prepared by my colleague from Montgomery, Mr. Watts. It meets the views of five of the delegates to this Convention from the county of Montgomery. It also meets the approval of the Mayor and City Council. It is absolutely necessary in order to permit us to properly take care of the obligations we now have, and I move the adoption of the amendment.

MR. SANFORD (Montgomery)—I remember that when my friend from Montgomery was nominated, the Convention which nominated him,—and he is known to be one of the delegates from the State at large,—adopted a resolution that you should not increase the taxes of the people. When I was nominated by the county, I pledged the people of that assembly, the convention, that I would not raise the taxes of the people. These other gentlemen from the county, I am told, say that they did not make any such pledge, but the Party made the pledge and I recognize it, and I cannot see, upon my life, why Montgomery should be burdened more than almost any other city in the State. That it has been imprudent and that it incurred an indebtedness without wisdom is known of all men. Its present Council is not remarkable for its wisdom. It is endeavoring even now to evade the responsibilities which they think this Convention, in its Constitution, will impose upon them in the way of limitation in the granting of franchises.

Let us look at it for a moment. My friend there says Montgomery requires 125 per cent. Already the people of Montgomery county, who reside in the city, are taxed two twenty-seven and a half per cent. This city has acted under the Constitution that has pravailed for twenty-five years, and for the last ten or fifteen years at least, while it should properly tax from seventy to seventy-five, it is taxed one hundred and twelve and a half per cent., in defiance of the Constitution of the State and have applied money so raised to any purpose that suited the fancy or caprice of the Aldermen.

The proposition of my colleague is that now, inasmuch as the City Council has collected one hundred and twelve and one-half per cent. instead of seventy or seventy-five per cent., that we should go further and give it the right to collect one hundred and twenty-five per cent. It is just precisely as wise as if a man who has been robbed of twelve hundred dollars should immediately turn around and give the gang of robbers eighteen hundred dollars because of the theft. Why should they do it? What evidence have we that one hundred and twenty-five per cent. will pay an indebtedness of more than two millions of dollars, with bonds on the market which we cannot sell, when the people are pledged not to enlarge the indebtedness of the county. Montgomery is as much a part of the people of Alabama as any other portion of the State. One hundred and twenty-five per cent. is higher than any other class of ten thousand men that I know pay for city, village or town privileges. I can see no reason why the people should be thus burdened. Mr. President, he says that his five colleagues—I am rather astonished at the defection of my friend Macdonald if he be one of them. My friend Jones is unfortunately afflicted and is not here to answer for himself. I do not know that Governor Oates favors this project. I am certainly earnestly and intensely opposed to it and I appeal to these people not to single out Montgomery as a sacrifice, and not to burden them, when already they have a debt of two million dollars which they cannot pay; when their assets consist of the Fire Department, a Market House and a Cemetery, and some water works that are very valuable, but who wants to buy a Cemetery or a Fire Department to meet these great obligations? I say to this Convention that it would be unjust. What men have these gentlemen seen and confabulated with, who speak for the people of Montgomery city? The City Council, many of whom have been defeated for their own wise policies and who are going out of office in a few weeks, and are doing everything that they can possible as a mere matter of spite under the pretense of honesty and patriotism. Now the people I meet on the street say to me——

MR. LOMAX—You seem to question the proposition that five of the representatives from Montgomery Council favor this proposition.

MR. SANFORD—I do.

MR. LOMAX—Do you deny that Mr. Watts favors it or that Mr. Graham favors it, or that I favor it or that Mr. Macdonald favors or that Governor Jones favors it?

MR. SANFORD—I did not know Mr. Macdonald favored it.

MR. LOMAX—He does favor it and Governor Jones favored it at a meeting of the Montgomery delegation at which you were not present.

MR. SANFORD—That is not all. There are six of us here.

MR. LOMAX—There are seven of us here.

MR. SANFORD—That is a greater misfortune than I thought Montgomery was afflicted with. (Laughter.)

MR. LOMAX—With great respect I would like to ask my colleague if he refers to himself in that remark? (Laughter.)

MR. SANFORD—Certainly, and to you also. Now, I would say that the people say to me when they meet me on the street, "Don't let the Convention, if you can prevent it, put any more tax on this city or upon us."

THE PRESIDENT—The time of the gentleman has expired.

MR. MACDONALD—I feel it necessary after the allusion made to me by my distinguished colleague from Montgomery, Colonel Sanford, to explain my vote in this instance. Every one who knows me, understands and my course in this Convention has shown, that I am opposed to putting on the people any unnecessary burden, and that has been the course of my life so far as it had any public character at all. When this matter was first broached to me, I was very much like my friend, General Sanford, in reference to it, but I became convinced (and I can be convinced some times) that the necessities of the case demand this. As I understand there is a maximum limit by law now for the city of Montgomery, of I believe a cent and a half. Is that correct?

MR. SANFORD—About eighteen and a half cents.

MR. LOMAX—A cent and a quarter.

MR. MACDONALD — It is true that the municipality of Montgomery does not tax up to that rate, but the tax has been one twelve and a half, and so this suggested raise as a matter of fact is no raise at all but merely fixes a limit already fixed, although it is true that that limit of one and a quarter is made up by permission given to assess the property of the city for the purpose of paying interest on certain bonds which do not require the full amount now.

MR. SANFORD—Ain't it a fact that the interest which one per centum is allowed, amounts to about $27,000 and a few hundred, and they collect about sixty odd thousand dollars upon it illegally.

MR. MACDONALD—Yes, sir, I have already answered that proposition, that it is not needed for that specific purpose.

MR. SANFORD—That is illegal and yet we want to increase the illegal taxation by making it legal.

MR. MACDONALD—No sir, I desire that the municipality of Montgomery which is in a condition that absolutely demands this relief according to the best information I have been able to receive, and I am no expert on the question and must get information from those who are expert, that the municipality of Montgomery in the condition in which it now is (it makes no difference how they got into that condition whether through the extravagance of those who had the business in charge or through misfortune), does need that relief, and so far as I am concerned, I am willing to answer to my constituents of the city of Montgomery and the County of Montgomery for my vote here, and it is my deliberate conviction, after being impressed directly to the contrary, that this relief is needed by the city of Montgomery.

MR. SANFORD—You won't have many constituents if you talk that way.

MR. GRAHAM (Montgomery)—I am as much opposed to raising the tax limit or to increasing the rate of taxation as my distinguished friend who has just spoken so strongly against this proposition. Under ordinary circumstances I would be more than willing to take the opinion of the gentleman as being correct upon any proposition that is presented, except upon matters municipal, when he is known to be at all time "agin' the government," that is so far as I have known the gentleman.

MR. SANFORD—Because it has always been oppressive.

MR. GRAHAM—The gentleman says because it has always been oppressive. Let us concede for the sake of argument, that it is oppressive. We have a debt which has been created by the city of Montgomery. That debt we are honorably bound to pay and we are here appealing to the sovereigns of the State of Alabama to place us in the position where we can pay that debt as honorable men.

MR. SANFORD—Can't you do it by reducing your expenses?

MR. GRAHAM—As to that I am not informed. There may be excessive expenses, but I presume on account of the existence of this large amount of indebtedness on the part of Montgomery those who are now administering its affairs are sailing as close to the shore as it is possible for them to do consistent with good government. Now, Mr. President, Colonel Sanford, my colleague, has told us that we cannot pay the debt. There is no doubt in the world about the fact unless we get the relief which is sought through the amendment offered by my colleague, Mr. Lomax, the city of Montgomery will be absolutely unable to pay the indebtedness and must default. Now is it better that we should confer upon the city the right to pay this indebtedness, although it may result in a small amount of hardship. Confessing that, for the sake of argument, I say is it not better that that should be done,

than that the capital city of the sovereign State of Alabama should be disgraced in the commercial world by failing to pay the interest on her obligations when they fall due?

MR. SANFORD—We have no evidence that one hundred and twenty-five will save us from the disgrace of which you speak.

MR. GRAHAM—One hundred and twenty-five, Mr. President, in the opinion of those who are interested deeply in this matter, and who are informed on this subject, will relieve Montgomery from this threatened disgrace. It is fortunate that we have five men who represent the county of Montgomery, who come from the county of Montgomery, who are agreed on this proposition. An effort as I am informed, was made to satisfy my friend here that it was proper and right that we should have the power conferred upon this city which has been asked by this amendment, but, as I am also informed, he did not agree to it. I am also informed that our distinguished friend who formerly hailed from the wire grass of this State, and is now an honorable citizen of Montgomery County, has also been approached on the subject. As to how he stands I do not know and it is entirely immaterial. It is between him and his conscience, as to what he thinks is right. Mr. President, I do not care to add any thing more to what I have said, but I do appeal to this Convention in the interest of the fair name of the city of Montgomery, in the interest of the State of Alabama, in the interest of the tax-payers of the city of Montgomery that this amendment should be adopted.

MR. SANFORD—Mr. President, is it not as much to the interest of the people that it should not be adopted. I would like to ask the gentleman one more question. Is it not a fact that the town today has a great many officers, some of whom might be dispensed with?

MR. GRAHAM—I do not think there is any doubt about that fact.

MR. SANFORD—They are like the Siamese frogs—

MR. GRAHAM—I do not agree on that proposition. I never saw a Siamese frog and don't know what it is.

MR. EYSTER—I have an amendment.

The Secretary read the amendment as follows: Amend Section 11 by adding after the words "per annum" on line twenty the following: "And provided, further, that this section shall not apply to the cities of New Decatur and Cullman, which cities may, from and after the ratification of this Constitution, levy and collect an additional tax not exceeding one-quarter of one per centum per annum in addition to the tax hereinbefore authorized which special tax shall be applied exclusively to educational purposes."

MR. BLACKWELL — I desire to offer a substitute to the amendment.

The Secretary read the substitute as follows: Amend Section 11 by adding after the word "per annum" in line twenty "and provided further, that this section shall not apply to the cities of Decatur and New Decatur and Cullman, which cities may from and after the ratification of this Constitution, levy and collect an additional tax not exceeding three-tenths of one per centum; such special tax to be applied exclusively to paying the current expenses of public schools, public improvements and to the payment of current expenses of their city government."

MR. EYSTER—I ask consent to accept the substitute offered by the gentleman.

There being no objection the substitute was accepted.

MR. CUNNINGHAM—I have an amendment.

The Secretary read the amendment as follows:

Amend Section 11 of the Article on Municipal Corporations, line 18, inserting after the word "Florence" the words "Pratt City, Ensley and Wylam."

MR. CUNNINGHAM—I desire to say that the delegates from Pratt City and Ensley and Wylam are unanimously in favor of it.

MR. WEAKLEY—I ask unanimous consent to add Avondale.

There being no objection the amendment was adopted.

MR. WEAKLEY—I have an amendment.

The Secretary read the amendment as follows:

Amend by striking out the word Florence in line 18.

Upon a vote being taken the amendment was adopted.

MR. deGRAFFENREID — It seems from the number of amendments already added to that Section, we are going into the same difficulty we criticised the Legislature about, into the business of local legislation, and I believe that nearly every town except Florence, Greensboro, Eutaw and a few others have been exempted from the operation of the Section and I therefore move to lay the Section and all of its amendments on the table.

There were expressions of dissent.

Upon a vote being taken a division was called for, and by a vote of 36 ayes and 56 noes, the motion to table was lost.

MR. BOONE—I move the previous question on the Section and the amendments thereto.

THE PRESIDENT—The previous question is moved on the Section and amendments.

The main question was ordered.

MR. BROWNE—I ask for the reading of the Section as amended, it is long but very important.

MR. SAMFORD (Pike)—Mr. President——

THE PRESIDENT—The previous question has been ordered. For what purpose does the gentleman from Pike rise?

MR. SAMFORD (Pike)—I desire to give notice that I voted in the affirmative, and that on tomorrow I will make a motion to reconsider the vote by which the previous question was ordered.

Leaves of absence were granted as follows: Indefinite leave to Mr. Moody, to Mr. Sollie for Monday, Tuesday and Wednesday of this week, and for tomorrow.

THE PRESIDENT—The question will be upon the adoption of the Section as amended. The Secretary will now read the Section as amended.

The Secretary read the Section and amendments as follows:

Section —. No city, town, village or other municipal corporation, other than provided for in this Article, shall levy or collect a higher rate of taxation in any one year 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-quarters of 1 per centum, to pay the expenses of the city government, and may also levy a tax not to exceed three-quarters of 1 per centum to pay the debt existing on the 6th day of December, 1875, with interest thereon, or any renewal of said 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 hereinbefore allowed to be levied and collected, such special tax to be applied exclusively to the payment of interest on bonds of said cities of Birmingham and Huntsville as heretofore issued in pursuance of law, or now authorized by law to be issued, 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, Brewton, Pratt City,

Ensley, Wylam and Avondale, which cities may from and after the ratification of this Constitution, levy and collect an additional tax not exceeding one-half of 1 per centum per annum; and provided further, thas this Section shall not apply to the cities of Decatur, New Decatur and Cullman, which cities may, from and after the ratification of this Constitution, levy and collect an additional tax not exceeding three-tenths of 1 per centum, such special tax to be applied exclusively to paying the current expenses of the public school, to public improvements, and to the payment of current expenses of their city government, 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; and provided further, that the purposes for which such special tax is sought to be levied shall be stated in such election call, and if authorized, the revenue derived from such tax shall be used for no other purpose than that stated; and provided further, that the additional tax authorized to be levied by the city of Troy shall, when so levied and collected, be used exclusively in the payment of the bonds and interest coupons thereon, hereafter issued, in the adjustment of the present bonded indebtedness of said city; and provided further, that this Section shall not apply to the city of Montgomery, which city shall have the right to levy and collect a tax of not exceeding one-half of 1 per cent. per year upon the value of the taxable property therein, as fixed for State taxation, for general purposes, and an additional tax of not exceeding three-fourths of 1 per cent. per year upon the value of the property therein as fixed for State taxation, to be devoted exclusively to the payment of its public debt, interest thereon, and to the maintenance of its public school and public conveniences.

THE PRESIDENT—The question is on the adoption of the Section as amended.

MR. SANFORD (Montgomery)—I desire to offer an amendment.

THE PRESIDENT — Not after the previous question has been ordered.

MR. SANFORD—I call for the ayes and noes.

The call was not sustained.

MR. HARRISON—Mr. President——

THE PRESIDENT—For what purpose does the gentleman rise?

MR. HARRISON—I desire to ask for information, from the gentleman from Montgomery, Mr. Lomax, who introduced the amendment, whether or not the effects of it would allow the city

of Montgomery three-fourths of one per cent, as under the old Constitution, to pay the former indebtedness, in addition to the one twenty-five called for by the amendment?

MR. LOMAX—No, sir.

MR. HARRISON—It looks to me that it does.

MR. LOMAX—It supersedes the old Constitution entirely.

MR. HARRISON—Won't that be in addition to the right of 1875? You cannot take away that right which gives the city the right to levy a tax of 50 cents for general purposes and three-quarters for all debts, could you take away the right of those old bondholders prior to 1875?

MR. LOMAX—This does not take away the right. It expressly gives the city the right to levy this tax for that purpose.

MR. BOONE—I understood the previous question was ordered.

THE PRESIDENT—It has been.

Upon a vote being taken, the section as amended was adopted.

MR. SAMFORD (Pike)—I desire to give notice that I shall move reconsideration on tomorrow. I do not make the motion now, but just give notice. I desire to be permitted to state that so far as I see that this is all right, but one of my colleagues is absent, and I do it out of abundance of caution. I may not make the motion on tomorrow.

THE PRESIDENT—The Chair will state that it is not necessary to give notice—it may be for the purpose of advising friends of the measure, but it is not necessary to give notice.

MR. WILSON (Clarke)—This morning I moved to reconsider the vote by which Section 6 was adopted yesterday. That motion was laid upon the table. I now move to take from the table my motion to reconsider the vote by which Section 6 was adopted. I ask for the reading of the section.

THE PRESIDENT — The delegate from Clarke moves to take from the table the motion to reconsider the vote by which Section 6 was adopted.

MR. ASHCRAFT—I rise to a point of order a motion to take from the table or to reconsider cannot displace the regular order, and I demand the regular order.

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

MR. WILSON—What was the point of order?

THE PRESIDENT—That a motion to take from the table cannot displace the regular order. It is not a privileged motion.

MR. WILSON—What is the regular order?

THE PRESIDENT—Consideration of the report of the Committee on Municipal Corporations.

MR. WILSON—Is not this a part of that report?

THE PRESIDENT—When a motion is laid upon the table and is again called up, it comes up before the assembly precisely as a motion to lay upon the table with all the amendments then pending, but a motion to take from the table is not a privileged motion.

MR. WILSON—It is not a privileged motion? Haven't we already adopted the last section of this Article?

THE PRESIDENT—The consideration of the Article before the Convention has not been concluded; nor has it been ordered to a third reading.

MR. SANFORD (Montgomery)—I have an amendment that I wish to offer to the Article.

THE PRESIDENT — The Chair will hear the gentleman from Clarke on a point of order.

MR. WILSON—I move to suspend the regular order that I may move to take from the table.

Upon a vote being taken, a division was called for, and upon a further vote there were ayes 40, noes 36, and the motion to suspend was lost.

MR. SANFORD (Montgomery)—I wish to offer an amendment as an additional section.

The Secretary read the additional section as follows: "No charter for the government of any municipality made according to any law enacted by the Legislature, shall become operative until the same shall be adopted by a vote of a majority of the qualified electors residing within the limits of such municipality."

MR. WEAKLEY—I move to lay the amendment upon the table.

MR. SANFORD (Montgomery)—Of course (Laughter). I make that because the charter is to the city what the Constitution is to the Legislature and to the State. It is the authority which confers or denies the grant of privileges to the people who dwell herein. It may impose great burdens upon them, and, therefore, I think it is just as proper that a charter after it has been framed, should be submitted to the people over whom it is to gov-

ern, as it is to submit a constitution to the people of the whole State. I, therefore, urge that a charge should be submitted to the people subject to its command or authority, just as the Constitution is; and submitted to the people for their ratification to govern the whole State. Is there any gentleman who is opposed to it?

A DELEGATE—Oh, no!

MR. SANFORD—He says, "Oh, no," and is unable to make the distinction if his life and his soul's salvation depended upon it—between a charter, the organic law of a city; and the Constitution, the organic law of the State.

MR. O'NEAL—Would not that be in effect embodying the principle of initiative and referendum in the Constitution of Alabama?

MR. SANFORD (Montgomery)—No more than the Constitution itself is an initiative and referendum—precisely the same principle.

MR. O'NEAL—That is the only one we have in the Constitution.

MR. SANFORD (Montgomery)—That is the only one because it has never been agitated before, that has been moved and I move this for the same reason that the people whom it shall govern shall have something to say what shall be their organic law whether a State or a city.

MR. WEAKLEY—I renew my motion to table.

MR. SANFORD (Montgomery)—Answer it with argument.

Upon a vote being taken the motion to table prevailed.

MR. WHITESIDE—I have an amendment I desire to offer.

The Secretary read the amendment as follows: "Amend by adding an additional section: Any person, firm, or association or corporation who may construct or operate any public utility along, on or across the public streets of any municipal corporation under any privilege or franchise permitting such construction in or through such municipal corporation shall be liable to abutting proprietors for the actual damage done to the abutting property on account of such construction or operation."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Calhoun.

MR. WHITESIDE—Gentlemen of the Convention, the courts have held that these utilities that operate upon the streets of a city are not an additional servitude upon abutting property, they may be constructed and operated along a street and damage the prop-

erty and almost destroy its value and the abutting property owners have not right to recover any damages therefor. This provision is simply to allow them to recover the actual damages that may be caused by the construction and operation of these utilities along the streets by the property.

MR. BOONE—Mr. President, it may not be a vain thing, but still I am going to attempt to defend the proposition offered by the gentleman from Calhoun. His idea in introducing that is, where an electric railroad or other street railroad or one of these trunk lines that we were talking about this morning, having a franchise or privilege to run their line up against a man's sidewalk, and prevent his dray or carriage or anything else from going in or out, the occupants of it loading or unloading from it, they do damage the abutting proprietor and they should pay what is fair and just. As the delegate from Calhoun has urged, the courts have held that the putting of an electric railroad or the putting down of posts on the sidewalk for a trolley system was not an additional servitude on the street from that charging it with a different use from that originally set out by the proprietors who dedicated that property or from whom it was condemned. The object of the section introduced by him is not to effect that, but where it actually damages the abutting proprietor in the way we have attempted to explain, it does seem to me they should be required to pay for it.

MR. KYLE—It occurs to me if that becomes a part of the Constitution of this State, you cannot build an electric railroad, or any other railroad in a city, and it would appear that these lawyers are anticipating very dull business and want damage suits growing out of the construction of railroads to keep them up. That will be the result of it. There never will be another railroad built if that is put in there, for every man that lives on a street will find himself seriously damaged by the noise of the cars or some other thing, which will damage him and disturb his family and render it unpleasant, and he will want damages, and these lawyers will bring so many suits against them that they will have to abandon business.

MR. WALKER—It seems to me that the proposition offered by the gentleman from Calhoun is already the law of the State. I can see no use in enacting it in the Constitution. I move to lay it on the table.

MR. WHITE—Please withdraw that.

MR. WALKER—I withdraw the motion to table.

MR. WHITE—I think my friend is mistaken about that being the law in Alabama now. It was decided in the Allen case directly reverse of that. I agree with the gentleman from Calhoun that the abutting owner should not be made to bear all the burden, that the parties proposing to use the streets should pay for the

additional burdens imposed upon the property. Now the law presumes that no street railways, electric lights, horse car lines, telegraph lines, telephone lines—that the servitude has already been paid for in the original grant of the street—that that is one of the burdens incident to the grant. That view is not always just or always right. You may have along the front of your property a beautiful lot of shade trees.

MR. WALKER—If you will look at the case of Highland Avenue and Belt Line in Birmingham against Mathews I think was the name—It decides that actual damages could be recovered.

MR. WHITE—That was a railroad operated by steam. They draw that distinction. You cannot run a car propelled by steam, you can run all others, and I think the amendment offered by the gentleman from Calhoun should be adopted.

MR. HOOD—Whether the matters contained in the amendment be the law now or not, it is certainly a question purely legislative. It has no place in the Constitution. We can certainly leave it to the legislature to regulate the liability of these street railroads for injury to abutting property and not load down the Constitution with such things as this. That may be wise or unwise. This is a matter of considerable importance sprung upon this Convention by an amendment and has not received even the consideration of the Committee.

MR. WHITESIDE—May I interrupt the gentleman?

MR. HOOD—Certainly.

MR. WHITESIDE—The proposition was introduced in an original ordinance referred to the committee and reported by that committee. You will find the same proposition mixed with other matters in Section 4 of the report of this committee.

MR. HOOD—That section has been laid upon the table, and I think this section should be laid upon the table, and I make that motion.

Upon a vote being taken a division was called for, and a further vote being taken there were 25 ayes and 47 noes and the motion to table was lost.

MR. WHITESIDE—I move the previous question.

THE PRESIDENT—The gentleman from Greene has the floor.

MR. COLEMAN—I move that the delegate be allowed to except Gadsden. We are in an exempting humor this evening.

MR. WHITESIDE—I move the previous question.

MR. HOOD—I wish to include the town of Eutaw that it be added to the amendment.

MR. WHITESIDE — I make the point of order that the amendments are not in writing and I move the previous question upon the adoption of the amendment.

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

Upon a vote being taken the main question was ordered and a further vote being taken the amendment or additional article to the section was adopted.

MR. WEAKLEY—Yesterday afternoon when the Convention had under consideration Section 7 of the article as reported by the committee several amendments were offered. The Convention recommitted Section 7 with the pending amendments to the committee instructing them to report today. I have to say that the committee reports back Section 7 as originally reported, and an additional section which I think will meet the views of all the gentlemen who objected to the original section on yesterday.

THE PRESIDENT—It seems to the Chair that the proper course would be that Section 7 be reported back with a substitute. Do you report Section 7 back for adoption?

MR. WEAKLEY—Yes.

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 subdivision 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 reissuance 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 street and sidewalk improvement, or sanitary or storm water sewers, the cost of which is to be assessed in whole or in part against the property abutting said improvements or drained by such sanitary or storm water sewers.

Section ——. No city, town or other municipality shall make any assessment for the cost of sidewalks or street paving, or for the cost of construction of any sewers, against the property abut-

ting on such street or sidewalk so paved or drained by such sewers in excess of the increased value of such property by reason of the special benefits derived from such improvement.

MR. WEAKLEY—I desire to move the adoption of Section 7, and to state that so far as the additional section, it meets the approval of the gentleman who objected on yesterday, it speaks for itself, and it simply provides that all bond issues by municipalities or counties shall first be submitted to a vote of the people.

MR. MACDONALD—I merely wish to state that so far as I am concerned, and so far as those who are with me are concerned, the section reported as Section blank in reference to streets, sidewalks, paving and the construction of sewers is acceptable to us.

MR. COLEMAN (Greene)—On yesterday, when I offered an amendment, this section was recommitted to the committee, in order that the amendment might be framed in accordance with that offer, and which seemed to meet the approval of the delegates to this Convention. Now, I am perfectly willing to vote for this section with the conditions attached provided by a separate section, but it is not right that we adopt this section independent of another and perhaps lose the other, and I will not support this section as it is, though I favor it with the conditions of the other attached, and if you will make that a paragraph of this, and let it all come in together, it is all right, but we cannot afford to miss—

MR. BOONE—I ask unanimous consent that the last paragraph submitted by the committee as an additional section be made a part of Section 7, reported back by the committee, being added as a paragraph to said Section 7.

The consent was given.

MR. CRAIG—I have an amendment.

MR. WILSON (Clarke)—I rise to enter a privileged motion.

THE PRESIDENT—The Convention has under consideration now a section reported by the Committee on Municipal Corporations.

MR. WILSON—I desire, under Rule 30, to make a motion to set down a special order.

THE PRESIDENT—The Chair cannot recognize the gentleman to make a motion of that kind. The question now is upon an amendment offered to the Article upon Municipal Corporations, and the consideration of this Article cannot be interrupted to take up outside matters. The question is on the adoption of the section as reported by the Committee. The Chair will inquire

of the gentleman from Dallas if his amendment relates to this section.

MR. CRAIG—Yes, sir; to Section 7.

The amendment was read as follows: 'Amend Section 7 by adding after the word 'voters,' in line 4, the words 'and women tax-payers.'"

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

MR. FITTS—I hope the gentleman will not do that.

THE PRESIDENT—It is moved that the amendment offered by the gentleman from Dallas be laid upon the table.

MR. CRAIG—I had the floor and never yielded it. I do not wish to take up the time of this Convention, but the people of Dallas County particularly, and I suppose of other portions of the State, have suffered from this ignorant and vicious suffrage of which we have been speaking so much in this Convention. At one time a tax of one hundred and forty thousand dollars was levied upon us by that kind of voters. At another time two hundred and fifty thousand dollars. Now, sir, under this Constitution, as we may adopt it, there are bound to be a great many votes cast in these matters to fix a tax upon people who own property, and they have no voice in the amount or method of taxation. You may leave out the negro vote entirely, and in almost every city or town where taxes are levied, there will be two people who own no property to one who does own it, and they will be voters, and those two votes will always out-vote the one vote of the man who owns the property.

Now, in the city of Selma, we have five million dollars of assessed property—a little over that; in the whole county, nine millions of dollars. We have forty-six thousand negroes in that county and about eight thousand white people. Of that number probably one-third of the negroes in that county will be able to vote under this educational qualification, and we may not console ourselves with the thought that these ignorant voters are not going to come up to the requirements of this Constitution, for many of them will do it. There are more of them in our county that pay their poll tax than there are white men, and that is the case in a great many counties. Now, there are a great many women in our cities and throughout all the cities in the State who own property, and that is all they have got, and what I want to do is to let the people who own that property come up and cast a ballot against the ballot of those people who do not own any. I understand the prejudice of men against women voting. I understand that thoroughly. I have been raised right here in this Southern country, and have never lived anywhere else, and never expect to, but I believe in property matters, women have some rights

as well as men. I have been told by a lady in this town who heard the discussions on the floor by the gentleman from Montgomery two or three years ago, not speaking on the question particularly, but she said to me: "I had to pay fifteen hundred dollars for improvements in front of my house, and I had nothing to pay it with. I had to mortgage my home and have nothing with which to pay off the mortgage, and when the law days comes, I may be sold out unless I can borrow the money and extend the debt." She had nobody to vote for her or represent her, and yet she has property here and she must either sell it and get out, or let the city come and take it, and that matter was brought to the attention of the gentlemen on this floor. Now, all I want in this matter is to let the people who own the property, as well as those who don't own it, vote on this matter. That is all I ask for.

MR. FITTS—I think that the amendment offered by the gentleman from Dallas is eminently correct. I am aware of the fact that when you come up with the proposition in this State, yet awhile, to allow the women of the land to vote that, at first blush, the proposition that they are to vote at all sounds novel and carries with it more or less of a shock to the usual and ordinary proprieties as we are accustomed to look upon them. But in this matter of creating a bonded indebtedness in towns where they are property owners, and where they have no male member of the family to case a ballot that represents that property, when that property is to be taxed, and it is to become as much a burden upon their property as upon the property of any other person in that town, it does seem to me that the idea that all the men can vote for the creation of that bonded indebtedness and put that bonded indebtedness upon all of the property of all the widows and all the women in that town who happen to own property, and who are as much interested in that bonded issue and in that indebtedness of the municipality as the men, an injustice that they should not have some voice in the matter, it being as much their debt as that of any man who lives in that municipality. It does seem to me to be nothing but ordinary and even-handed justice that women who own property in their own name, and who have no male member of the family to represent them, should have the right to pass upon whether or not they want that bond issue made, which becomes a burden and a tax upon their property. They are as much the taxpayers as the men.

I see smiles on the faces of these old roosters around here who have an idea that they don't want the women to vote. I see smiles of scorn and derision. This is no woman's suffrage. This is but equal justice, common and even-handed, to the women of the land. It has been done in Louisiana and other States of this Union. What earthly reason can there be why it should not be done here? Where is the justice in the idea that a man, right on the same street, occupying the next house to a woman, should

go to the ballot box and cast his ballot as to whether or not he wants a bond issue in that city, for which the city becomes liable and upon which taxes have to be collected to pay the interest on that issue and the principal of it, and the woman who has been left without any one to represent her, who owns the adjoining property, cannot vote as to whether or not that bond issue shall be made and whether or not she shall be burdened with that additional tax? That is just simple, even-handed justice, and the rights of the women to have some representation as to the burden which shall be fastened upon their property and as to bonds which shall be issued for which their property has to be taxed to pay the interest upon the bonds themselves whenever they are paid——

MR. COLEMAN (Greene)—Wouldn't it be better to let the majority of the property rule?

MR. FITTS—Well, that brings back the idea of measuring the rich and the poor, of letting them vote in pyramids according to what they have, and it always causes dissatisfaction, but certainly a woman who owns property has as much right to vote upon this question as a man who owns property. I don't know how it is in other cities, but I happen to come from a town where there are a large number of ladies who are property owners. I have in mind now one particular street in the very best portion of the city that is to a large extent owned, up and down on one side and up and down on the other, by widows of the very highest class, and the widows of distinguished men who have served their State in all the great walks of life, and right now, if the proposition came up in that town as to whether or not to issue bonds, whether or not to burden that city with a bond issue, there are no people in it, no tax payers in it that would be more vitally interested in it than these widows. They would have to be taxed to pay the interest upon the bond issue, they would have to be taxed to pay the debt; they would have no representation whatever in this matter, and certainly ought to be allowed to go to the polls on that occasion and vote. It would not be mixing in politics at all. It is a business proposition as to whether or not they are going to borrow so much money, and go so much in debt. It is a partnership in which they are interested as a party who goes in debt. It is as much their debt as it is the debt of the men, and they ought to be allowed to go to the polls and say whether or not they are willing to go into that enterprise. And it is suggested to me by the distinguished gentleman upon my left that I can make it stronger by saying that I only ask this right for women tax payers, and certainly a woman tax payer, upon this subject, ought to have as much right to vote as a man who don't pay any taxes, and yet we propose here to leave it to the vote of people and men who don't own any property and don't own any part of this mortgage indebtedness. Yet women who own property are not allowed to have any voice in the matter.

I think the amendment is but right. I think it can be administered in decency and order. I think it is the first step in the right direction of carrying justice to the women taxpayers in Alabama.

MR. BOONE — This question has been very vehemently argued on the other side, and unless some gentleman wishes to oppose it on the floor, and I do not think they do, I move the previous question upon the Section and amendment.

The main question was ordered.

THE PRESIDENT—The question is on the amendment offered by the gentleman from Dallas.

MR. FITTS—I call for the ayes and noes.

The call was sustained.

A reading of the amendment was called for and the amendment was read.

Mr. Cunningham took the Chair.

MR. BROWNE — I call for a reading of the Section as it would be amended if this amendment is adopted.

Section 7 was read as proposed to be amended.

MR. PETTUS—I rise to make a parliamentary inquiry. Does that apply to married women or single women?

THE PRESIDENT PRO TEM.—The Chair is of the opinion that it applies to any woman, whether married or single, provided she pays taxes.

MR. COLEMAN (Greene)—Does it say women tax payers without regard to age?

MR. FITTS—The previous question has been ordered.

THE PRESIDENT PRO TEM.—The previous question has been ordered. As many as favor the adoption of the amendment offered by the gentleman from Dallas will say aye and those opposed no.

MR. O'NEAL (Lauderdale)—I move to lay the amendment on the table.

THE PRESIDENT PRO TEM.—The ayes and noes have been called for.

MR. PETTUS—I rise to a point of order. They have not been called on the motion to table.

MR. FITTS—Yes, I called for the ayes and noes on that.

THE PRESIDENT PRO TEM—The Chair will hold that a motion to lay on the table does not remove the call for the ayes and noes on the merits of the question. The question is shall the amendment offered by the gentleman from Dallas be tabled, and upon that the ayes and noes have been called for. As many as favor the tabling of the amendment will say aye as their names are called, and those opposed no.

MR. COBB—I would like to ask unanimous consent to amend by putting in "unmarried women tax payers."

MR. CRAIG—We agree to that.

Objections were made.

Upon a call of the roll the vote resulted as follows:

AYES

Almon,
Barefield,
Bethune,
Blackwell,
Boone,
Brooks,
Bulger,
Burnett,
Byars,
Cardon,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Duke,
Eyster,
Fletcher,
Glover,
Grayson,
Greer, of Calhoun,
Handley,
Heflin, of Randolph,
Inge,
Jones, of Wilcox,
Ledbetter,
Lomax,
Lowe (Jefferson),
McMillan (Baldwin),
Malone,
Martin,
Merrill,
Miller (Wilcox),
NeSmith,
Norman,
Oates,
O'Neal (Lauderdale),
Opp,
O'Rear,
Phillips,
Sanders,
Searcy,
Selheimer,
Sollie,
Spragins,
Vaughan,
Waddell,
Weakley,
Williams (Barbour),
Williams (Marengo),

TOTAL—48

NOES

Asheraft,
Banks,
Beddow,
Browne,
Burns,
Carmichael, of Colbert,
Carmichael, of Coffee,
Chapman,
Cofer,
Cornwall,
Craig,
Cunningham,
Davis, of Etowah,
Dent,
deGraffenreid,
Eley,
Espy,
Fitts,
Foshee,
Freeman,
Gilmore,
Graham, of Montgomery,
Haley,
Harrison,
Hinson,
Hood,
Howze,
Jackson,
Jenkins,
Jones, of Bibb,
Knight,
Kyle,
Lowe (Lawrence),
Macdonald,
McMillan (Wilcox),
Miller (Marengo),
Murphree,
Norwood,
Palmer,

Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Pitts,
Porter,
Renfro,
Rogers (Lowndes),
Samford,
Sanford,
Smith (Mobile),
Sorrell,
Thompson,
Walker,
White,
Whiteside,
Williams (Elmore),
Wilson (Clarke),
Winn,

TOTAL—59

ABSENT OR NOT VOTING

Messrs. President,
Altman,
Bartlett,
Beavers,
Carnathon,
Case,
Davis, of DeKalb,
Ferguson,
Foster,
Graham, of Talladega,
Grant,
Greer, of Perry,
Heflin, of Chambers,
Henderson,
Hodges,
Howell,
Jones, of Hale,
Jones, of Montgomery,
King,
Kirk,
Kirkland,
Leigh,
Locklin,
Long (Butler),
Long (Walker),
Maxwell,
Moody,
Morrisette,
Mulkey,
O'Neill (Jefferson),
Pillans,
Proctor,
Reese,
Reynolds (Chilton),
Reynolds (Henry),
Robinson,
Rogers (Sumter),
Sentell,
Sloan,
Smith, Mac A.,
Smith, Morgan M.,
Spears,
Stewart,
Studdard,
Tayloe,
Watts,
Weatherly,
Willet,
Wilson (Washington),

So the motion to table was lost.

MR. FITTS—I now offer this amendment which will make it read "unmarried women tax-payers over twenty-one years of age."

PRESIDENT PRO TEM.—The Chair will say that the previous question has been ordered and all amendments are out of order without unanimous consent.

MR. FITTS—I ask unanimous consent.

Objections were made.

MR. deGRAFFENREID—I move a suspension of the rules in order that the gentleman may be allowed to offer the amendment.

PRESIDENT PRO TEM.—The gentleman from Hale moves a suspension of the rules in order that the gentleman may be allowed to offer the amendment.

Upon a vote being taken, a division was called for and the motion to suspend the rules was lost by a vote of 59 ayes and 40 noes.

MR. GREER (Calhoun)—I move to table the whole section and the amendment.

PRESIDENT PRO TEM. — The question is the pending amendment and the motion to table the section is not in order.

MR. SOLLIE—I rise to a question of information. As I understand what has been done thus far, a motion was made to suspend the rules, and pending that motion and before a vote was taken a motion to table was made. As I understand, a motion to table is in order only before the vote has been taken upon a pending motion to suspend the rules. Be the question of law as it may, however, my recollection is that the motion to suspend the rules was not put.

PRESIDENT PRO TEM.—The motion was put on the motion to suspend the rules. The question is on the adoption of the amendment offered by the gentleman from Dallas.

Upon a vote being taken a division was called for and by a vote of 65 ayes and 45 noes the amendment was adopted. (Applause.)

While vote was being taken:

MR. GREER (Calhoun)—I want to change my vote for the purpose of moving to reconsider.

PRESIDENT PRO TEM.—No change on this is necessary.

MR. GREER—It would be too late—

PRESIDENT PRO TEM. — The Chair would say that no record is kept of the votes of delegates upon a division, and therefore the question as to how they voted on the question for the purpose of moving a reconsideration would not be questioned unless they were challenged.

MR. GREER—I vote aye for that purpose.

PRESIDENT PRO TEM—The question recurs upon the motion to adopt the section as amended.

MR. O'NEAL—I call for the ayes and noes.

The call was sustained.

MR. BURNETT—I move to adjourn.

PRESIDENT PRO TEM.—The motion is out of order. The previous question has been ordered and that is tantamount to ordering a vote.

MR. COLEMAN (Greene)—Will you have it read so we will know what we are doing?

PRESIDENT PRO TEM. — The gentleman from Greene asks that it be read.

MR. COLEMAN—Only the amendment.

The amendment was read as follows:

"Amend Section 7 by adding after the word 'voters' in line seven 'and women tax-payers.'"

MR. COLEMAN—I move to lay that amendment as written, on the table.

PRESIDENT PRO TEM.—The Chair will hold that the amendment has been adopted and is therefore not before the Convention, and the motion to lay on the table is out of order. The motion is upon the adoption of the section as amended. The Secretary will call the roll.

During call of the roll—

MR. O'NEAL—I move to lay the section as amended on the table.

PRESIDENT PRO TEM.—The motion is too late, the call of the roll has begun.

Upon a call of the roll the vote resulted as follows:

AYES

Aitman,
Ashcraft,
Banks,
Beddow,
Blackwell,
Boone,
Browne,
Burns,
Carmichael, of Colbert,
Carmichael, of Coffee,
Chapman,
Cofer,
Coleman, of Greene,
Cornwall,
Craig,
Cunningham,
Davis, of Etowah,
Dent,
deGraffenreid,
Eley,
Espy,
Fitts,
Foshee,
Freeman,
Gilmore,
Graham, of Montgomery,
Graham, of Talladega,
Greer, of Calhoun,
Haley,
Hinson,
Hood,
Jackson,
Jenkins,
Jones, of Bibb,
Knight,
Kyle,
Lowe, of Lawrence,
Macdonald,
McMillan (Baldwin),
McMillan, of Wilcox,
Miller, of Marengo,
Murphree,
Norwood,
O'Neill (Jefferson),
Palmer,
Parker, of Cullman,
Parker, of Elmore,
Pearce,
Pettus,
Pitts,
Porter,
Renfro,
Rogers, of Lowndes,
Samford,
Sanford,
Smith, of Mobile,
Sorrell,
Spears,
Studdard,
Thompson,
White,
Whiteside,
Williams, of Elmore,
Wilson, of Clarke,
Winn,

TOTAL—65

NOES

Almon,	Harrison,	O'Neal, of Lauderdale,
Barefield,	Heflin, of Randolph,	Opp,
Bethune,	Howze,	O'Rear,
Brooks,	Inge,	Phillips,
Bulger,	Jones, of Wilcox,	Sanders,
Burnett,	Ledbetter,	Searcy,
Byars,	Lomax,	Selheimer,
Cardon,	Lowe, of Jefferson,	Sollie,
Cobb,	Malone,	Spragins,
Coleman, of Walker,	Martin,	Vaughan,
Duke,	Merrill,	Waddell,
Eyster,	Miller, of Wilcox,	Walker,
Fletcher,	NeSmith,	Weakley,
Glover,	Norman,	Williams, of Barbour,
Grayson,	Oates,	Williams, of Marengo,
Handley,		

TOTAL—46

ABSENT OR NOT VOTING

Messrs. President,	Jones, of Montgomery,	Reynolds, of Chilton,
Bartlett,	King,	Reynolds (Henry),
Beavers,	Kirk,	Robinson,
Carnathon,	Kirkland,	Rogers, of Sumter,
Case,	Leigh,	Sentell,
Davis, of DeKalb,	Locklin,	Sloan,
Ferguson,	Long, of Butler,	Smith, Mac. A.,
Foster,	Long, of Walker,	Smith, Morgan M.,
Grant,	Maxwell,	Stewart,
Greer, of Perry,	Moody,	Tayloe,
Heflin, of Chambers,	Morrisette,	Watts,
Henderson,	Mulkey,	Weatherly,
Hodges,	Pillans,	Willet,
Howell,	Proctor,	Wilson, of Washington.
Jones, of Hale,	Reese,	

MR. COLEMAN—I change my vote from no to aye, for the purpose of moving a reconsideration tomorrow morning.

The result of the roll call was 65 ayes and 46 noes, and the section as amended was adopted.

MR. GREER (Calhoun)—I desire to give notice that on tomorrow morning I will move for a reconsideration.

THE PRESIDENT—The gentleman from Greene gives the same notice.

MR. BOONE—I desire to offer an additional section.

The Secretary read the section as follows:

"Section ——. The Legislature shall make provision by general laws whereby any city, town or village existing by virtue of any special or local law may elect to become subject to and be governed by the general laws providing for the incorporation and organization of cities, towns or villages."

MR. BOONE—As every member of this Convention knows we have adopted a section in the article on local legislation whereby in the future the legislature is inhibited from passing any law creating a municipal corporation. Now, Mr. President, that is in line with nearly all the States of the Union, and if you will take the annotated Constitution of the State of New York you will find that wherever that is the law there is a proposition the same as I have introduced here in some thirty odd States whereby any municipal corporation that existed prior to that time if it so elects to do so can come in and be organized under the general laws governing cities, towns and villages. In Ohio that has been generally done, so much so that in the city of Hamilton, although it had a special charter, the Legislature authorized the method as to how it should be done, and it came in under the general operation of the laws of Ohio, governing municipal corporations. That is the only purpose. So that the General Assembly shall provide the means whereby cities, we would say like Mobile, Birmingham, Montgomery or any town, city or village that is incorporated in the State, if it saw fit could abandon its special charter and come in under the general laws of the State. The laws of Ohio are notably good and sound on this subject and doubtless our Legislature will when they meet give us something of the kind. I think the section is in order.

MR. COLEMAN—There can be no doubt that the Legislature will have that authority any way. There is nothing in the Constitution to prohibit, and why should we take these risks and enter upon new fields without time to consider these questions. It adds nothing to the power of the Legislature. It can do all that now, and I do not think we should make these venturesome steps in framing an organic law, when we have not time to consider their length, breadth and character. I move to lay the section on the table.

Upon a vote being taken the motion to table was lost.

MR. VAUGHAN—I have an additional section.

The Secretary read the section as follows: "The Legislature shall have the 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 the locality to be affected, which notice shall be at least twenty days prior to the introduction into the Legislature of such bill, and the evidence of such notice having been given shall be exhibited

to the Legislature before such bill shall be passed, and entered upon the Journal of the house in which the bill is introduced."

MR. SANFORD (Montgomery)—I offer an amendment.

THE PRESIDENT—The gentleman will be recognized in a moment.

MR. VAUGHAN—There is a section in the old Constitution, which provides that local or special laws be advertised for thirty days before they are introduced into the Legislature. I think that when a bill is introduced here to increase the boundary lines of a city or town that notice ought to be given to the people in the town that is affected by it. I do not think representatives should have power to come here to the Legislature and pass these laws and the first that the people know of it in the towns is when it is printed in the paper. I think it nothing but right that this section should be in the Constitution so as to require bills of this sort to be passed like any other local or special laws should be, and I think inasmuch as this Convention has decided to make Legislatures meet every four years instead of every two, is all the more reason why a notice should be given in cases of this sort. I think the Convention realizes the necessity of some such provision as this, and I think they hastily voted down a provision somewhat similar to this in the article that we are discussion now, and I hope the Convention will adopt the section.

MR. O'NEAL— I would to discuss the amendment.

THE PRESIDENT PRO TEM.—The Chair recognized the gentleman from Montgomery.

MR. WHITE—I would like to have the amendment read.

The Secretary read the amendment as follows:

"Provided that the question of annexation shall be submitted to the qualified electors residing in the territory proposed to be annexed at an election called for the purpose of ascertaining their will."

THE PRESIDENT PRO TEM.—The Secretary will now read the proposition of the gentleman from Dallas for the benefit of the Convention.

The Secretary again read the proposed section.

MR. O'NEAL—Mr. President, the objection to that section is that it is purely legislative. The Legislature of Alabama has power to do anything that is not prohibited by the Constitution. It is not necessary for us to be spending our time here directing the Legislature what they shall do. And the other objection to it is this: the effect of that is to direct the Legislature to pass local laws in reference to all the town and cities in Alabama. The Leg-

islature could pass a general law which would cover the whole subject, and it is not necessary to pass a general law and local law. The section of the article on local legislation directs how that can be done by advertisement and notice, but I say the article on local legislation already adopted absolutely prohibits legislation of this character. It is simply local and special which that section directs the Legislature to enact. It directs the Legislature to change the boundary of any town in this State by local law, but the article on local legislation prohibits and requires the Legislature to do it by general law, which will apply to every town and city in the State. Now we are asked after we have spent weeks on the subject to take a backward step on the question and open the case on local laws again. This simply directs the Legislature to pass laws for any town in the State in regard to its boundaries, streets or anything else. It ought not to be allowed. There is nothing to prevent the Legislatures from passing general laws. In fact the Legislature is already ordered by the article on local legislation to pass general laws on this subject which will apply to all towns in the State. We have a law now which prohibits the General Assembly from passing any law, changing the laws of any city, amending the charter of any city. This simply authorizes them to do it by special laws. I hope the Convention will not adopt a section of this character, the effect of which is to break down the safeguard which we have already erected against the evils of local legislation. I therefore move to lay the section and the amendment on the table.

MR. SANFORD (Montgomery)—There is an error in this. I was to be recognized—I was called, and he got up.

THE PRESIDENT PRO TEM—The Chair will say that the Chair recognized the gentleman from Montgomery, and he did not rise.

MR. SANFORD—I did not hear you, Mr. President. I want to say this is nothing more than to restrict the Legislature from doing it, whether the people wish to be admitted or not into any town or city. I would say it is utterly impossible to do it by a general law, for every portion of the territory annexed to a city has to be described by metes and bounds. It is absolutely impossible to do it by general laws. How could you enlarge the city of Selma to run to the river and north to the Mathews factory, and out to a certain place without describing it particularly. It cannot be done by general laws. How could you say about Montgomery, "Sections 14 and 18, and then out by Wiley's establishment to the river?" You cannot do those things by general laws. It is bound to be done by special act. It is impossible for them to do so. You make a general law as to how cities may be enlarged, but how to enlarge them is a matter of special enactment, and I suggest this for the purpose of showing that it shall be submitted to the

people who will be drawn into the city whether they desire to be annexed or not.

MR. O'NEAL—What would prevent the Legislature from passing a general law to the effect that where a city desires to enlarge boundaries the Mayor and Board of Aldermen shall describe the boundaries and submit the matter to the vote of the people in that particular locality? What would prevent a law like that from being enacted? That could apply to every town in the State. The idea that you have to have a special law is not true, because a general law could cover it on the lines you suggest.

MR. SANFORD—But the Legislature should say when so submitted by the Aldermen and Mayor, the people shall determine whether they desire to be annexed or not. That is all this amendment it.

THE PRESIDENT—The gentleman from Lauderdale moves to lay the section and amendment on the table.

MR. VAUGHAN (Dallas)—I call for a division of the question.

THE PRESIDENT—The question is to lay on the table the amendment offered by the gentleman from Montgomery.

A division was called for.

Upon a vote of 47 ayes and 4 noes, the amendment was laid upon the table.

MR. SANFORD—I offer this amendment.

THE PRESIDENT PRO TEM.—The gentleman is not in order. The question is to lay on the table the amendment of the gentleman from Dallas.

MR. WILLIAMS (Elmore)—I rise to a point of order. There were only fifty-one votes cast, and that is not a quorum.

THE PRESIDENT PRO TEM.—The point of order is too late. The question is on the motion to table the amendment offered by the gentleman from Dallas.

Upon a vote being taken, the motion to table prevailed.

MR. COBB—I offer an additional section.

The Secretary read the Section as follows:

"Section ——. All voters under this Article shall be persons possessing the qualifications prescribed for voting by the Article on Suffrage and Elections.

MR. COBB—That amendment is intended simply—

THE PRESIDENT PRO TEM.—Does the gentleman yield?

MR. COBB—To allow him to offer the substitute without yielding the floor.

The Secretary read the substitute as follows:

"No woman shall be qualified to vote at any election to determine whether bonds shall be issued by a city, town or village who is not at the time she offers to vote a bona fide resident of such city, town or village, and who does not own in her own right real estate situated in said city, town or village, assessed for taxes during the year preceding the year in which she offers to vote, at five hundred dollars, or more, and no woman shall vote at such election who is under twenty-one years of age.

MR. O'NEAL—I have no amendment.

MR. COBB—Mr. President, I think I had the floor.

THE PRESIDENT PRO TEM.—The question is on the substitute offered by the gentleman from Hale. There are two amendments already pending. Does the gentleman from Macon ask unanimous consent to accept the amendment?

MR. COBB—No, sir.

MR. O'NEAL—I rise to a point of order. The section offered by Mr. Cobb is the original section. Mr. deGraffenreid offered a substitute. Now, why can't I amend the substitute?

THE PRESIDENT PRO TEM.—Because the amendment offered by the gentleman from Macon is an amendment to the Article reported by the Committee.

MR. O'NEAL—It is the original section.

THE PRESIDENT PRO TEM—But as such it is an amendment and has not precedent. The gentleman from Macon will proceed.

MR. COBB—The purpose I had in offering that amendment was to bring the female voters to the same standard so far as qualifications are concerned as to male voters. Now, this substitute I am in favor of, only it does not put in these additional qualifications. I am in favor of the five hundred dollar proposition, but I want also the female who are allowed to vote to possess the same qualifications prescribed for voting under the Article on Suffrage and Election.

MR. CHAPMAN—May I ask the gentleman a question?

MR. SANFORD—May I ask the gentleman a question? Don't five hundred dollars' worth of property exceed that? Don't that exceed what is required.

MR. COBB—I will accept the amendment offered by the gentleman from Hale.

MR. O'NEAL—I object.

MR. CHAPMAN—May I ask a question? Is not the effect of your amendment to convert females into males for the time being?

MR. COBB—I hope not. (Laughter).

MR. O'NEAL—I raise the point "no quorum."

MR. GREER (Calhoun)—I move that we now adjourn.

MR. deGRAFFENREID—I had the floor.

THE PRESIDENT PRO TEM.—The gentleman is out of order; the gentleman from Hale had the floor.

MR. deGRAFFENREID—Mr. President and Gentlemen of the Convention: The reason I voted to permit women to vote in municipal elections for the issue of bonds was because I have never believed in the doctrine of taxation without representation. The amendment which was offered by the gentleman from Dallas and which has been adopted by this Convention, is a step in the right direction. The only reason why a woman should be permitted to vote in municipal elections for the issuance of bonds, is because of the fact that she has property situated in that municipality, which is to be affected by that bond issue. In other words, she has to contribute, along with the male members of the community, to the payment of the interest and the principal of the bonds. That being so, the property that she owns, which should justify her vote, should be a substantial amount of property, and it should be such property as really finds protection in the town. As I understand it, Mr. President, taxation is justified only upon the principle of protection. The State is permitted to tax its inhabitants because of the measure of protection that it offers to them, and cities and towns are permitted to tax the people who live within their boundaries or who own property situated within that town or city because of the fact that the city furnished police protection, and other protection to its inhabitants, and to the property situated therein. The gentleman from Macon offered a proposition looking to the fact that women who owned three hundred dollars worth of property whether it was real or personal property, should be permitted to vote. I do not think so, Mr. President. I think it should be lands situated in town, land that may be reached, land covered by the mortgage issued by the city at the time of the execution of the bonds. The purpose of the amendment is plain and I therefore move its adoption, and upon that I move the previous question.

MR. O'NEAL—Do you want to cut off all debate? Let us be heard.

THE PRESIDENT PRO TEM.—The pending question is on the amendment offered by the gentleman from Hale.

MR. O'NEAL—I raise the point of no quorum.

THE PRESIDENT PRO TEM.—The Chair has no way of knowing.

MR. O'NEAL—I ask for the call of the house to ascertain whether there is a quorum?

THE PRESIDENT PRO TEM. — The gentleman has no right to ask it. He has the right to make a motion.

MR. O'NEAL — I move a call of the house to ascertain whether a quorum is present or not.

MR. JENKINS—I rise to a point of order, that only by a vote can you show whether there is a quorum or not, and not until the vote is taken on the motion can he raise the point.

THE PRESIDENT PRO TEM.—The Chair is of the opinion that the point of order is well taken.

MR. O'NEAL—I move that we now adjourn.

Upon a vote being taken a division was called for.

Upon a further vote of 38 ayes and 43 noes the Convention refused to adjourn.

MR. COLEMAN—The amendment ought to include obligations and bonds. The section as changed in the other section provides for contracting obligations incurred or bonds issued and his amendment only says bonds.

MR. deGRAFFENREID—I ask unanimous consent to be allowed to put the word "obligations."

MR. O'NEAL—I object. If you want to fix the thing, reconsider the whole thing and fix it properly.

THE PRESIDENT PRO TEM.—The request of the gentleman from Hale is denied.

MR. COLEMAN—I am trying to bring the Convention to a consideration. If we adopt this article let's have it in as good shape as we can get it, not having the voting of women simply upon one part of it, and not upon the other. It is only on bonds, and if she has a right to vote as to the issue of bonds she ought to have a right to vote upon the contracting obligations.

MR. deGRAFFENREID—If the gentleman wishes to put it in there, he can move to amend by putting in the word "obligation," and I am willing to accept it if he desires to amend in that way.

MR. COLEMAN—I desire to amend by adding the word "obligation," and ask unanimous consent.

MR. O'NEAL—I object.

MR. COLEMAN—I move to amend by inserting the word "obligation" just before the word "bond."

THE PRESIDENT PRO TEM.—The Chair regrets to say that there are two amendments now pending. It is therefore out of order.

MR. deGRAFFENREID—We can adopt this and amend it afterwards, can't we, as a matter of parliamentary inquiry.

THE PRESIDENT PRO TEM.—The question is upon the adoption of the amendment. The gentleman from Greene has the floor.

MR. COLEMAN—I move that the rules be suspended.

MR. O'NEAL—I call for the ayes and noes.

MR. GREER (Calhoun)—I call for the ayes and noes.

The call was not sustained.

A division was called for.

And upon a vote of 54 ayes and 16 noes the rules were suspended.

MR. GREER (Calhoun)—I rise to a point of order. There is not a quorum voting.

THE PRESIDENT PRO TEM—The point of order is not well taken.

MR. COLEMAN—I move to amend by inserting the word "obligations" before the word "bond."

MR. GREER (Calhoun) — I rise to a point of order. The amendment is not in writing and the rules of this house require it to be in writing.

MR. PETTUS—I rise to a point of order. The gentleman from Calhoun is out of his seat.

THE PRESIDENT PRO TEM.—The point of order is well taken.

MR. GREER—I rise to a point of order. The gentleman from Greene is not in his seat.

THE PRESIDENT PRO TEM. — The gentleman from Greene is now in his seat, and the Chair recognizes him.

MR. COLEMAN—I move to amend by inserting the word "obligations or bonds," to correspond with the section.

MR. O'NEAL—I move to lay the amendment on the table.

Upon a vote being taken a division was called for.

Upon a vote being taken the motion to table was lost.

MR. GREER — I desire to discuss the amendment. Mr. President, it seems to me that we have been travelling this evening at break-neck speed, and that we have failed to consider; we have lost our bearing; the Convention has gone wild, and after they consult their pillows tonight these gentlemen will realize how ridiculous they have been this afternoon. (Applause.)

MR. GRAHAM—Will the gentleman allow me to ask him a question?

MR. GREER—No, sir. We find ourselves in this aspect; all female tax-payers, or women tax-payers are allowed to vote. It does not require them to be residents of the town in which they own property, it does not even require them to be registered. It does not require them to possess any of the other qualifications that the male inhabitants of Alabama possess. (Prolonged laughter.) Mr. President, I made no slip of the tongue. I spoke advisedly. It does not specify any age. A fourteen year old girl may vote. A large number of colored citizens in Alabama, and some whites, I am sorry to say, put what property they possess in their wives' names, to escape the payment of honest debts. Perhaps they own five hundred dollars worth of property, that would be required under this amendment. A man qualifies under other sections, and it is his wife votes and he votes on five hundred dollars worth of property. Some male inhabitants of the same city own five hundred dollars worth of property and he would have one vote, while the woman and the sorry, good-for-nothing husband, should he vote under the original section if they own one hundred dollars worth of property, and under this amendment five hundred dollars they would have two votes. It seems to me this is a ridiculous proposition. It seems to me if we are to pass it, as a gentleman from Greene says, it should be passed in order. It should be resident female inhabitants, and in my honest opinion they should be single, unmarried, over the age of twenty-one.

A DELEGATE—And white.

MR. GREER—Yes, and white; and white at that if you please, sir. You disfranchise the poor old man, and come along here and enfranchise his wife. That is what you have done. I say I do not object to women being represented except for one thing. I consider woman the greatest, the best, and the purest gift that God has ever given to man. (Applause.) I do not believe, Mr. President, and I never will believe, that any considerable number of the intelligent and the best class of females could vote under any provision that you might pass here. I do believe from the very depths of my heart, the irresponsible and the less intelligent and the lower class, especially the colored, would vote, every one of them, that had an opportunity. Now I say, Mr. President, that we should stop and turn around and see where we are "at" if you please.

MR. deGRAFFENREID—I rise for the purpose of moving the previous question upon this amendment.

MR. GREER—I would ask the gentleman, I know he is very previous, but I would ask him not to be quite so previous this afernoon.

MR. deGRAFFENREID—I thought the gentleman had taken his seat—I beg his pardon.

MR. GREER—I repeat I appeal to this Convention, for if this thing must be done let it be done in order. Let us have some specification that they must be resident inhabitants, must be unmarried, must be over 21 years of age. Let's have some system, some order about it. And as has been suggested, that they must be white, but I want to say that in my candid opinion, the fairest, the purest, and the best creation—the fairest, the purest and the brightest jewels that ever walked under the brilliant rays of God's shining sun will be lowered immeasurably when you pass such a resolution as this, and I protest in the name of the wives and daughters of the best white men of Alabama, (Applause), to stop before you go too far. Mr. President, if I had less lungs, and less respect for the fair sex I would not plead, but feeling as I do, and reverencing and loving them as I do, I am compelled to beg this Convention to be more moderate, and if they do anything let it be done in order, and in such manner as will be becoming a Constitutional Convention in the great State of Alabama. Now, Mr. President, I have said all I care to say at this time. I reserve the further shot that I may have on my motion tomorrow morning, and I now move to adjourn.

Upon a vote being taken a division was called for, and by a vote of 41 ayes and 49 noes the Convention refused to adjourn.

MR. COLEMAN—From the remarks of the gentleman who last addressed the Convention, it would seem that a great many of the members of the Convention are laboring under a mistake. For

their information I would like for the Secretary to read the amendment in order that they may see how far it provides for the very objection made by him.

Section —. No woman shall be qualified to vote at any election to determine whether obligations or bonds shall be issued by a city, town or village, who is not at the time she offers to vote a bona fide resident of such city, town or village, and who does not in her own right own real estate situated in said city, town or village, assessed for taxation during the year preceding the year in which she offers to vote, at $500 or more, and no woman shall vote at such election who is under 21 years of age.

The amendment provides for every objection that has been urged thus far. She is required to be 21 years of age——

MR. WHITE—I will ask if that amendment would not destroy the effect of the Section itself.

MR. COLEMAN—It has no effect as I understand it, upon the Section. I have been trying to keep up with it.

MR. WHITE—But will you ever find a women over 21 years of age. (Laughter.)

MR. COLEMAN—Perhaps the gentleman is more interested in those questions than I am. I do not know. While I have not been in accord with woman's suffrage, and have voted against it, still I do not pretend to possess more knowledge and information as to what is right than the other gentlemen who compose this Convention. It seems that they think that women ought to vote. I favor myself the proposition of the majority of the property, which would have given women representation, and thus have excluded them from being mixed up in politics, and I think that would have been the better plan, but I do not adhere to this, inasmuch as the majority of the Convention seems to think otherwise. That was my purpose in advocating that proposition the other day on the report of the Committee. That was the right way to my mind to see that women were represented in cases of this kind, but if the delegates of this Convention think that women ought to vote at these elections, I think the amendment is all sufficient, and in fact it imposes a qualification upon them that is not imposed upon men in a general election, because they can vote if they have $300 worth of property, and here a woman is required to have $500 worth. Having stated these views, and remembering the condition of mind in which this Convention is, it does seem to me that it would be more becoming to us as a body if we would consider this question during the night, and come here in the morning and consider it as we should with deliberation and for the best interest of the whole State. I therefore move that we do now adjourn.

MR. deGRAFFENREID—I rise to a point of order. There has been no business transacted since the House refused to adjourn.

THE PRESIDENT PRO TEM—The point of order is well taken.

MR. deGRAFFENREID—I now move the previous question upon the adoption of the amendment.

MR. GRAYSON—I call for the ayes and noes.

MR. O'NEAL—I call for the ayes and noes.

The call was not sustained, and upon a vote being taken a division was called for and by a vote of 46 ayes to 16 noes the main question was ordered.

MR. O'NEAL—I raise the point of no quorum.

MR. deGRAFFENREID—There is a quorum in the House.

MR. GREER (Calhoun)—There is no quorum in the House.

MR. O'NEAL—I demand a call of the roll.

MR. PETTUS—I make the point of order that a call of the House cannot be ordered under the rules of the House except upon a vote of those present.

THE PRESIDENT PRO TEM.—The point of order is well taken. The question is will the house order the call of the roll to ascertain if a quorum be present.

A vote was taken and the house refused to order a call of the roll.

THE PRESIDENT PRO TEM.—The question is on the adoption of the amendment offered by the gentleman from Hale.

Upon a vote being taken a division was called for.

And by a vote of 52 ayes to 20 noes the amendment was declared adopted.

MR. O'NEAL—I raise the point of no quorum.

THE PRESIDENT PRO TEM.—The point of order is not well taken unless the gentleman moves a call of the house.

MR. O'NEAL—I raise the point of order that no section of this Constitution can be adopted except by a majority of the delegates to this Convention, under the rules of this Convention and general parliamentary rules, and I ask the Chair to pass upon that question.

MR. JENKINS—I demand a call of the roll of the house.

MR. SANFORD (Montgomery)—I move we adjourn.

MR. O'NEAL—I ask for a ruling on my point of order, whether or not a section of the Constitution of Alabama can be adopted by a minority of this Convention?

THE PRESIDENT PRO TEM.—The Chair is of opinion——

(Great confusion and cries of there is a quorum present.)

THE PRESIDENT PRO TEM.—The Chair is of opinion that a quorum is present.

MR. O'NEAL—The last vote showed a quorum was not present.

THE PRESIDENT PRO TEM.—The Chair is of the opinion that a quorum did not vote, but a quorum is present.

MR. O'NEAL—Is that the decision of the Chair?

THE PRESIDENT PRO TEM.—That is the decision of the Chair, that a quorum is present, and a number of gentlemen did not vote.

MR. O'NEAL—I appeal from the decision of the Chair.

(There were loud expressions of dissent.)

THE PRESIDENT PRO TEM.—The gentleman appeals from the decision of the Chair.

MR. O'NEAL—And on that I ask for an aye and no vote.

The call for the ayes and noes was not sustained.

MR. FREEMAN—I move that we adjourn.

THE PRESIDENT PRO TEM.—The gentleman is not in order. The question is does the ruling of the Chair stand as the judgment of this Convention?

Upon a vote being taken the Chair was sustained. (Loud applause.)

MR. SAMFORD (Pike)—I move that this article be engrossed and read a third time, and upon that I move the previous question.

THE PRESIDENT—The Chair will inform the gentleman that the pending question is the adoption of the amendment offered by the gentleman from Macon as amended by the amendment offered by the gentleman from Hale, upon which the previous question has been moved and ordered.

MR. O'NEAL—On that I call for an aye and no vote.

The call was not sustained, and upon a vote being taken a division was called for, and by a vote of 58 ayes to 30 noes the amendment as amended was adopted.

MR. SANFORD (Montgomery)—I move we adjourn.

Upon a vote being taken a division was called.

By a vote of 54 ayes to 21 noes the motion was carried.

Thereupon the Convention adjourned.

CORRECTIONS.

In proceedings of 65th day, second page, sixth column, where Mr. Jackson voted aye and gave notice he would move to reconsider tomorrow, he made inquiry of the Chair before the vote was announced to know if a motion to table could be reconsidered, and being answered in the negative, asked to have his vote changed from aye to no, which was done.

In remarks of Mr. Graig, in proceedings on 65th day, second page, second column, seventh line after word "nominated" read "by the Governor;" on eighth line read "ordinance" for resolution; on twentieth line read after Legislature "and be by that body;" on thirty-fifth line read "killed three men;" on fifty-second line read "a few weeks ago some negro men."

In remarks of Mr. Burns on 64th day, third page, fifth column, ninetieth line, the word "him" should read "them;" in one hundred and eighth line read "to these railroad passes upon another class of people;" in one hundred nineteenth line read: "Such men as Pugh and Mudd."

SIXTY-SEVENTH DAY

MONTGOMERY, ALA.
Friday, August 9, 1901.

The Convention met pursuant to adjournment, was called to order by the President.

On a call of the roll 80 delegates responded to their names.

MR. GREER (Calhoun)—I want to have some corrections made in the stenographic report. I am reported as saying we would disfranchise "the poor old man, and disfranchise his wife." I used the words "negro man." The word "negro" is left out. I am also reported as saying the best class of females could vote. I used the word "would"—"the best class of females would not

vote." Further down I am quoted as saying "if I had less lungs." Now, Mr. President, I said nothing like that. (Laughter.) I have not complained at the stenographers, although I have been misquoted in nearly all of the remarks I have made on the floor of this Convention, but this is so ridiculous that I am compelled to make complaint publicly. What I did say was: "If I had less love and less respect, I would not appeal."

THE PRESIDENT—The stenographer will make note of the corrections.

The report of the Committee on Journal was read, stating that they had examined the Journal for the sixty-sixth day, and found the same correct, and the report was adopted.

Leaves of absence were granted to the following delegates: To Mr. Sentell of Crenshaw for today and tomorrow; to Mr. Cobb of Macon for today and tomorrow.

Permission was given to the Committee on Order, Consistency and Harmony to sit during the session of the Convention today.

MR. COLEMAN (Greene)—I have a report—

THE PRESIDENT—Will the gentleman withhold his report? We will take it up presently.

MR. SANFORD (Montgomery)—I rise to a question of personal privilege. I wish to correct the stenographer's report. When I stated that there were a vast number of offices that should be curtailed in our discussion yesterday, I don't think there is any doubt that I said they were "like Siamese frogs." That is only a part of it. In speaking of the officers of municipal governments, I remarked, that they are like Siamese frogs, you never find one that you do not find two or three on his back. That sentence was left out, and in that way it says they resemble the Siamese frogs. It is not the frogs them resemble, but the number they resemble.

MR. WHITESIDE—I ask unanimous consent to introduce and have read a petition, to be referred to the proper committee.

THE PRESIDENT—The Chair will entertain requests of that kind presently.

MR. DAVIS (Etowah)—I rise to a question of parliamentary courtesy. I wish to state that on yesterday I made some remarks in regard to which, in a subsequent conversation, I understood that the gentleman from Winston felt possibly the remarks might have reflected somewhat on him. The only objection I had to the course of the gentleman from Winston was the fact that after proposing the amendment he immediately made a motion for the previous question, but on my request, he immediately withdrew it, and I wish to say that my remarks were not intended to be discourteous to him in any way.

MR. GREER (Calhoun)—I gave notice yesterday evening that I would move this morning to reconsider the vote whereby Section 11, as amended, was adopted, and I now make that motion.

MR. JACKSON—I would like to have the amendment to the section read.

MR. COLEMAN (Greene)—We have had this report of the Committee on Suffrage and Elections ever since yesterday afternoon, and it seems to me it is a privileged question.

THE PRESIDENT—Will the gentleman from Calhoun suspend his remarks for the introduction of the report?

MR. GREER—If I will be recognized immediately after that.

MR. COLEMAN—I ask to have the report of the Committee on Engrossment upon the article on Suffrage and Elections read, and the article put upon its final passage.

The report was read as follows:

SUFFRAGE AND ELECTIONS.

Section 1. Every male citizen of this State, who is a citizen of the United States, and every male resident of foreign brith, who, before the adoption of this Constitution, may have legally declared his intentions to become a citizen of the United States, twenty-one 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. Provided, that all such foreigners who have declared their intention to become citizens of the United States, shall cease to have the right to vote if they shall fail to become citizens of the United States after they are entitled to become such citizens.

Sec. 2. To entitle a person 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, and every male resident of foreign birth who, before the ratification of this Constitution, may have legally declared his intention to be-

come a citizen of the United States, provided, that all such foreigners who have declared their intentions to become citizens of the United States, shall cease to have the right to vote, if they shall fail to become citizens of the United States after they are entitled to become such citizens, twenty-one years old or upwards, who, if their place of residence shall remain unchanged, will have at the date of the next general election, qualifications as to residence prescribed in Section 2 of this Article, 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 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 the war with Mexico, or in any war with the Indians, or in the land or naval forces of the Confederate States, or in the land or naval forces of the State of Alabama in the war between the States, or

Third—All persons of good character and who understand the duties and obligations of citizenship under a republican 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 worked or been regularly engaged in some lawful employment, business or occupation, trade or calling, for the greater part of the twelve months, next preceding the time they offer to register, provided, that persons, who can neither read nor write on account of physical disability shall be allowed to register and vote if otherwise qualified as provided in this subdivision; 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 situated 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 preceding 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 voting, namely:

All idiots, and insane persons; those who shall by reason of conviction of crime be disqualified from voting at the time of the ratification of the 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 to rob, burglary, forgey, 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 a 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, or making or offering to make a false return in any election by the people, or in any primary election or to procure the nomination or election of any person to any office, or of suborning 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 provisions of this Article, shall vote at the general election in 1902, or at any subsequent State, county or municipal election, general, local or special; 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 challange 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 1st day of January, 1903, of all qualified electors. Until the 1st 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 terms, to be appointed within sixty 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 by the 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 for 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 1st 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 successive 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 any county except that in counties of more than one thousand square miles in area, such Board shall consume seventy-five working days in completing the registration in such counties, and except that in counties in which there is any city of eight thousand inhabitants or over, the Board may remain in session in addition to the sessions herein above 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 such 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 nine hundred or more, and less than eight thousand inhabitants. No person shall be registered except at the county site or in the precinct in which he resides. The Registrars shall issue to each person registered a certificate of registration.

Third—The Board of Registrars shall register no person between the 1st 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 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 Sections 2 and 4 of this Article, and not disqualified under Section 6, 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 unavoidable 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 shall divide the time equally between them. 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 the county; such notices to be published and such publication 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 applicant and witnesses, which shall be in the following form, and subscribed by the persons 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 such examination, makes any wilfully false statement, in reference to any material matter touching the qualifications of any applicant 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, without giving security for cost, 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 counties, 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.

Eighth—Any elector who registers for another, or who registers more than once, and any Registrar who enters the name of any elector on the list of registered voters without such elector having made application in person, under oath on a form provided for that purpose, or who knowingly registers any person more than once, or who knowingly enters a name upon the registration list as the name of a voter without any one of that name applying to register, shall be guilty of a felony.

Section 11. The Board of Registrars, in each county, shall on or before the first day of February, 1903, or as soon thereafter as is practicable, file in the Probate Court of their county a complete list, sworn to by them, of all persons registered in their counties, showing the age of such persons so registered with the precinct or ward in which each of such persons resides, 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 first day of March, 1903, or as soon thereafter as is practicable, cause to be made from such list a duplicate in the books furnished by the Secretary of State an alphabetical list by precinct of the persons shown by the list of Registrars who 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 first 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 first 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 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 incriminate 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 testifies, but may be prosecuted for perjury committed on such examination.

Sec. 14. 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 provisions 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.

The Legislature shall by law provide for purging the registration list of the names of those who die, become insane, convicted of crime or otherwise disqualified as electors under the provisions of this Constitution and of any whose names may have been fraudulently entered on such lists by the registrars; provided, that a trail by jury may be had on the demand of any person whose name is proposed to be stricken from the list.

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 Agreiulture and Industries, Attorney General, Superintendent of Education and for the members of the General Assembly shall be made to the Secretary of State.

Sec. 19. 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. The legislature is authorized to raise the limit of age to which payment of poll tax is required under this Article from forty-five years to not more than sixty years.

Sec. 20. Any person who shall pay the poll tax of another or advance him money for that purpose, in order to influence his vote, shall be guilty of bribery and punished accordingly.

Sec. 21. If any section or subdivision of this Article shall for any reason be or be held by any court of competent and of final resort, to be invalid, inoperative or void, the residue of the Article shall not be thereby invalidated or affected.

Mr. Rogers of Sumter took the chair.

THE PRESIDENT PRO TEM—The question is upon the adoption of the article reported by the committee.

MR. DENT—I desire to call attention of the Convention, and especially the chairman of the committee, to what seems to be an omission in this article. I beg attention for just a few minutes. In Section 2, the qualifications as to registration and payment of poll tax are provided before a party can register and become a qualified voter. Now, in Section 4, in fixing the qualifications of voters, I want to beg attention for a few moments. "The following male citizens of this State, who are citizens of the United States," etc. "who, if their places 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, and who are not disqualified by Section 6." Now, the qualifications in Section 2 are not only as to residence, but as to the payment of poll tax, and it seems to me that Section 4 is defective in not only including the qualification as to residence but the qualifications as to the payment of poll tax.

After an explanation which has been made to me, I withdraw that.

THE PRESIDENT PRO TEM—The question is on the adoption of the report of the Committee on Suffrage.

The roll was called on the final passage of the article.

MR. GRAHAM (Talladega)—(During roll call) Inasmuch as I was paired on a part of this report, I desire to explain my vote.

Consent was given.

MR. GRAHAM—I was paired against what is called the grandfather clause. The majority of this Convention have decided otherwise. I desire to yield to the majority and vote aye, and pledge my support to the entire article reported by the Committee.

MR. BURNS—I rise to a point of information. Is there any chance in the future to amend this suffrage article. Will there be

an opportunity given to amend it before the Committee on Harmony.

THE PRESIDENT PRO TEM—The Chair will state to the gentleman from Dallas that it is always in order in all bodies, to move to rescind any motion, but there will be no chance to amend this article. The only way it can be reached is to introduce a separate ordinance which would be referred to the committee, and reported by it to the Convention——

MR. BURNS—I vote aye.

On the final passage of the article on suffrage and elections the vote resulted as follows:

AYES.

Messrs. President,
Altman,
Almon,
Asheraft,
Barefield,
Bethune,
Blackwell,
Boone,
Brooks,
Browne,
Bulger,
Burns,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Craig,
Cunningham,
Davis, of Etowah,
deGraffenreid,
Duke,
Eley,
Eyster,
Espy,
Fletcher,
Gilmore,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Heflin, of Randolph,
Henderson,
Hinson,
Hood,
Howze,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Wilcox,
Knight,
Ledbetter,
Lomax,
Long, of Walker,
Lowe, of Lawrence,
Macdonald,
McMillan, of Baldwin,
McMillan (Wilcox),
Malone,
Martin,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Murphree,
NeSmith,
Norman,
Norwood,
O'Neal (Lauderdale),
O'Neill, of Jefferson,
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Pitts,
Proctor,
Reese,
Reynolds, of Henry,
Rogers (Lowndes),
Rogers (Sumter),
Sanders,
Sanford,
Selheimer,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Thompson,
Vaughan,
Walker,
Whiteside,
Weakley,
Williams (Barbour),
Williams (Marengo),
Wilson (Clarke),
Winn,

Total—95.

NOES

Banks,	Harrison,	Reynolds (Chilton),
Beddow,	Kirkland,	Sloan,
Byars,	Kyle,	Spears,
Cofer,	Mulkey,	Stoddard,
Dent,	Oates,	White,
Foshee,	Phillips,	
Freeman,	Porter,	

TOTAL—19

ABSENT OR NOT VOTING

Bartlett,	Jenkins,	Robinson,
Beavers,	Jones, of Hale,	Samford,
Carnathon,	Jones, of Montgomery,	Searcy,
Case,	King,	Sentell,
Davis, of DeKalb,	Kirk,	Sollie,
Ferguson,	Leigh,	Stewart,
Fitts,	Locklin,	Tayloe,
Foster,	Lowe, of Jefferson,	Waddell,
Grant,	Maxwell,	Watts,
Greer, of Perry,	Moody,	Weatherly,
Heflin, of Chambers,	Morrisette,	Willet,
Hodges,	Pillans,	Williams (Elmore),
Howell,	Renfro,	Wilson (Washington),

PAIRS

AYES	NOES
Burnett,	Long, of Butler.

MR. GREER (Calhoun)—Now Mr. President——

MR. GRAHAM (Talladega) — Will the gentleman yield to me for a moment?

MR. GREER—If it does not come out of my time, I will yield.

MR. GRAHAM—I wish to call attention to an error in the stenographic report. The President of the Convention called my attention to it this morning. It is at the bottom of the third column of yesterday's report. The stenographer makes me move a reconsideration of the vote whereby the article on the judiciary was adopted, and ordered to its third reading, when it was the gentleman from Hale who made that motion. I do not desire to be court martialed for deserting my cause and I ask the correction be made.

MR. deGRAFFENREID—The gentleman from Hale is very willing that the correction be made.

I ask the gentleman from Calhoun if he will not yield to me a minute. I am on the Committee on Order, Harmony and Consistency, and that Committee is authorized to sit today during the session of the Convention. I think I know something of the purpose for which the gentleman arose, and I do not desire to interfere with him, but on yesterday, this Convention adopted Section 11 of the article on municipal Corporations, which fixes the amount of taxes that may be levied upon property in cities and towns. There were several exceptions made in the article of certain named cities. One of the delegates to this Convention desires to except another town, and I have been requested to move a reconsideration of that article for the purpose of excepting from it the town of "Andalusia," or I ask unanimous consent of the Convention that I may be now allowed to make that motion.

THE PRESIDENT PRO TEM.—The pending business cannot be suspended unless consent be given.

MR. GREER (Calhoun)—Do I understand that the Chair will recognize me as soon as that is finished.

PRESIDENT PRO TEM—The Chair will recognize the gentleman from Calhoun as soon as this is finished.

MR. deGRAFFENREID—Then I ask unanimous consent of the House that the following which I send to the Clerk's desk, shall be added as an amendment to Section 11, without going through the formality of asking for a reconsideration of the article and the adoption of the amendment.

Consent was given.

The amendment was read as follows:

"Amend Section 11 of the article on municipal corporations by adding the following:

And provided further that this section shall not apply to the town of Andalusia, which town 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 hereinbefore allowed to be levied and collected, such tax to be applied exclusively to the payment of interest on bonds of said town of Andalusia, now authorized by law to be issued, and for a sinking fund to pay off said bonds at the maturity thereof."

PRESIDENT PRO TEM.—The question is upon the incorporation of this amendment into the section which was adopted yesterday by this Convention.

Upon a vote being taken, the amendment was adopted.

MR. JACKSON — There seems to be a great demand for copies of the article as adopted on suffrage and elections, and I

move that 5,000 copies of that article be printed, to be laid upon the desks of members of this Convention and to be at their disposal.

PRESIDENT PRO TEM.—Unless the gentleman moves to suspend the rules, this resolution will have to go to the——

MR. JACKSON—Then I move to suspend the rules for that purpose.

PRESIDENT PRO TEM—The gentleman from Lee moves a suspension of the rules in order that his motion directing that 5,000 copies of the article on suffrage and elections be printed and placed at the disposition of members of this Convention may be considered.

MR. JACKSON—It has been suggested to me to make it 10,000. Perhaps that would be better (expressions of dissent). Then make it 5,000.

Upon a vote being taken, the rules were suspended and upon a further vote, the motion to have 5,000 copies of the article on suffrage and elections printed and placed at the disposal of delegates of the Convention was carried.

MR. WILLIAMS (Marengo)—I ask that the gentleman yield to me for the purpose of introducing an ordinance.

MR. GREER (Calhoun)—One more time I yield.

Ordinance No. 446 by Mr. Williams (Marengo) was read as follows:

Ordinance No. 446, by Mr. Williams (Marengo):

To provide for indexing the stenographic report and for supplying members of the Convention therewith, and to repeal Resolution 169, touching the same matter.

Be it ordained by the people of Alabama in Convention assembled. That Resolution No. 169 heretofore passed by this Convention be and the same is hereby repealed.

Second—Be it further ordained, That the Secretary of this Convention shall immediately on the adjournment sine die of this Convention, contact with some competent and reliable person to make a complete and full index of the stenographic report of the proceedings of this Convention, and that for such services, he shall be authorized to spend not exceeding the sum of one hundred and fifty dollars ($150), and said index shall be completed within forty days after adjournment of this Convention, and shall by the Secretary be placed in the hands of a reliable printer, who shall make not less than twelve hundred (1,200) copies thereof, and the

contract entered into with such printer shall not exceed the sum of —— dollars for printing the same.

The making of the index and the printing thereof shall be done under the supervision of the Secretary, who shall mail or cause to be mailed to each member of this Convention at their proper homes not less than five copies to each member, of said index, and the Secretary shall place in the stenographic reports reserved for the uses of the State, one each of said indexes.

Be it further ordained, That there is hereby appropriated any money in the State Treasury not otherwise appropriated, the sums of money mentioned above for the compensation for the services to be rendered, and when the Secretary certifies, under his hand, to the Auditor, that the work has been fully completed above mentioned, the Auditor shall draw his warrant upon the State Treasury for said amount in favor of the Secretary, who shall thereupon pay it over to the proper parties.

Schedule, Printing and Incidental Expenses.

MR. BURNETT—I ask the gentleman from Calhoun to yield to me for a moment.

MR. GREER—I will yield.

MR. BURNETT—I have a petition that I ask to be read and referred to the proper committee.

The petition was read as follows:

To the Constitutional Convention, Montgomery, Ala.:

We the undersigned citizens of the State of Alabama, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective self-operative provision to that end.

Evergreen, Ala., July 23, 1901.

W. D. Atkinson, attorney; E. C. Page, attorney; D. C. Whitley, farmer and merchant; D. Peagler, farmer; W. L. Wild, merchant; John Hill, merchant; M. M. Pullin, farmer; W. T. Wiggins, merchant; W. A. Burnett, merchant; G. W. Ethridge; J. M. Mason, minister; H. H. Reid, druggist; J. D. Deering, druggist; F. S. Stallworth, clerk; W. J. Bailey, gunsmith; W. H. Wild, merchant.

Referred to Committee on Corporations.

MR. BLACKWELL—I ask leave to introduce a similar document on free passes.

MR. GREER (Calhoun)—It seems to me that I have been generous enough to the gentlemen. I would like to know how many more would like for me to yield.

MR. LONG (Walker)—One over here.

MR. GREER—I decline to yield any further.

PRESIDENT PRO TEM.—There is one before the House now and when that is read, the gentleman will be entitled to the floor.

The petition introduced by Mr. Blackwell was read as follows:

To the Constitutional Convention, Montgomery, Ala.:

We the undersigned citizens of the State of Alabama do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective self-operative provision to that end.

New Decatur and Decatur, Ala., July 23, 1901.

Claude H. Drake, printer; D. B. Morrow, city clerk; D. C. Morton, physician; S. F. Wert, attorney; A. H. R. Irons, gunsmith; J. S. Patterson, barber; G. W. Bryant, barber; W. H. Long, Jr., salesman; G. D. Williamson, merchant; D. W. Speake, salesman; T. W. Wert, lawyer; S. A. Lynee, lawyer; W. B. Shackelford; James James, farmer, and many others.

MR. GREER—I yield to the gentleman from Walker to introduce one more. (Laughter.)

MR. LONG (Walker)—It relates to woman suffrage.

Resolution No. 290 by Mr. Long of (Walker) read as follows:

By Mr. Long (Walker):

Whereas, This Convention has passed an ordinance allowing both white and colored ladies to vote, and whereas,

In Victoria a voter who is too ill to go to the polls may cast his ballot by mail. He obtains his blank ballot from the election officials through the local postmaster, fills it up in the presence of a policeman (who is not allowed to look at the name written on the slip) and posts it.

Therefore be it ordained, That a woman may vote by making out her ballot and giving it to her husband, father, son, brother, or sweetheart, who may deposit or retain the same in the ballot box, in event she does not care to deposit the same herself. Provided, any woman entitled to vote shall also be allowed to send her ballot by mail within an unsealed envelope, addressed to any one of the election managers.

PRESIDENT PRO TEM—The petition will be referred to the Committee on Woman's Rights and Suffrage, and the Chair will constitute such a committee after awhile.

MR. WHITESIDE—I desire to have a petition read.

PRESIDENT PRO TEM.—Will the gentleman from Calhoun yield.

MR. GREER—I give notice that this is the last time that I will yield. (Laughter.)

Petition was read as follows:

To the Constitutional Convention, Montgomery, Ala.:

We, the undersigned citizens of the State of Alabama, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective, self-operative provision to that end.

Anniston, July 23, 1901.

J. L. Wikle, druggist; A. F. McGhee, lawyer; Anniston Cordage Co.; H. D. McCarty, A. W. P. Acker, attorney; Ross Blackman, attorney; E. F. Crook, Probate Judge; T. W. Ogletree; G. E. Cater, merchant; Joseph Saks, merchant; J. J. Willetts, attorney; E. E. Elam, druggist; H. S. Miller, druggist; Lucien Keith, lawyer and many others.

Referred to Committee on Corporations.

MR. DUKE—I ask the gentleman to yield for a moment.

MR. GREER—Mr. President, I dislike to be discourteous, but——

MR. DUKE—I just wanted to make a motion that the gentleman be allowed to proceed without further interruption.

PRESIDENT PRO TEM—Does the gentleman yield for that purpose?

MR. GREER—Certainly.

PRESIDENT PRO TEM. — The gentleman from Calhoun will now proceed with his remarks.

MR. WADDELL—I rise to a point of order. The gentleman from Calhoun has had the floor for more than thirty minutes. (Laughter.)

PRESIDENT PRO TEM.—The gentleman from Calhoun has been endeavoring to get the floor for the past thirty minutes. (Applause.)

MR. GREER—I have but little to say on the motion to reconsider this morning. I made the point yesterday afternoon that a man who has $500 worth of property and is a grand rascal, who hides behind his wife, to keep from paying his debts by putting the property in her name, would have two votes whereas a man with $500,000 worth of property who pay his honest obligations would have but one; and I make the point this morning that a rascal with $5,000 worth of property and who had six or seven daughters, and a wife could give to each five or six hundred dollars worth of property, and he would have eight or ten votes on the proposition.

Some one suggests that some grand rascal will come along and marry the daughters and that will make it still worse, because the grand rascal who married the daughter would vote, the husband would vote, and the wife would vote, and there you would have fifteen or sixteen votes with that property against an honest man who owned five hundred thousand or a million dollars worth of property.

I believe I state the truth when I say that no living man today on earth has more respect or greater admiration or more regard for womanhood than I have. No man walks on God's green earth that would want to see her develop higher and higher than myself, for good women are akin to the angels of heaven, but I insist that to put the suffrage in their hands would be to lower the standard of womanhood. There is a gentleman on the floor of this Convention who has a letter to be read that speaks ten thousand times louder, and in more thunderous tones than I could speak, and I yield part of my time to the gentleman from Lauderdale, Mr. O'Neal, to read that letter and submit some remarks on the subject.

MR. O'NEAL (Lauderdale) — This Convention has shown by its course in the past that it is always ready to correct its action when convinced that an error has been committed. Earnestly impressed with this conviction and that the Convention erred in adopting the amendment on yesterday, I shall endeavor, as briefly as possible to present the reasons why I believe that we acted un-

wisely. We are bound to recognize, gentlemen of the Convention, that this is a complete departure from the custom which has existed in this State since its formation. It is a complete departure from the custom which has existed among English speaking people since the foundation of government. The first effort in behalf of woman suffrage was inaugurated by the Abolitionists of the North. They contended that under the Declaration of Independence and under the principle that there should be no taxation without representation, that women were entitled to vote. That sentiment never had any existence in the South. After the close of the Civil War, it did receive some favor, from the Populist and Prohibition parties, but it has never been sanctioned by any of the great political parties of this country. The Democratic party always believed in the doctrine of no taxation without representation, but it believed that a woman was represented by her husband, represented by her sweetheart, represented by the gallantry of the men of the country. Mr. President, in no age in history did any people ever create an ideal of feminine loveliness, sweetness, purity and moral beauty which surpassed that of the South, an ideal upon the continuation of which depends the preservation of the high civilization that prevails in our section.

MR. MACDONALD—I would like to inquire which sweetheart is a woman represented by? Most of them have a good many of them.

MR. O'NEAL—All of them represented by all of them. They say, gentlemen, and the argument was gravely made yesterday that women should vote because there should be no taxation without representation. If that argument is sound, we ought to permit them to vote for county commissioners, vote in the elections in the county for members of the Legislature that pass revenue bills imposing burdens of taxation upon the people. The argument has been made for hundreds of years, and it has never found any lodgment among the people of the South. Suppose you adopt this amendment the next time you attend a banquet and the toast of the ladies is presented, you can say "Here is to the ladies, once our superiors, and now through the action of the Constitutional Convention of Alabama, our equals." They are now our superiors, and when you pass a law of this kind you bring them down to the level of a man. It has been attempted in some of the States. It was attempted in Wyoming. They had women serving on the juries in some of the Western States, and what does a Western judge say on the subject, that a defendant who was a man had no chance, was always convicted for crime unless he was guilty of murder and then through sympathy he was frequently acquitted Women will not vote. Take Minneapolis, Minn., that city has a population 178,000, women have the right to vote on school matters and other things of that kind, and out of that large population, there were only 300 who voted. What would be the result

in Alabama? The result in Alabama will be that more negro women will vote than white women in this State.

MR. DENT—May I ask the gentleman a question?

THE PRESIDENT—Will the gentleman yield?

MR. O'NEAL—Certainly.

MR. DENT—Could not this provision be so fixed that only white women could vote, it would not be a violation of the Federal Constitution—I do not think that has any application except to males.

MR. O'NEAL—I am of opinion that a provision confining the right to vote to white women would be no violation of the fourteenth and fifteenth amendments. Here are some comments made a thousand years ago by old Cato, what does he say? If we pass a law of this kind, what would be the result. I fear the time might come when sentiments expressed here might be heard in Alabama.

"Woman's Rights—Cato the Elder: If, Romans, every individual among us had made it a rule to maintain the prerogative and authority of a husband with respect to his own wife we should have less trouble with the whole sex. But now, our privileges, overpowered at home by female contumacy, are, even here in the forum, spurned and trodden under foot; and because we are unable to withstand each separately, we now dread their collective body. I was accustomed to think it a fabulous and fictitious tale, that, in a certain island, the whole race of males was utterly expatriated by a conspiracy of the women. But the utmost danger may be apprehended equally from either sex, if you suffer cabals and secret consultations to be held; scarcely, indeed, can I determine, in my own mind, whether the act itself, or the precedent it affords, is of more pernicious tendency. The latter of these more particularly concerns us consuls, and the other magistrates; the former, you, my fellow citizens; for, whether the measure proposed to your consideration be profitable to the State or not, it is to be determined by you, who are to vote on the occasion. As to the outrageous behavior of these women, whether it be merely an act of their own, or owing to your instigations, Marcus Fundanius and Lucius Valerius, it unquestionably implies culpable conduct in magistrates. I know not whether it reflects greater disgrace on you, tribunes, or on the consuls; on you certainly, if you have brought these women hither for the purpose of raising tribunal sedition; on us, if we suffer laws to be imposed on us by a secession of women, as was done formerly by that of the common people. It was not without painful emotions of shame, that I, just now, made my way into the forum through the midst of a band of women. Had I not been restrained by the respect for the modesty and dignity of some individuals among

them, rather than of the whole number, and been unwilling that they should be seen rebuked by a consul, I should not have refrained from saying to them: 'What sort of practice is this, of running out into the public, besetting the streets, and addressing other women's husbands? Could not each have made the same request to her husband at home?'

"Recollect all the institutions respecting the sex, by which your forefathers restrained them and subjected them to their husbands; and yet, even with the help of all these restrictions, they can scarcely be kept within bounds. If, then, you suffer them to throw these off one by one, to tear them all asunder, and, at last, to be set on an equal footing with yourselves, can you imagine that they will be any longer tolerable? Suffer them once to arrive at an equality with you, and they will from that moment become your superiors.—From Livy XXXIV 2."

The theory of Southern civilization has been that woman was queen of the household and of the domestic circle. Whenever you depart from that principle, however, you say to the fair women of the State, you must go out and mingle in politics, you must lobby with men on the streets for votes, you lower the high standard that now prevails. When you go home at night tired from your business you must sit down and discuss with your wife and daughters the question of taxation and what will be the result in this State? The result will be the complete destruction and overthrow our cherished convictions as to woman's sphere. In this State, the highest type of civilization that the world ever produced is maintained by the system that now prevails. I heard a distinguished gentleman say that the highest type of civilization was produced under the old common law in which the existence of the wife was merged in the husband, which prevailed in this country for hundreds of years. Tell me under what system of law has women ever occupied the same high and elevated position that she occupied under the old doctrines of the common law which have prevailed in Alabama and will continue to prevail as long as we respect the high position which women ought to occupy in this State. I say, Mr. President and delegates of the Convention, in opposing this measure I am advocating the high position which women occupy. The women of the State have not demanded the vote, not a single demand comes from our mothers, wives or daughters for any such right as this. They would not exercise it if you granted it to them. They have not exercised it in other States where it was granted. In the great States of the West where it was conferred, very few, if any, of them vote except on a question of prohibition of liquor or where emotional excitement prevails. I say that since the day when Christianity elevated women to the high pedestal of refinement and refining influence which she now occupies her greatest palladium has been the chivalry and power of man. Her weakness has been her

strength and whenever you put her on a common equality with man and tell her to go out in the debasing arena of politics, you lower her, you brush the bloom from the flower and put Alabama along side with the Populistic States of Wyoming, New Mexico and Colorado. I say that this amendment is absolutely antagonistic to Southern sentiment. Some taunt those who express my sentiments as not being progressive and say that we must get away from the ideas of the old South and join hands with the populistic West, but Mr. President, I ask you where in history was a nobler type of womanhood and manhood ever produced than under the civilization of the old South? Where was hospitality more graciously bestowed? Where was there more refinement and culture, where were the women more beautiful, more refined, more lovely and lovable than the fair women of the South that grew up under these institutions. Yet they speak sneeringly of these institutions. Mr. President, it has been remarked by distinguished foreign writers that in no county in the civilized world, among no English speaking people was there more respect, reverence and deference for women than among the people of the South, and I am unwilling to take any step which might lower the high position which the fair women of Alabama have ever occupied and will continue to occupy unless we follow the false teachings of cranks and fanatics.

The President resumed the chair.

THE PRESIDENT—The time of the gentleman has expired.

MR. CUNNINGHAM—I admit that the subject matter contained in amendment so far as Alabama is concerned, is an innovation. I affirm, however, that the proposition contained in the section adopted yesterday relating to this subject is in keeping with the civilization in which we live and many precedents show a successful operation. I undertake to say that this is a question of justness, fairness and right, and that it cannot be answered or refuted by oratory, rhetoric and painting. The gentleman from Lauderdale may bring to bear upon this subject all the rhyme and poetry from David to himself, he may clothe it in all the oratorical flourishes and lines of beauty, and yet not answer the argument; he may have the genius of Raphael and with the aspiration to ennoble and glorify the beauty and chastity and honor of Southern womanhood, an aspiration which we all feel and which may be so great as to send him even to the skies, and as he floats to the ether he may be inspired with the genius of a Raphael, and with the tail of a comet for his brush, the rings of Saturn for his colors and with the stars for his light and the skies for his canopy, still he could not paint the beauties of Southern womanhood. I undertake to say, Mr. President, that this is a practical question which cannot be answered by such flourishes, such poetry and such painting. I undertake to say that this is a question of right, fair-

ness and justice, and that it is therefore a plain proposition of justice and not of poetry and sentiment. Why is it that a woman cannot be trusted to exercise the right to vote upon the question of the taxation of her property? Why is it, Mr. President, that this cannot be done? It is admitted by the opponents of this proposition that she is the embodiment of virtue, and I affirm that were it not for the intrinsic virtue of womanhood, that stands as an impassable mountain of granite to preserve the civilization of the world against the passions of man, that this world would go to perdition in six weeks; they admit that her chastity stands as her greatest ennobling virtue and brightest ornament. I contend that that judgment that presides over the infant at the cradle, that teaches it, educates it, takes care of it, guides it on through youth to virogous manhood, is a judgment more exacting than a judgment required to pass upon any economic question. I undertake to say, notwithstanding their brain is a little bit smaller than that of man, but the sulsi are just as deep and the convolutions just as prominent, and grey matter just as thick, and her heart is as one to 140, while the heart of man is one to 150, and there, if she lacks a little in thinking powers, in going to make up a judgment, that is going to be counter-balanced by the purity of motive. It is said that women should not vote upon this question, and yet the law of the land today provides that the husband of a woman cannot mortgage his property without the signature of his wife, and if it is a homestead, the law requires that it must be separate and apart and independent from her husband, and yet the gentleman ridiculed the proposition that notwithstanding he couldn't mortgage his property without the signature of his wife, he proposes that the porter in his household, who can read and write and pay a voluntary poll tax, can come along to the polls and impose a tax upon the property of his wife. I say, Mr. President, that our statutes should be repealed upon this subject. If a woman is not permitted and has not the judgment and right to vote upon this subject, then I say that men should not be required to have her signature to a document that mortgages away the home. As a matter of fact, this prejudice against woman suffrage on this question, so far as taxation is concerned, has its root in the egoism of masculine presumption and self-constituted prerogative, and there is absolutely no argument against it. The gentleman read from Wyoming, and I will also read from Wyoming, a resolution passed by the House of Representatives by a unanimous vote: "Be it resolved by the second Legislature of the State of Wyoming, that the possession and exercise of suffrage by the women in Wyoming for the past quarter of a century has wrought no harm and has done great good in many ways; that it has largely aided in banishing crime, pauperism and vice from this State, and that without any violent or oppressive legislation; that it has secured peaceful and orderly elections, good government, and a remarkable degree of civilization and public order; and we point

with pride to the facts that after nearly twenty-five years of woman suffrage, not one county in Wyoming has a poor-house; that our jails are almost empty, and crime, except that committed by strangers in the State, are almost unknown; and, as a result of experience, we urge every civilized community on earth to enfranchise its women without delay."

Now, I want to call your attention, Mr. President, to a sentiment from the East, and I read from The New York Herald: "It is absurd that an educated American woman who owns property should have no voice as to how or by whom it shall be taxed, while illiterate laborers who work in her fields, and who, perhaps, have not yet learned the language of the country, may vote for men and methods which will virtually confiscate her estate. The case of such women is a glaring instance of taxation without representation?

Now, I call attention to a sentiment from the great city of the West, Chicago. The Evening Post says: "The question of letting all women vote on all questions may be debatable, but the question of letting all taxpayers vote for all officers concerned with taxation hardly seems to have two sides."

So much for the sentiments of the great newspapers and the Legislature of Wyoming.

It is important that on this question we do not have to go to a Populistic State or Republican State, the successors of original abolitionists, but can come to a Southern State that was the pioneer on the question of suffrage reform. I refer to the State of Louisiana, and I will read a part of that Constitution: "The Louisiana Constitutional Convention extended the suffrage to women in all cases, where a special tax for public improvements is submitted to the property owners. All women owning property and paying taxes thereon are entitled to the same voting privileges at these elections as men."

That, Mr. President, I presume, is not Populistic, nor is it the product of evolution of Republicanism, but from a sister Southern State, a State characterized by its Bourbon, simon-pure Democracy; a State whose Southern civilization is on par with any State in the galaxy of Southern State, and, therefore, Mr. President, it meets with the approval of precedent on that line. I will read a little further: "That this is right and equitable, a moment's consideration will show. The women owning property have their full share of the tax to pay, and they should certainly enjoy the privilege of saying whether or not they should be taxed."

But not only are the arguments in favor of woman's suffrage granted by the Louisiana Convention strong in point of equity and justice, but actual experience proves the Convention to have

been right in what it did. The first test of this limited woman's suffrage in Louisiana, made at the sewerage and drainage tax election in New Orleans, was strongly in its favor. The women went into the campaign in an admirable spirit, discussed the issues intelligently and broadly, and much of the success was due to their influence and their work. They aided materially in securing the tax and thus assuring improvement, sanitation, health and prosperity of New Orleans. After this experience, no one can be found in Louisiana today who would change one iota of this provision of the Constitution or who opposes this form of limited woman suffrage.

"If the Alabama Convention will consult Louisiana on this point, and be guided by its experience, it will follow the Louisiana Constitution and grant all women owning property the same right to say whether their property should be taxed for public improvements as the men enjoy. It will give the women of Alabama an opportunity to prove their public spirit and to use their best efforts to build up the prosperity of their State."

This is not only a declaration after this provision of the Constitution was adopted, based upon experience, but it is a voice that comes from an extreme Southern State to authorize the same privilege to women who own property in the State of Alabama. I am informed by two classical gentlemen on this floor—I have reference to the gentleman from Montgomery, Mr. Macdonald, and the gentleman from Talladega, Mr. Browne—that it has been the custom in England to grant limited woman suffrage upon the question of education. That being the case, it seems that the very home of our civilization, the mother-country from which we are descended, the great Anglo-Saxon spirit of the age, authorizes this procedure that we desire in Alabama. Men who claim to be intelligent and patriotic deny right, justice and equal privileges to women who pay taxes to say whether or not she shall have that tax imposed upon her. I move to lay the motion to reconsider upon the table.

MR. LONG (Walker)—Will the gentleman please withdraw that motion?

MR. CUNNINGHAM—It is insisted that I do not withdraw, but I never have much sympathy with the little boy who ate up all the candy and said that he did not love it, and I withdraw the motion to lay on the table. (Laughter.)

MR. LONG (Walker)—I am very glad the gentleman is so kind, because he made such an eloquent speech, and instead of jumping from Alabama to Kansas as he should have done, he jumped up among the stars and used such big words as "Constantinople," and it is difficult for any one to answer him. (Applause.)

Seriously speaking, I think this is the straw that will break the camel's back. I am serious upon this proposition. At last am I face to face in Alabama with what I feared was coming, the time when women would vote; when my wife would go to the polls and kill my vote, and give me no peace because she could not vote me. You are going to allow negro women to vote the same as white women. This is the entering wedge. You may talk about mortgaging your property as much as you please, they have no more right to vote upon the proposition of issuing bonds than they would have as stated by the gentleman from Lauderdale, to vote upon any other proposition. I think the time has come, Mr. President, when we should change the name of Alabama. It should not be said, "Here we rest," for here there will be no rest (applause), with such "men" as Carrie Nation and others, with hatchets, parading our streets. You will come to it in Alabama, for this will be but a shining mark, and invitation to all the women cranks in the United States to assemble here. Mr. President, rather than have that, I would take any plank that has been proposed here to be put in the Constitution. The best women in Alabama don't want to vote, and the reason today that Southern women so outshine any other people in the world for beauty and virtue is because they stay at home and do not try to make themselves masculine in the affairs of this world. (Applause.) Why, gentlemen, our mothers never thought of such things. Our men have always been able to run this country. It is the men of the country that do the fighting in time of war, and should vote in time of peace, and have peace when they vote. (Laughter.) I do not want to go home and explain to my wife why I cast a vote. My wife could vote under this proposition and if I couldn't vote her I would think that I had no influence over her, and she would, no doubt, think she had no influence over me, and there would be a row that would start in North Alabama, the echoes of which would reach to the Gulf. (Loud applause.)

It is indeed a fine proposition to let the women go up and vote. Why, I know of three or four, less than half a dozen women, in my town now, and we can hardly hold an election for their interference. You give them the right to vote, and I tell you they will stand by the polls, and talk about the dark days in Alabama when the negroes were intimidated, and when the shot gun ruled, but they will intimidate every white voter in that town, and you have to run away from the polls or vote their way. (Laughter.) That will be the result gentlemen.

The men in Alabama own ninety-five or ninety-eight per cent of all the property in Alabama. I respect women, but it is the man's business to make a living for them, and the man is a villian that does not do it, and he should do the voting for the household. You have no right to enfranchise one of them, because it is wrong in principle, and I tell you I never want to see the day

when it will be written in our Constitution, when three or four women can get together and go around the polls and sing a few hallelujah songs, and get a Carrie Nation hatchet and intimidate every white voter at the polls. (Laughter.) That is what they will do.

Now I appeal to this Convention seriously not to adopt this provision. It will start rows in Alabama that have never been dreamed of, and which are not half started now, and which will not end outside of the divorce courts, and a knock-down and drag out, and mixing up of fathers-in-law, brothers-in-law, who will all take in it before it is through.

You give the women the right to vote on that, and she will want the right to run for President the next day. If women want to run this country and you gentlemen think they are better qualified to do so than the men, I am willing to vote with the majority of the Convention to disfranchise every man in the State of Alabama, black and white, and turn it over to the women and let them run it. If you thing they are better qualified and that the men should not do it, show your faith by voting for a proposition like that. They have no right to vote. God never intended for them to vote. It was the Apostle Paul who said that they should keep their mouths closed in assemblies, and you could not keep their mouths closed around the polls to save their lives. (Laughter.) I hope that this Convention will not adopt such a proposition as this. We will be as Kansas and become the laughing stock of all creation. We are not called upon to pattern after Louisiana, where until a year or two ago, they had no Sunday law. They fell from grace, and got so low down that they let women vote, and I am not surprised, when a State has no Sunday law, that she fell into such disrepute as that.

MR. CUNNINGHAM—I desire to ask the gentleman from Walker, if, in all of his variegated and extensive experience——

MR. LONG—You will have to put it in plain language, Doctor. (Loud Laughter and applause.)

THE PRESIDENT—The Chair will have to remind the delegates that this is not a political Convention, but a Convention of delegates of the people.

MR. CUNNINGHAM—I will strike out the word "variegated" and stick to the word "experience." The gentleman understands that.

MR. LONG—I think I can understand it; probably I could not spell it.

MR. CUNNINGHAM—I will ask if he has ever known one of these theoretical lovers of women to go up to the tax office and

pay the tax of a widow, in payment of the interest on the bonds that was put there by masculine votes, in a single instance?

MR. LONG—No. I cannot recall it.

MR. CUNNINGHAM—Then that is what we contend for.

MR. LONG (Walker)—But I do claim that me have the right to put that property there, and it is the woman's business if they are not satisfied with men's rule, to sell their property and move to some State like Kansas or Wyoming where they can run for Justice of the Peace, or any other office they want.

MR. CUNNINGHAM—In other words we will tax her home with labor to pay these taxes?

MR. LONG (Walker)—Minors pay taxes and so should the women, and they do not vote.

MR. COLEMAN—Mr. President and gentlemen of the Convention, I will not have time in ten minutes to make the argument I would like to make upon this question. To me it is one of the most serious propositions that has been presented to this Convention, and I confess to you, that I have been more depressed during the past night and this morning than at any time since we assembled here.

MR. O'NEAL—May I ask if the gentleman from Greene has not thirty minutes under the rule?

THE PRESIDENT—The gentleman will please be in order.

MR. COLEMAN — I remember very well when the first public advocate for a Constitutional Convention was made. It was considered at my home by Governor Seay, and appeared in his address during his last term of office. From that time to this, I have continuously been at work to secure a Constitutional Convention, having in view but one great proposition, and that was the purification of the ballot box, but I confess, Mr. President, that with the burdens that you are attaching to this Constitution, it is becoming a very grave question as to whether or not it ought to be ratified, much less can be ratified. If I should not be called to order for not speaking to the issue, I would direct the attention of the delegates to this Convention to some provisions which they have already adopted, and which we will have difficulty in presenting favorably to the people, but I propose to confine my remarks just now to the question at issue. If we are to have a clause of this kind, it ought to be perfected. The motion before you is for reconsideration. If it is reconsidered, then it may be amended. If not reconsidered, it must go as it is. Now, as it stands, a woman is authorized to vote, whether she has been a resident of the city or town one day. All other qualifications require three months and two years, but in this provision,

it makes no difference how long she has been there, whether she moved in the day before or not, she is authorized to vote. Now, that is wrong and if you propose to have a provision here conferring upon woman the right to vote, let us reconsider and put it in perfect order.

MR. CUNNINGHAM—Will the gentleman permit a question?

MR. COLEMAN—I will if you will let me have time to say what I have to say.

MR. CUNNINGHAM—I just desire to ask the gentleman if he would vote for it, if so amended?

MR. COLEMAN—I will make myself perfectly clear, if I have the opportunity. Now, the gentleman has interrupted me. I propose to direct your attention for a few moments to some of his remarkable statements. He is good perhaps in medicine, or surgery, but when he undertakes to teach a Convention of lawyers law, he is getting out of his province. He has stated to this Convention that a man could not mortgage his property without the consent of his wife. That is confined simply to the homestead. A man can mortgage his property without the consent of his wife and his wife's signature simply carries with it her contingent dower interest. If she dies, the mortgage is perfect. It is only a homestead that she is interested in, and I mention that not as bearing on the question, but to direct the attention of this Convention to the remarks and arguments made by men on this floor, when they cut off debate in response which goes to expose the sophistry and falsity of their position. That has occurred time and time again here upon this floor. Now this is a great question. It is one of great importance, whether or not a woman's property in a town should be represented. I for one acknowledge that it ought to be represented, and having that in view, the Committee on Taxation very carefully framed what it thought would be a proper provision and which I would have introduced yesterday, if I had had the opportunity. Now, our women are pure, just as he says, and when he said as to their qualification that their heart was as one to 140, the delegate to this Convention must remember that that has been brought about by existing conditions and not by conditions which he would inaugurate here for any man, who is honest and candid, knows that mixing in our elections will derogate from their high standing and the fine emotions which possess them. Now if this property can be represented by a vote by any provision and at the same time keep her away from politics, that would be my idea of a just law, and I think it can be, notwithstanding there are parties upon this floor, who would sneer at the proposition, nevertheless, the great purpose is to protect her property in town, and at the same time keep her from the ballot box, because the delegates of this Convention must know that when

women interfere with elections, while the things may not transpire which the delegate from Walker has seen proper to state here, altogether, yet its tendency and influence will be to take away from them that high position which they occupy in the esteem of man. Now here is another question that ought to be considered. If the idea is to protect their property, what will you do with the great amount and value of property of corporations in all of our cities and towns. They are not permitted to vote—that property is not represented at all under this system, so if there ought to be representation wherever there is taxation, in order to do complete justice, the property of those corporations ought also to have a hearing. Somebody ought to be authorized to vote and represent them. Now I do not know whether or not the views which were presented and embodied here in the report of the Committee will be acceptable to this Convention, but it was with an idea to this very condition of things to have all property represented in all these special elections, that we frame that idea and present it to you, that in special elections of this kind there should be a majority of the popular vote and the tax payers. If you had that in your Constitution, notwithstanding she was not at the polls, her property would be protected, just the same, as if she were at the polls. Now, Mr. President, I wish to call the attention of the Convention to another fact, the adoption of this amendment was in direct violation of an ordinance which has already been adopted, and reported by the Committee on Suffrage and Elections, and I do not know why the latter should be allowed to prevail over Section 8 of the Committee on Suffrage and Elections, that reads this way: "No persons not registered and qualified as an elector, under the provision to this Article, shall vote at any State, county or municipal elections, general local or special, held subsequent to the general election in 1902." Now that is already a part of the Constitution of the State. This is directly in conflict with it, and one or the other must go down. That was discussed. That is the law now. It not only has been reported and passed upon, discussed, and by a final vote this morning, made a part of the Constitution. Now, Mr. President, the impassioned delivery and impassioned declaration, I should say, of parties here, frequently sweeps people's judgment along the current and they keep not within view the real significance of what they are doing. Now I call your attention to the amendment offered yesterday evening in a flurry here that was surprising to every thoughtful, deliberative man. You first adopted an amendment which said that all women tax payers could vote without regard to age, qualification, habitation, or whether they even resided in the State or not. It was finally amended so as to require them to be 21 years of age, and I finally got in a little amendment so that they could also, if they voted, upon obligations as well as bonds, and after that time, it was impossible to get an amendment before this body. They were impassioned and would not hear you at all. I call your attention

to these facts, so that the members may be more considerate in how they act and what they do. Young man for war and old men for counsel. It is doubtful whether I shall ever appear again as a public man before any audience, or in any community, but I have so much at heart in the ratification of this Constitution, that I shudder whenever unusual burdens are placed upon it. If our constituents could have been permitted yesterday evening to look into this body, they would have been mortified and would have turned their heads away. No man can doubt it. We pass from a deliberative body almost into a state of anarchy. Now, Mr. President, is there any man upon this floor, who went before his constituents and made a proposition that he was going to favor woman suffrage. Don't you know it is in direct conflict with the general sentiment throughout the country? Cities and towns may have one view of this question, but the people of the country, and they are in a large majority, both as to voters and tax payers, would shrink back and shudder and abhor the idea of woman suffrage, and I doubt whether you will ever get the ratification of any such provision, especially when there is no necessity for it. Just this morning, coming up here, I was introduced to two gentlemen of this county, who told me that they lived out in the country. They seemed to be intelligent men. They told me that they had been with the Convention until this suffrage question was introduced, and that they would vote against it, if it was put in there. I do not mistake the people of my county. I feel quite sure that they will be shocked at the idea of introducing into our organic law woman suffrage. I am as much an admirer of women as is any man. I desire them to occupy that place which has elevated them so much in public esteem. I do not wish them to be lowered in any way, or to be brought in conflict with the polls, and our plans of prosecuting politics.

MR. O'NEAL—I move that the time of the gentleman from Greene be extended ten minutes.

MR. OATES—If I can be recognized I yield one-half of my time to the gentleman from Greene.

MR. COLEMAN—I would rather you would speak for yourself.

There were cries of go on, go on.

MR. COLEMAN — I do not propose to attempt to arouse your feelings in any way. I could not do it. I am not made on that style. In my own language, I love substantial things, and reason, and argument. I have been accustomed to it, and I want to know how we shall make this innovation in our organic law, when there has not been a suggestion of it even, in all of our canvass of this State. Have we become suddenly wiser than those who sent us here. Shall we place in our Constitution here a pro-

vision which we know public sentiment is against? How can we justify ourselves? You may go and say that the women of the town ought to be represented, and their property ought to be, and I admit it, but delegates upon this Convention, we have arranged a suffrage plank free here which will eliminate the vote that we objected to, and that was injurious to us, and will maintain in power and authority for many years to come those who have been accustomed to vote in all these matters. I hope it will be reconsidered, whether my views be adopted or not, as to the suggestion that I have made, but if you will put a provision in there just as we had prepared before, having in view all these things, that in these special elections incurring new obligations, issuing new bonds, it would require a majority of the qualified voters and a majority of the tax payers, you will represent every corporation, and you will represent every woman. She will be fully represented in that vote, and it will be impossible to tax her property without her voice, and you may confine it, as it ought to be confined, to special elections for cities, just as this Section we are considering provides for. She will not go into ordinary politics at all, but will be kept out of it altogether. She will maintain that purity and desire of affection which she now possesses, and which we so much admire, and which we should not take any chances of lowering. Mr. President, I do not want to trespass upon the Convention. I would like to have made a legal argument.

THE PRESIDENT—The gentleman from Montgomery will have five minutes.

MR. OATES—Mr. President, in that time of course I cannot elaborate or make any extended remarks on this question. I have seen much of the advocates of female suffrage. Year after year I have seen National Conventions of them assemble in the city of Washington, and I have heard their discussions, and have been thrown with them at the hotels, and I know what effect it has. They scorn the main characteristics of the old Southern civilization, because our gallant men will raise their hats to a lady, and never fail to give her a seat when she has none, whether he knows her or not. (Applause.) The advocates of female suffrage and the most prominent adherents themselves despise that kind of thing. They want perfect equality; it makes them rough and tough, and they scorn that kind of politeness on the part of men. It is, therefore, in may judgement, a degradation of woman. It is against our highest Southern civilization here, where we have the highest womanhood, the loveliest, the most intelligent and devoted of women, of any people on the face of the earth. Now, sir, I could elaborate. I made a speech in Congress, when Wyoming was knocking at the doors of the nation for admission, and I opposed her admission as a State because she had female suffrage, and it is the only State in the Union that has it in the Constitution. I just want to say this is limited time. The gentlemen claim that

women should vote when she has property, because this is taxation on her property, and would be taxation without representation. Now, if that be true in this case, I want to know if it is not true throughout, wherever any woman owns property, and should she not have the right to vote in all elections? She has the same moral right, the same argument prevails, and she ought to have universal suffrage extended to her, if we give it to her in this instance. But have not our women and their property been taken care of? How is it that woman has reached such a high estate in the South, if men have been neglected of their duties, and are disposed to burden the property of women with undue taxation, when their voices were silent? Why, sir, they have taken care of their interest in the past, and they are capable of doing it still, without this innovation. And just as sure as this innovation is made, it is the entering wedge. It is the very beginning of universal woman's suffrage. In my opinion, it is not an elevation, but a degradation of our noble women. Woman is the queen in the household, and she ought ever to be. There the best lessons are diseminated. It is her blessings upon the little ones that makes of them the noblest women and the most patriotic and bravest men in the world. They have proven it in the past, and I do not want to see any change in it. I may be called an old fogy, but I want to adhere to those things which for a century have been proven to be good, and which have given us such a high civilization as we have in Alabama. There is no necessity for a change. Then, sir, if we are going to make this change, why don't the argument hold good that it shall become universal, and it will just as sure as we adhere to this. Some of these delegates, before they go to their graves, will see universal woman suffrage in Alabama, but the best women will not go to the polls and vote. I am persuaded, sir, that I have the honor to have a wife of that class, and I own some property and she owns a little, and I venture the assertion that if there was an election held today in Montgomery to issue bonds, and it was her privilege to go and vote she would not go a step. (Applause).

It is a mistake that gentlemen are committing. I tell you, the old beaten path that is known to be good, had better not be departed from, unless you are very sure it is wise and absolutely necessary. I could say a great deal more, Mr. President, but will not trespass upon the time of the Convention.

MR. O'NEAL—Will the gentleman allow a suggestion? You spoke of Wyoming. I want to read a passage here from Mr. Bryce's American Commonwealth, "As respects the suffrage in Wyoming, the evidence I have collected privately is conflicting. One of the most trustworthy authorities writes to me as follows: 'After the first excitement is over, it is impossible to get respectable women out to vote, except every two or three years, on some purely emotional question, like prohibition or other temperance legislation.'"

MR. OATES—I will state in reply to that, during my service in Congress, and after that State was admitted with woman's suffrage, at the hotel where I lived, I met and knew very well the wife of the delegate from that Territory, an intelligent woman, and in conversation with her she told me that that was the truth; that a great many of the best women did not go to the polls at all. Why, woman lends her influence and it controls largely the action of men in elections anyway, and that is as far as she sought to participate. She is above it. It is not her sphere at all. Women are not subject to draft; they are not taken for soldiers. That is outside of their sphere. Let them be queens in the household, where they can disseminate these good, noble, patriotic lessons. I want to say one more word as to your remark about Wyoming. In the new State of Washington they had and tried female suffrage for many years, and found at last that only the most inferior class of women went to the polls and voted, and it was so embarrassing that it was finally abolished and there is no such thing there now.

MR. ROGERS—Is it your opinion that one-fortieth or one-fiftieth of the women of Alabama want this.

MR. OATES—I do not think they do, and if they had the privilege they would not go to the polls and vote.

MR. HEFLIN (Chambers)—I simply want to enter my protest against the section that was passed on yesterday. I favor a reconsideration. I do not see any good reason why the woman having five hundred dollars worth of property should vote, and the women with four hundred and seventy-five dollars worth, living side by side with the woman with five hundred dollars, should be disfranchised.

MR. CUNNINGHAM—Can you see any difference, why a white man and a negro owning three hundred dollars worth of property should be permitted to vote and one owning two hundred and ninety-five cannot.

MR. HEFLIN — The gentleman has raised a question here that is in our suffrage plan. It is one of the plans, but there are others and through the gateway of the others we expect the white man to pass. I speak for the women of Alabama who do not want this right to vote. The gentleman has in his very eloquent manner soared from the mole-hills to the stars in his debate this morning, and had his argument ground into powder by the eloquent gentleman from Walker. He now favors allowing a negro woman owning five hundred dollars worth of property, living across the street from the proudest and most virtuous white woman in Alabama, who owns only four hundred and seventy-five dollars the right to vote, to walk by her door, as she sits out on the veranda, disfranchised, and as this negro woman that holds her certificate

for five hundred dollars she walks up and has a voice in the laws of that city.

MR. CUNNINGHAM — Does not the gentleman advocate a proposition that the voter, negro voter, and every negro who can read and write and who has paid his poll tax can vote, upon the widow five hundred dollars of taxation.

MR. HEFLIN (Chambers)—Possibly so.

MR. CUNNINGHAM—It works both ways then doesn't it?

MR. HEFLIN (Chambers)—No sir.

MR. COLEMAN—Do not those voters refer to the politics of the State and have nothing to do with special elections?

MR. HEFLIN (Chambers)—Yes sir, regular elections.

MR. MALONE—Is not that because men are forced to do it?

MR. HEFLIN (Chambers)—We are driven into that. Who is it among the women of Alabama that are clamoring for the right to vote?

MR. PEARCE—None of them.

MR. HEFLIN (Chambers)—Are our women and wives and mothers asking for the right to vote? I say in defense of the womanhood of Alabama that they do not want the right to vote. (Applause.) There are a few cranks strolling over the State, and in other States, advocating woman suffrage among the women. I am sorry to see it in Alabama, and there are a few cranks among the men.

MR. COFER—I am one of them.

MR. HEFLIN—I was not going to name my distinguished friend, but he pleads guilty to the charge, and I let him stand convicted. Now, Mr. President, a woman in Alabama who has not five hundred dollars worth of property, it matters not how lofty the path of virtue and moral rectitude may be that usually prevails, the one of opposite character with five hundred dollars worth of property can go up and have a voice in the laws of the government of the city, whether she is a married woman or a widow. Any woman with that amount of money, five hundred dollars worth, could vote, and nine out of ten with four hundred and ninety-nine dollars could not vote. Mr. President, it is wrong. They put a premium on property and they make that the passport to the ballotbox, and it is not a matter of intelligence and virtue. They turn it over to the women of the State. No good character required.

MR. ROGERS—Might be a criminal.

MR. HEFLIN—Yes, as suggested, it might be to a criminal. They come up and exercise that right to vote because forsooth they have acquired five hundred dollars worth of property.

MR. CUNNINGHAM — Does the gentleman challenge the character of the ladies of the State of Alabama. Does that not go without examination or investigation.

MR. HEFLIN—I have not challenged the character of the good women of Alabama.

MR. CUNNINGHAM—That was what I understood.

MR. HEFLIN—I made no such charge, but there are possibly some among the Sonogambians who are not as white as snow. (Laughter.) There is no use arguing this matter further. I think the Convention has had enough discussion. I hope the Convention will rescind the action of yesterday. I do not think that it will be the judgment of the combined wisdom of this Convention to allow this provision in the fundamental law of Alabama. I do not believe they will start out on the new line of revolution, bringing into our Constitution woman suffrage in Alabama, and I do not believe it will be the finer judgment of the conservative element of this Convention, and I hope to God it will prevail. I move the previous question.

The main question was ordered.

MR. EYSTER—I call for an aye and no vote.

The call was sustained.

THE PRESIDENT—As many as favor the motion to reconsider the action whereby this Convention adopted Section 7 will please say aye and those opposed no, as your names are called.

AYES

Messrs. President,	Coleman, of Greene,	Heflin, of Chambers,
Almon,	Coleman, of Walker,	Heflin, of Randolph,
Altman,	Davis, of DeKalb,	Henderson,
Banks,	Duke,	Hinson,
Barefield,	Eyster,	Hood,
Bethune,	Espy,	Howze,
Blackwell,	Ferguson,	Inge,
Brooks,	Fletcher,	Jones, of Bibb,
Bulger,	Freeman,	Jones, of Wilcox,
Burns,	Gilmore,	Kirkland,
Byars,	Glover,	Knight,
Cardon,	Grayson,	Ledbetter,
Carmichael, of Coffee,	Greer, of Calhoun,	Lomax,
Carnathon,	Haley,	Long (Butler),
Chapman,	Handley,	Long (Walker),
Cobb,	Harrison,	Lowe (Lawrence),

Macdonald,	O'Rear,	Searcy,
McMillan (Baldwin),	Palmer,	Sloan,
McMillan (Wilcox),	Parker (Cullman),	Smith, Mac. A.,
Malone,	Parker (Elmore),	Smith, Morgan M.,
Martin,	Pearce,	Vaughan,
Merrill,	Phillips,	Waddell,
Murphree,	Pillans,	Walker,
NeSmith,	Proctor,	Watts,
Norwood,	Reese,	Weakley,
Oates,	Reynolds (Henry),	Weatherly,
O'Neal (Lauderdale),	Rogers (Lowndes),	Williams (Marengo),
O'Neill (Jefferson),	Rogers (Sumter),	Williams (Elmore),
Opp,	Sanders,	Winn,

TOTAL—87

NOES

Ashcraft,	Graham, of Montgomery,	
Beddow,	Jackson,	
Browne,	Jenkins,	Porter,
Cofer,	Kyle,	Reynolds (Chilton),
Cunningham,	Miller (Marengo),	Smith (Mobile),
Dent,	Mulkey,	Thompson,
Eley,	Pettus,	Whiteside,
Foshee,	Pitts,	Wilson (Clarke),

TOTAL—22

ABSENT OR NOT VOTING

Bartlett,	Jones, of Hale,	Selheimer,
Beavers,	Jones, of Montgomery,	Sentell,
Boone,	King,	Sollie,
Burnett,	Kirk,	Sorrell,
Carmichael, of Colbert,	Leigh,	Spears,
Case,	Locklin,	Spragins,
Cornwall,	Lowe (Jefferson),	Stewart,
Davis, of Etowah,	Maxwell,	Studdard,
Foster,	Moody,	Tayloe,
Graham, of Talladega,	Morrisette,	White,
Grant,	Renfro,	Willet,
Greer, of Perry,	Robinson,	Wilson (Washington),
Hodges,	Samford,	
Howell,	Sanford,	

PAIRS

AYES	NOES
Norman,	Craig,
William (Barbour),	deGraffenreid,
Miller (Wilcox),	Fitts,

So the motion to reconsider prevailed.

MR. COLEMAN—I offer a substitute for the section.

THE PRESIDENT—The Chair will call attention to the gentleman from Greene, that the amendment to the section is now before the Convention as amended.

MR. COLEMAN—I move to reconsider the vote by which the section and amendment was adopted.

THE PRESIDENT—Possibly the gentleman intends to move to reconsider the vote whereby the amendment offered by the gentleman from Dallas was adopted.

MR. O'NEAL—Then Mr. deGraffenreid of Hale moved a separate section, to confine it to women who owned five hundred dollars worth of property.

THE PRESIDENT—The Convention has not yet reconsidered the action whereby the Convention adopted the amendment offered by the gentleman from Dallas. It has merely reconsidered the vote whereby the section as amended was adopted.

MR. GREER (Calhoun)—I move that the Convention do now reconsider the vote whereby that amendment was adopted.

MR. O'NEAL—I move to reconsider the vote whereby the section as amended was adopted.

MR. BROWNE—I rise to a point of parliamentary inquiry. The matter is now before the Convention as it was after the amendment proposed by the gentleman from Dallas, and immediately before the section as amended was adopted. Therefore the present question is upon the adoption of the section as amended by the gentleman from Dallas and it is proper now to offer a substitute for the section as amended, as is offered by the gentleman from Greene.

THE PRESIDENT—It is competent to do that if the Convention desires to. The Chair merely called attention to the fact that the amendment engrafting upon women the right to vote, was still in the section.

MR. MALONE—I move to table the amendment.

MR. COLEMAN—I make no pretension to skill in parliamentary law, but it is clear what I want; that is to get rid of the vote by which the amendment was adopted.

MR. CUNNINGHAM—If the gentleman will permit a suggestion, I move to reconsider the vote by which this amendment relative to woman suffrage was adopted, and then move to refer it to the Committee on Suffrage.

MR. COLEMAN—I do not care to do that, because the Committee has made its report to the house.

MR. OATES—The section as amended is before the Convention now for adoption. It is competent to offer a substitute for this section?

THE PRESIDENT—The Chair has so ruled.

MR. OATES—Then the question is on the adoption of the substitute.

MR. COLEMAN—I want a little information. The section is all right as reported by the Committee. I had no objection to it until these amendments were incorporated upon it.

THE PRESIDENT—Then the gentleman must move to reconsider the vote whereby the amendment offered by the gentleman from Dallas was adopted.

MR. COLEMAN—Then I make that motion.

THE PRESIDENT—Unless you wish to strike out the substitute and the whole section.

MR. COLEMAN—No, sir, I propose to do exactly what I said I would, if I got the opportunity.

THE PRESIDENT — Does the gentleman move to reconsider the vote whereby the Convention adopted the amendment offered by the gentleman from Dallas?

MR. COLEMAN—Yes, sir.

Upon a vote being taken, the motion was carried.

THE PRESIDENT—The question recurs upon the amendment offered by the gentleman from Dallas.

MR. COLEMAN (Greene)—I offer this as a substitute.

MR. ROGERS (Sumter)—I move to reconsider the vote by which the amendment offered by the gentleman from Dallas was adopted.

THE PRESIDENT—That has been done.

MR. HEFLIN (Chambers)—If I am in order, I move to table the amendment offered by the gentleman from Dallas.

MR. O'NEAL (Lauderdale)—That has been done.

THE PRESIDENT—The delegates are mistaken. The amendment of the gentleman from Dallas is the pending question.

MR. COLEMAN—I offer a substitute for the amendment offered by the gentleman from Dallas.

The substitute was read as follows:

"To authorize the contracting of obligations or the issue of bonds mentioned in Section 7 of this Article, the same shall be first submitted to a vote of the qualified electors of said county, State, town, district or other political subdivision of the State, and voted for by a majority thereof in numbers and value of taxable property voting at such election."

MR. ROGERS (Sumter)—I want to call the attention of the House to Section 17 on Local Legislation — "Authorizing any county, township, city, town or village to issue bonds or other security, except in cases in which the issuance of said bonds or other securities has been authorized by a vote of the duly qualified electors of such county, township, city, town or village, at an election held for such purpose in the manner that may be prescribed by law; provided, the General Assembly may pass special laws to refund bonds issued before the date of the ratification of this Constitution.'

This section has been adopted on the Article on Local Legislation. This would be in direct conflict with it, and for that reason I move to lay the substitute and the amendment of the gentleman from Dallas on the table.

MR. MACDONALD—I ask the gentleman to withdraw that motion.

MR. BROWNE—In order that I may offer a resolution that will straighten the matter out, I ask the gentleman to withdraw his resolution.

THE PRESIDENT—The motion is to lay Section 7, reported by the Committee, and the amendment offered by the gentleman from Dallas and the substitute offered by the gentleman from Greene upon the table.

MR. HARRISON—I call for a division of the question.

MR. MACDONALD—I rise to a question of inquiry. The motion covers the substitute as reported by the Committee. I trust the gentleman will withhold his motion.

THE PRESIDENT—It covers Section 7 as reported by the Committee and covers the amendment offered by the gentleman from Dallas.

MR. ROGERS—I would like to ask for a reading of the section as amended, so the gentlemen can see what I have moved to lay on the table.

The section as amended was read as follows:

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 subdivision 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 reissuance 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 street and sidewalk improvement, or sanitary or storm water sewers, the cost of which is to be assessed in whole or in part against the property abutting said improvements or drained by such sanitary or storm water sewers.

No city, town or other municipality, shall make any assessment for the cost of sidewalks or street paving, or for the cost of construction of any sewers, against the property abutting on such street or sidewalk so paved or drained by such sewers, in excess of the increased value of such property by reason of the special benefits derived from such improvement.

Amendment by Mr. Craig (which has been reconsidered):

"And women taxpayers."

And substitute for said amendment by Mr. Coleman of Greene as follows:

"To authorize the contracting of the obligations or issue of bonds mentioned in Section 7 of this Article, the same shall be first submitted to a vote of the qualified electors of said county, State, town, village, district, or other municipal subdivision of the State, and voted for by a majority in numbers and valuable taxable property voting at such election."

MR. ROGERS (Sumter)—I confine my motion to table to the amendments of Mr. Craig of Dallas and the substitute I propose to read the sections we have already adopted to show this is in conflict with it.

MR. BROWNE—I make the point of order that the gentleman is out of order in reading it. He is reading it for the purpose of undertaking to influence members of the Convention and he has declined to withdraw his motion.

MR. ROGERS—I am not arguing it. I propose to read the section as we have adopted it. I decline to withdraw, and renew my motion to lay the substitute offered by the gentleman from

Greene and the amendment offered by the gentleman from Dallas upon the table.

MR. ESPY—And upon that I call for a division of the question.

THE PRESIDENT—The question would be first on the motion to table the substitute offered by the gentleman from Greene.

MR. HARRISON—I desire to call attention to the fact that the Secretary in reading Section 7 read it as though the amendment offered by the gentleman from Dallas was incorporated in it. I do not think that is a fact. That amendment has been reconsidered.

THE PRESIDENT—It was read, but it has been reconsidered.

MR. HARRISON—The vote by which it was adopted was reconsidered.

THE PRESIDENT—Yes sir. The Chair will explain to the delegates that the amendment offered by the gentleman from Dallas is not now incorporated in the Section and it was read by the Secretary through error. Now the question is upon the motion to table the substitute offered by the gentleman from Greene.

Upon a vote being taken, a division was called for, and the motion to table prevailed by a vote of 75 ayes and 25 noes.

THE PRESIDENT—The question recurs upon the motion to table the amendment offered by the gentleman from Dallas.

Upon a further vote being taken the motion to table the amendment offered by the gentleman from Dallas prevailed.

MR. ROGERS (Sumter)—I move to lay the amendment offered by the gentleman from Hale on the table.

THE PRESIDENT—That has not been reconsidered.

MR. O'NEAL—Let us adopt the Section as amended, and upon that I call the previous question.

THE PRESIDENT—The Chair will call the attention of the delegate to the fact that the amendment offered by the delegate from Hale——

MR. O'NEAL—That is a separate Section.

THE PRESIDENT—What is the motion with reference to this Section?

MR. O'NEAL—The motion is that Section 7 be adopted as amended and upon that I call the previous question.

MR. MERRILL—I wish to make an inquiry. What has become of the amendment offered by the gentleman from Hale.

THE PRESIDENT—It has been adopted as a part of this Article.

MR. MERRILL—Is it a part of this Section?

THE PRESIDENT—It is not a part of this Section. It was a separate Section.

MR. OATES—Before the vote is taken I would like to have the proposition read again.

Section 7 was read as requested.

THE PRESIDENT—The question is upon the adoption of the Section as amended. Upon that the gentleman from Lauderdale moves the previous question. The question is shall the main question be now put?

The main question was ordered.

THE PRESIDENT—The question is upon the adoption of the Section as amended.

Upon a vote being taken, the Section as amended was adopted.

MR. ROGERS (Sumter)—I move a reconsideration of the vote by which Section —, introduced by Mr. deGraffenreid of Hale, was adopted, and I ask for a reading of that Section.

The Section was read as follows:

"No woman shall be qualified to vote at any election to determine whether bonds shall be issued by a city, town or village who is not at the time she offers to vote a bona fide resident of such city, town or village, and who does not own in her own right real estate situated in said city, town or village, assessed for taxes during the year preceding the year in which she offer to vote, at $500, or more, and no woman shall vote at such election who is under 21 years of age."

MR. ROGERS—We just laid the amendment of the gentleman from Dallas which authorized women to vote, on the table, and this being in there without their having the right to vote, would be simply that certain classes shall not vote, and would be foolish, and I move to reconsider.

Upon a vote being taken the motion to reconsider the vote by which the amendment offered by the gentleman from Hale was adopted was carried.

MR. ROGERS—Now I move to lay this Section on the table.

MR. CUNNINGHAM—Will the gentleman yield for a moment?

MR. ROGERS—No sir, we have yielded long enough.

MR. CUNNINGHAM—I wanted to submit a proposition to the gentleman.

MR. ROGERS—If the gentleman wants to submit a proposition to the gentleman from Sumter, he can just make it outside of the Convention hall.

THE PRESIDENT—The question is upon the motion of the gentleman from Sumter to lay the Section upon the table.

Upon a vote being taken the motion to table the Section prevailed.

MR. ROGERS (Sumter)—I move that the Article on Muncipal Corporations be engrossed and ordered to a third reading.

MR. BROWNE—I rise to a point of order. One Section of the Article on Taxation has been by the Convention made a special order to be consider with the report of the Committee on Municipal Corporations. Now I rise to a question of information. If that Article is ordered to be engrossed and ordered to a third reading, will it then be in order when the special order of the Tax Article is up?

MR. WILSON (Clarke)—I offer an amendment to the Article in the way of an additional Section.

THE PRESIDENT—It seems to the Chair that a motion to amend would have precedence as the gentleman did not move the previous question.

The amendment by Mr. Wilson of Clarke, was read as follows:

"Amend by adding a new Section, as follows:

"Sec. —. The legislature may impose a privileged license or other tax, on any person, firm, corporation, or association, and relieve him or it from the payment of all other privilege or license taxes."

MR. O'NEAL (Lauderdale)—I make the point of order that the Convention has already passed upon that proposition, and the only way by which it can get before the Convention is by a motion to reconsider.

THE PRESIDENT—The Chair will hear from the gentleman from Clarke on the point of order.

MR. WILSON—I anticipated the point of order. In Roberts rules of order on page 66, the proposition is laid down, "an

amendment may be inconsistent with one already adopted, or may directly conflict with the spirit of the original motion, but it must have a direct bearing upon the subject of that motion." "Just so the amendment is germane to the proposition under consideration," that is municipal corporation, "it is in order," and the fact that it conflicts directly with something we have already done, "does not keep it from being in order, but is a question to be addressed to the assembly."

In Cushings manual, we find this rule: "Sec. 102. Fifth rule. The inconsistency or incompatibility of a proposed amendment with one which has already been adopted, is a fit ground for its rejection by the assembly, but not for the suppression of it by the presiding officer, as against order; for, if questions of this nature were allowed to be brought within the jurisdiction of the presiding officer, as matters of order, he might usurp a negative on important modifications, and suppress or embarrass instead of subserving the will of the assembly."

In Reed's rules of Order, Section 161, is the following: "An amendment may be inconsistent or incompatible with the words left in the bill, or with other amendment already adopted, but that is for the assembly to decide, and not for the presiding officer. For him to pass upon such a question would be very embarrassing to the assembly, and still more so to him. So, also, the question of constitutionality is not for him to decide. Incompatibility, inconsistency, and unconstitutionality are matters of argument.

THE PRESIDENT — The Secretary will please find the amendment to Section 6 of this Article which prohibited the issuance of privileged taxes.

MR. WEAKLEY—The Convention has already adopted Section 6 of the report of the Committee on Municipal Corporations, in which it expressly states that the legislature shall have no authority to charge a person, firm or corporation a privilege or license tax for the purpose of doing business in Alabama, and prohibit the cities from charging that tax, and the amendment offered by the gentleman from Clarke states directly the converse of that proposition.

THE PRESIDENT—The Secretary will read the amendment offered by the gentleman from Clarke.

The amendment was read as follows:

"The legislature may impose a privilege license or other tax, on any person, firm, corporation or association, and relieve him of it from the payment of all privilege or license taxes."

THE PRESIDENT—It is very true that the question of consistency in an amendment is a question for the Convention and not

for the Chair. It is laid down by all the authorities. Among others Mr. Mills states the same rules the gentleman from Clarke advocates, "the inconsistency or incompatibility of a proposed amendment with one already adopted may be a sufficient ground for its rejection by the Assembly, but does not justify the presiding officer in ruling it out of order," but the same author who lays down that proposition lays down the further proposition "that whatever is agreed to by an assembly either adopting or rejecting a proposed amendment cannot be altered or amended; and whatever is disagreed to cannot be moved again. There is no contradiction here of the principles laid down in paragraph 126" which the Chair just read, and which relates to the question of the inconsistency of amendments. "All amendments that can be adopted or rejected must consist of words that can be inserted or added; or struck out; or struck out and inserted. Thus, if it be moved to insert into a proposition certain words, and the motion prevails, those words cannot afterwards be amended because they have been agreed to in that form; so, if it be moved to strike out certain words and the amendment is rejected, those words cannot afterwards be amended, because a vote against striking them out is equivalent to a vote agreeing to them as they stand. In like manner, if it be moved to amend by inserting certain words, and the amendment is rejected, those words cannot be moved again; for they have been disagreed to by a vote; so also, if it is moved to amend by striking out certain words and the amendment prevails, those words cannot be restored, because they have been disagreed to by a vote."

The question is simply this: That the Convention cannot be called upon continually to go over and over the same ground. When it has acted, that can only be reached by a motion to reconsider. Here the Convention adopted a section which prohibits the State from collecting a privilege tax which exempts the corporation from municipal and county taxation. Now the proposition is to amend by authorizing the legislature to do that identical thing. That can only be reached by a motion to reconsider. The point of order is sustained, and the amendment ruled out.

MR. WILSON (Clarke)—I rise——

THE PRESIDENT—The Chair does not care to hear further argument.

MR. WILSON—I rise to offer an additional amendment to the article. I accept the Chair's ruling and do not care to take issue with the Chair.

Mr. Rogers of Sumter was recognized.

THE PRESIDENT — The Chair recognized the gentleman from Clarke simply on a question of information. The Chair recognizes the gentleman from Sumter, Mr. Rogers. The gen-

tleman from Sumter moves the previous question upon the third reading and engrossment of the article on municipal corporations.

MR. WILSON — I hope the gentleman will withdraw that motion.

MR. ROGERS—I will state to the Chair that the gentleman from Sumter failed to order the previous question, because he agreed to give the gentleman from Clarke a chance to offer an amendment and he offered that amendment, and I think the contract ends there.

MR. WILSON—I want to offer another amendment.

MR. ROGERS—I decline to withdraw my motion.

Upon a vote being taken a division was called for and the motion to order the previous question prevailed by a vote of 44 ayes and 38 noes.

Upon a further vote being taken the motion ordering the article on municipal corporations engrossed and to a third reading was carried.

Leave of absence was granted to Mr. McMillan of Baldwin for Saturday, Monday and Tuesday.

MR. DENT—I ask to have the caption of a petition read.

The petition was read as follows:

To the Constitutional Convention, Montgomery, Ala.

We, the undersigned citizens of the State of Alabama do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective, self-operative provision to that end.

J. P. Foy, banker; John W. Tullis, President Eufaula Cotton Mills; L. W. McLaughlin, bookkeeper; J. D. Holmes, merchant; I. F. Guice, merchandise broker; Z. A. Barnes, manufacturer mineral water; W. H. Clifton, salesman; J. Oppenheimer, merchant; J. K. Sims, merchant, and many others.

Eufaula, July 23, 1901.

The same petition as above, identical in phraseology and signed by numerous petitioners in each instance, was received from the following places:

From Columbia—J. W. Beane, farmer; J. W. Salmon, farmer; J. M. Skipper, attorney; J. M. Kountze, capitalist, and others.

From Fort Deposit—J. E. Holmes, merchant; J. W. Riers, merchant; J. W. Hairston, salesman; L. A. Collier, farmer, and many others.

From Blocton—A. H. Gentry, Justice of the Peace; W. H. Logan, attorney; A. L. Logan, attorney; T. A. McCool, merchant, and many others.

From Clayton—J. L. Martin, merchant; D. G. Munn, bookkeeper; J. E. Parish, merchant; W. J. D. Anglin, salesman, and many others.

From Goodwater—William Chapman, merchant; C. P. Comer, farmer; W. H. Moore, doctor; J. A. McElrath, farmer, and many others.

From Wetumpka — Frank W. Lull, lawyer; T. H. Macon, farmer; J. B. Cramby, farmer; M. J. Ramsey, clerk, and many others.

The above petitions were referred to the Committee on Corporations.

MR. CARMICHAEL (Coffee)—I ask unanimous consent to introduce a petition and have it referred.

MR. HEFLIN (Randolph)—I object.

MR. CARMICHAEL—I move that I be allowed to introduce that petition.

MR. HEFLIN—I withdraw the objection.

The petition offered by Mr. Carmichael was read as follows:

"The Montgomery Advertiser, Daily and Weekly: The leading Alabama paper in news, influence and circulation.

Montgomery, Ala., July 5, 1901.

"Dear Sir: — I find that it will be most effective to have this petition presented to the Constitutional Convention through a member who represents your county or district. Please be so kind therefore as to forward it directly to the member your judgment determines most suitable.

"Pleast notify me to whom you have sent it. Respectfully yours, (Signed) F. P. Glass, Sec'y."

MR. CARMICHAEL—That is not a part of the petition. That was inadvertently sent in. I asked to have the petition read.

The reading continued as follows:

"To the Constitutional Convention, Montgomery, Alabama.

We, the undersigned citizens of the State of Alabama, do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective self-operative provision to that end.

John M. Loftin, Judge County Court; H. H. McCall, dentist; John H. Wilkinson, lawyer; J. D. Patterson, merchant; C. T. Russell, merchant; W. M. Tucker, druggist; J. L. Paulk, merchant; T. E. Stinson, farmer; Frank Knight, farmer, and many others.

MR. LONG (Walker)—There have been something less than one thousand petitions on the pass question and every one alike, and I want to make a motion that a committee of three be appointed to investigate and find out why the people all over the State send in so many petitions just alike.

MR. BROWNE—Section 7 of the Article on Taxation is now up for consideration, as I understand it, as a special article. That section is almost identical with Section 11 of the report of the Committee on Municipal Corporations, which was adopted yesterday. There is also a supplemental report of the Committee on Taxation, which embraces an amendment to one section which has been adopted and a new section. The amendment is to provide that the debt limit provided in the Article on Taxation in cities and towns shall not apply to the cities of Tuscumbia and Sheffield. The other is an inheritance tax, or permission granted to the Legislature to levy an inheritance tax. That supplemental report was made the special order, to be taken up and considered when the report of the Committee on Taxation was up for consideration again. Therefore, those two sections are the special order to be taken up at this time. Now, as the report of the Committee on Taxation has been settled by the action of this Convention upon Section 11 of the Article on Municipal Corporation, I move to lay Section 7 of the Article on Taxation upon the table.

Upon a vote being taken, the motion to table prevailed.

MR. BROWNE—The next matter is an amendment to Section 10 of Article XI, reported by the Committee. This amendment was introduced, I believe, by Mr. Kirk, and report favorably as a substitute, that this proviso should be added to Section 10; provided this section shall not apply to the cities of Sheffield and Tuscumbia.

The Convention on yesterday placed a similar proviso to an almost similar provision in the report of the Committee on Mu-

nicipal Corporations. I would call upon the gentleman from Colbert to explain this proviso, but first I move its adoption.

THE PRESIDENT—Is that an amendment to Section 10 of the report of the Committee on Taxation?

MR. BROWNE—Of the report of the Committee on Taxation.

THE PRESIDENT—And the section is before the Convention.

MR. BROWNE—The section has been adopted, but this is new matter, having been introduced as a separate section and reported back by the committee as an amendment to the section.

THE PRESIDENT—It seems to the Chair it should be put into the form of a separate section if your main section has been adopted.

MR. BROWNE—It could be amended by so providing that Section 10 of this Article shall not apply to the cities of Sheffield and Tuscumbia.

MR. CARMICHAEL (Colbert) — I ask unanimous consent that it be added to that section. The Convention unanimously agreed for these two cities to be excepted from the operation of that provision.

MR. BROWNE—Now we come to Section 11, as reported by the Committee is a substitute for the original ordinance introduced by some member of the Convention, I have forgotten by whom. I will read it.

"The Legislature may levy a tax of not more than two and one-half per cent on every one hundred dollars of the value of all estates, real, personal and mixed, money, public and private securities of every kind, passing from every person who dies, seized and possessed thereof, being interstate, or, and part of such estate, money or securities or interest therein, transferred by the intestate under the laws of this State, or by will, deed, grant, bargain, sale, or gift, 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, brothers, sisters, children or lineal descendants of the grantor donor or interstate."

I do not care to discuss this permissible inheritance tax further than to say that it only applies where the inheritance or gift is to collateral kin, and remote collateral kin. It does not apply where the gift or bequest is to the father, mother, husband, wife, children or lineal descendants. It only applied to distant collateral kin.

MR. OATES—I would like to ask a question. If the Legislature has the power to impose such a tax as you speak of, it is a special tax, isn't it?

MR. BROWNE—No, sir; it is not.

MR. OATES—Why?

MR. BROWNE—Because all property shall be taxed alike, equally.

This allows 2 1-2 per cent. and the other is a per cent. for the State and so much for the county. This allows the Legislature to take 2 1-2 per cent. of the principal.

MR. OATES—Has not the Legislature the power to impose such a tax without that?

MR. BROWNE—No sir, undoubtedly not.

MR. OATES—Why not?

MR. BROWNE—Because all taxes must be equal and alike, and this allows 2 1-2 per cent. on the corpus of the property and the other 65 mills. This allows the Legislature to take 2 1-2 per cent. of the principal. It is entirely different.

MR. WALKER (Madison)—I think you will find that the Supreme Court of the United States had decided that an inheritance tax is not a tax on property but a tax on privilege of transmitting, and is not covered by any provision in our Constitution.

MR. BROWNE—I have not examined the subject, but certainly it would not be equal taxation if it is a property tax. I am not familiar with the decisions on that point. If the gentleman from Madison is correct it may be that it is not necessary; but, for one, I would not take the responsibility of saying that under the Constitution we are about to adopt it would not be necessary. If the Convention desired to give the Legislature the right to levy this tax, certainly this would have this effect. I will call the attention of the gentleman from Madison to this point that if it is competent for the Legislature under our present Constitution, or the Constitution that we may adopt, to make this levy, would it not be competent for them to make it 10 per cent. and include brother and sister and children. Then that would be a limitation, and then I am more heartily in favor of it than I was before.

THE PRESIDENT—The question will be upon the adoption of the Section as reported by the Committee on Taxation.

Upon a vote being taken a division was called for, and by a vote of 55 ayes and 14 noes the Section was adopted.

MR. BROWNE—Now there is only one more Section to the report of the Committee on Taxation, it is Section 5. This is the

Section with reference to county taxes. That Section was laid upon the table and ordered to be taken up and considered when the report of the Committee on Education could be taken up. There is a provision in this Section 5 with reference to county taxation for public schools. The Committee upon Education after this matter was laid upon the table, made their report, and in their report will be found a Section almost identical with the provision in this Section as to the special tax for public schools. Mr. Ashcraft of the Committee on Education, and several other members, I believe, made a minority report of the Committee on Education, opposing that provision or that Section of the report of the Committee upon Education and reported a substitute for it. Now Mr. President and gentlemen of the Convention, it seems to me that the time to discuss the merits and demerits of the measures as reported by the Committee on Education and the substitute offered by the minority of that Committee, is when that Committee is up. It is not necessary that that special tax provision should be considered at the time of the consideration of a Section in the Article upon Taxation on general county taxation. Now for the purpose of having the committee's report upon taxation completed and ordered to a third reading and engrossed, and with the view if it is taken from the table of immediately offering this amendment: Strike out Section 5, line 12, all after the word "collected." That would eliminate from the Section in the Article on Taxation everything with reference to the special school tax. For the purpose of making that motion and eliminating it from this Section, adopting this Section and making the Article on Taxation complete, I move to take from the table Section — of Article II. I understand the Chair has ruled when anything is laid upon the table it can be taken from the table by a majority vote when that Article is up. Therefore it will not be necessary to suspend the rules.

THE PRESIDENT—The Chair would rule that a motion to take from the table is not a privileged motion.

MR. BROWNE—It is not necessary, we contend, Mr. President, to move to suspend the rules, because this whole Article is up now, therefore it being up it is in order to move to take any Section from the table.

MR. ASHCRAFT—As the Chair has indicated the motion to take from the table is not a privileged question. This Convention has passed a rule relating to this particular question which made it a special order for a particular time;—that is a rule of this Convention.

MR. BROWNE—I made a mistake—it would be taken up at the pleasure of the Convention. I move that it be taken from the table.

THE PRESIDENT—The gentleman from Talladega moves to take from the table Section 5 with the amendments, so that the Convention may proceed with its consideration.

A vote being taken the motion was adopted.

MR. BROWNE—I call now, Mr. President, for a reading, not of the whole Section, but of the amendments to the Section.

The Secretary read as follows:

Amendment by Mr. Cunningham: Strike out in the fifteenth line the following: "Property tax payers who are," and in the sixteenth line the following words, "in numbers and in value of taxable property."

Amendment by Mr. Merrill—Strike out on fifteenth line "property taxpayers who are" substitute by Mr. Merrill in line sixteen before the word "by" the letter "a" and after the word "majority" insert "two-thirds." Strike out in line sixteen and seventeen the words "in numbers and in value of taxable property."

MR. BROWNE—I desire to call attention of the gentlemen of the Convention to the fact that all of those amendments relate to the matter that I desire to be stricken out, and there will come upon the report of the Committee on Education, in other words if we strike out from the words everything in regard to this special county tax, and those amendments relate to the special county tax, and therefore these amendments have to be laid upon the table.

A vote being taken the amendments were laid upon the table.

MR. BROWNE—Now the part of this Article upon county taxation that I propose to move to lay upon the table reads as follows:

"Provided, further, that for the maintenance of public schools any county may levy and collect such special tax as may be authorized, etc."

From that on down which has to do alone with a special tax for schools, I move to strike that out—all after the words "provided further" in the twelfth line to the end of the Section.

The Secretary read as follows: Amend Section 5, Article XI by striking out all after the word "collected" in line twelve.

THE PRESIDENT—The question is on the adoption of the amendment offered by the gentleman from Talladega.

MR. GRAHAM (Talladega) — I simply desire to make a statement with reference to the question. County taxation for public schools will be considered upon the report of the Committee on Education; the Chairman of the Committee on Taxation and myself had an understanding on that proposition.

A vote being taken the amendment of the gentleman from Talladega prevailed.

MR. BROWNE—That leaves Section 5 the only remaining section of the report of the Committee on Taxation. That is exactly as the section in the present Constitution, except that it eliminates "provided, further," "that to pay any debt or liability now existing, etc.," and after "bridges or roads" roads is included, it was not in the other Constitution. "Any county may collect" is not in the present Constitution, there is no provision for collecting a special tax on roads. Neither has a limitation upon the amount of tax that can be levied upon public roads and bridges. In the code there is a statutory limit upon the amount that can be levied upon public buildings at one-half of the one per cent, but no limitation to the amount to be levied on roads. Any county in the State of Alabama can, under existing law, levy ten per cent or any per cent it wants under the code for bridges. The Committee thought it best to include roads along with bridges for which a special tax can be levied and the limit upon the amount of taxation for public buildings, bridges and roads to one-quarter of one per cent, whereas now there is no limit. That is the only change made in that section.

THE PRESIDENT—The question is on the adoption of the section as amended.

MR. WATTS—Have you not made another change, which you neglected to state, in the eighth line, "or bridges?"

MR. BROWNE—Yes, because, as we understand, there were no such debts created that now existed for ordinary county purposes. This is provided to pay for the construction and maintenance of public buildings or bridges. We left out "or other ordinary purposes." It was stated in the Committee there were no debts for other county purposes.

MR. KYLE—What do you mean by other ordinary purposes?

MR. BROWNE—I suppose in the first Constitution it meant any debts owed by any county prior to that for ordinary purposes. As we understand it, there are no such debts.

MR. HOWZE—I see attached to the report two amendments, one by Mr. Ashcraft and the other by Mr. Cornwell. What disposition was made of them?

MR. BROWNE—They were laid upon the table awhile ago. The minority report, the amendment proposed by Mr. Ashcraft on the Committee on Education that will come up when the majority report comes up.

MR. HOWZE—I did not hear that they were laid on the table. I supposed those read were laid on the table, and others were not read.

MR. BROWNE—I move to lay them all on the table because they relate to this feature that I intended to lay upon the table.

THE PRESIDENT—The question is on the adoption of the section as amended.

A vote being taken the section as amended was adopted.

MR. BROWNE—I now move that Article XI, on Taxation, be engrossed and ordered to a third reading.

A vote being taken the motion was adopted.

Leaves of absence were granted as follows: To Mr. Graham of Montgomery, for Saturday; to Mr. Miller of Wilcox for tomorrow:

MR. MALONE—I ask unanimous consent to have a petition read and referred to the Committee on Corporations.

MR. HEFLIN (Randolph)—I move the Convention do now adjourn.

The motion was adopted and the Convention thereupon adjourned.

AFTERNOON SESSION.

The Convention met pursuant to adjournment, there being ninety-one delegates present upon the call of the roll.

MR. EYSTER—I desire to call attention to the fact that the stenographic report of the proceedings of yesterday fails to note that Decatur was included in the amendment to the report of the Committee on Municipal Corporations. I desire to have the correction made.

THE PRESIDENT—The stenographer will note the correction desired.

MR. HEFLIN (Chambers)—I ask leave to introduce a short resolution.

Leave was granted.

The Secretary read the resolution as follows:

Resolution 209, by Mr. Heflin of Chambers:

Resolved, That Rule 43 of this Convention be rescinded, and that in its stead the following rule shall be adopted:

Any ordinance or resolution may be recalled from a committee by a vote of the majority of the delegates voting thereon; provided, that at the time such vote is taken, there is a quorum present in the hall.

And provided, further, that when any matter is recalled from a committee, that matter shall immediately be passed upon by the Convention, and shall take precedence of all previous orders.

MR. HEFLIN (Chambers)—I ask that the resolution be referred to the Committee on Rules.

THE PRESIDENT—The resolution is so referred.

MR. JENKINS—I move that the privileges of the floor be extended to the Hon. C. W. Thompson, member-elect to Congress from the Fifth District.

On a vote being taken, the privilege was accorded.

MR. GILMORE—I have a petition to offer.

The Secretary read a petition on the railroad pass evil and the same was referred to the Committee on Corporations.

THE PRESIDENT—The next order of business will be the consideration of the report of the Committee on Amending the Constitution and Miscellaneous Provision.

MR. WILSON (Clarke)—Before that is gone into, I move reconsideration of the vote by which the report of the Committee on Municipal Corporations was ordered engrossed and to a third reading.

THE PRESIDENT—The motion will stand until tomorrow morning immediately after the reading of the journal.

MR. WILSON—I move to set as a special order immediately after the consideration of the motion just made, the question of reconsideration of Section 6 of that Article.

THE PRESIDENT—It seems to the Chair a motion to reconsider that section was laid upon the table.

MR. WILSON—I move, under Rule 30, to make that matter a special order.

THE PRESIDENT—The gentleman from Clarke can make a motion to take from the table.

MR. WILSON—Yes, sir; immediately after the motion to reconsider the vote by which the Article was ordered to a third reading.

MR. ASHCRAFT—I rise to a point of order. A motion to reconsider is new matter when laid upon the table; a motion to take from the table is also new matter. It has no privilege, and a motion to make a motion to take from the table a special order because the motion itself is not in order, and, therefore, is not before the house and cannot be made a special order. No matter

which is not before the house can be made a special order; it must first be gotten before the house. A motion to take from the table is not before the house, if it is not in order and the point of order made against it.

THE PRESIDENT—Under what head does the gentleman consider it?

MR. ASHCRAFT—Under the head of miscellaneous business; it cannot be made until the particular order of business is reached.

THE PRESIDENT — The Chair will hear the gentleman from Clarke.

MR. WILSON—I understand the point that a motion cannot be now entered and taken from the table is well taken because our rules have prescribed an order of business, but that is the only reason a motion to reconsider section can now be entertained, because it does not fall within any of the subdivisions of Rule 22. As to miscellaneous business, which we have not reached, certainly we cannot reach it now. The only reason my motion is not in order at the present time is that Rule 22 described the order of business. I will read Section 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." Now, the very purpose of Rule 30 is to obviate the difficulty which appears when the point of order raised by the gentleman from Lauderdale is raised. The reason it is not in order because we have prescribed another order of business to obviate that. The Convention has prescribed a rule whereby this Convention if it wants to, can substitute anything else that it wants to. I move that it be made a special order immediately after the disposition of the motion to reconsider the vote whereby the Article was ordered to engrossment and third reading.

THE PRESIDENT—Does the gentleman from Lauderdale care to say anything further. Have you examined Rule 30?

MR. ASHCRAFT—Yes, it is not a matter in the mind of a member. There is a distinction between being on the President's table and the member himself. If on the President's table it may be made a special order under Rule 30, but that does not mean anything in the mind of a member may be made a special order, if you did you could quash and destroy Rule 22. The matter referred to in Rule 30 is not matter on the President's table and which comes up for consideration in the regular order of business. Why such a proceeding as that proposed by the gentleman from Clarke—the reports of committees all those things which the Convention has before it for consideration could be displaced without any suspension of the rules by a mere evasion. He says I cannot

make the motion now, but I can make a motion to permit me to make a motion tomorrow or some other time. He admits that it is not in order now and will never be in order under our rule of business to make a motion to take from the table until he reaches the report on miscellaneous business, and yet, he argues to make a motion now to make a motion tomorrow, that tomorrow he can do it and that without a suspension of the rules.

MR. WILSON—The gentleman I think does not properly appreciate the effect of putting a matter upon the table. The purpose is to temporarily lay it aside. There is a motion to reconsider Section 6 before the Convention, but the Convention peremptorily laid it aside. Now, that does not contemplate the final disposition of the question; if it did you could debate it, it is simply that the Convention will not at present consider it, will lay it aside temporarily. If you have any order of business under which it can be reached, whenever you strike that order of business you can move to take from the table. There is no such standing order under Rule 22, but under Rule 30 you can when a certain matter is reached, or at any time the Convention may see proper. It would not thwart business, but aid business, and thereby permit the Convention to expedite its own business, which I understand to be the purpose of the rule.

MR. ASHCRAFT—Section 57 of Roberts rules of order, an old edition, says:

"Instead of postponing a question to a particular time, it may be desired to lay it aside temporarily until some other question is disposed of, retaining the privilege of resuming its consideration at any time."

Section 27 in the latest edition of Robert's Rules of Order, speaking of the motion to reconsider, says:

"When debatable, it (the previous question) opens up for discussion the entire subject to be reconsidered and the previous question, if ordered while it is pending, affects only the motion to reconsider. It can be laid on the table, in which case the reconsideration, like any other question can be taken from the table, but possesses no privilege. The motion to reconsider being laid on the table does not carry with it the pending measure."

In Section 1270 of the unabridged work of Cushing on the Law and Practice of Legislative Assemblies, the principle is laid down that "The motion to reconsider, though relating to the same subject already considered, is, in a parliamentary sense, a new one, both from a motion to rescind the former vote and from the subject of it."

MR. WILSON (Clarke)—Do you contend that under Rule 30 that a new matter may not be made the special order for any hour.

MR. ASHCRAFT—I contend under Rule 30, without a suspension of the rules, no motion can be made that will supersede the special order. He undertakes to take from the table a motion to reconsider which is entirely new matter. It is not in order because it is not matter before the Convention. It is not matter on the President's table, and therefore until he can get to that point, Rule 30 does not apply to it. That is the point, and the reason of the rule and why a motion is made to reconsider and lie on the table is explained in the same section of Robert's Rules of Order as follows: "In Congress it is usual for the members in charge of an important bill as soon as it passes to move its reconsideration, and at the same time to move that the motion to reconsider be laid on the table. If the latter motion is adopted it is deemed a finality, as the number of bills on the calendar precludes its ever being taken up except by a two-thirds vote. But this is not so in an ordinary society."

That is exactly what we have here. He seeks by indirection to suspend the rule and get new matter before this Convention which he admits is not in order, by the very device of saying I will make a motion today to make matter which is not before this Convention the special order for tomorrow. That is the point which I hope I have been able to make clear.

MR. WILSON (Clarke)—In answer to that which he read from Robert's Rules of Order, the President will see in Reed's Parliamentary Rule that Reed says that that is anomaly in the House of Representatives; that is, a motion to reconsider a motion to table cannot be taken from the table.

THE PRESIDENT—That is peculiar to Congress.

MR. ASHCRAFT—Cushing says that it is peculiar to all legislative assemblies; that there is no reason for it in certain other classes of societies, but as to legislative assemblies, it is a necessity in the natural order of things.

THE PRESIDENT—The Chair will suggest this to the gentleman from Lauderdale: When the report of any of the standing committees comes before the Convention, the report of the Committee on Suffrage and Elections, for instance, the regular order would be for that report to lie on the table, and be printed and taken up when reached, and yet we have in the practice of the Convention entertained the motion that reports of these committees should be made special orders. When the report of the Committee on Executive Department came in, the Chairman moved that it be made the special order for consideration immediately after the call of the roll of standing committees. The same practice was pursued with reference to the report of the Committee on Legislative Department and other reports of standing committees.

MR. ASHCRAFT—I am sorry I was not able to make myself understood by the President. These are matters on the President's table, and matters in the custody of this Convention and provided for by Rule 30. But take this illustration: Suppose while the House had under consideration a report of a standing committee, that I should propose an ordinance, and the point was raised that the introduction of the ordinance was not then in order, because the House was then considering the report of a standing committee, could I then evade the rule and be heard to move that I be allowed to introduce the ordinance tomorrow? My proposition to introduce the ordinance does not make it a matter before the House, and Rule 30 does not attach to the effort. The proposition to introduce and the motion to fix a time when I may introduce are both out of order, because the regular order is under consideration, and I would have no right to displace the regular order with either motion, because it is not a matter before the House. Whenever any resolution or ordinance gets on the President's desk, or, in other words, has been once entertained by the House, it is a matter then in the possession of the House, and Rule 30 attaches to it and not before that; but in order to get any new matter before the House, it must be proposed in the regular order, or the rules must be suspended. That must be done by a two-thirds vote of the House.

THE PRESIDENT—Rule 30, that the delegate from Lauderdale refers to, does not seem to be confined to the reports of the committees and of ordinances. It says and matters may, by a vote of the majority of the delegates present, be made a special order.

MR. ASHCRAFT—The point I make is this: The motion to take from the table, and the motion to fix a time when a motion to take from the table may be made are both out of order and cannot displace the regular order without a suspension of the rules, to make any motion in reference to any matter that is not pending before the House. He may move to suspend the rules, if he gets two-thirds, for there is a provision for motions to suspend the rules, but there is no provision here whereby he may make a motion to take from the table, and there is no provision whereby he may make a motion about a new matter to set some particular thing up before the Convention for a particular day.

THE PRESIDENT—It occurs to the Chair that the motion of the gentleman has much more force against his right to make a motion than against his right to have it made a special order after he makes the motion and the motion is entertained. The Chair will reverse the ruling on the question, as it is somewhat novel, and announce the ruling later. The special order will be the report of the Committee on——

MR. CARMICHAEL—I rise to a question of personal privilege. This morning, inadvertently with the petition sent up by me to the Chair, there was a circular letter, or something of the sort, I do not remember exactly, I just glanced at it slightly, contained in the same envelope. I inadvertently drew it out with a petition, and it was sent to the Secretary's desk and he read it. I attach no blame to the Secretary, but I regret the occurrence, as although they came in the same envelope to me, I am satisfied that it was not intended that the letter should be read. It was nothing of a private nature to me, and I feel that it was no breach of trust on my part, but I wish to set myself right in this matter. I regret very much that it occurred, and I would ask, although the precedent may not have been established, that it be withdrawn from the official stenographic report of the Convention.

THE PRESIDENT — The gentleman asks unanimous consent to be permitted to withdraw the letter.

Objection was made.

MR. MALONE—I move that he be allowed to withdraw it.

MR. LONG (Walker)—Mr. President, sometimes you put a witness on the stand and even the witness gives away things detrimental to his interests and beneficial to the prosecution, but there is no rule of law by which he can withdraw that, even from the jury or anywhere else. This is not a correspondence of a private character, but it is a correspondence, as I understand it, which is going all over the State of Alabama. Now the poor old Legislature was cursed and abused all over the State by all the newspapers for having suppressed certain things and for not bringing certain resolutions before the public, and the public of Alabama, on all public matters, should know everything connected therewith. I would be the last man in this world to object to anything of a private nature. No doubt the motives of the gentleman from Coffee are pure. No doubt he thinks he has violated some sacred trust. No doubt he is friendly to the newspapers or someone else, but this is now a matter of public record, and it is a matter in which the public of Alabama is interested, and I for one seriously object to its being withdrawn. I can see no good reason why he should withdraw it. We want the facts, the whole facts; the truth, the whole truth, and nothing but the truth, on public matters, and I cannot see how it will hurt anybody. It is not a private letter, but it is a letter relating to the pass evil, and certainly nobody should object to its going in the stenographic report, and I hope the gentleman will not insist on it, and before that is done, I insist on that aye and no vote being taken on it. The people of Alabama should know the facts and the full facts. It is just as much Convention property as the petition itself.

MR. JACKSON — I make the point of order that the rules would have to be suspended before he could withdraw it.

MR. MALONE—The gentleman from Coffee states that this letter, which was a private letter, was sent up by mistake, and the Convention has no right to anything that is an error or mistake. As far as the information in it is concerned, it is now common knowledge to delegates. There can be no harm, and simply puts the delegate in bad light, and I make the point of order that practically it does not belong to this Convention when it was put there through mistake.

MR. CARMICHAEL—I will state, if I am allowed, it was not in the nature of a private letter. It was not a letter to me, but a letter which I presumed had been with the petition. I never looked at the petition carefully. I had seen several of them before, and had seen some similar letters before, and I never read the letter prior to its being sent to the reading desk. My friend from Henry was kind, but I will state it was not a private letter, and appeared to be a printed letter. I would like to be set right about it.

MR. HEFLIN (Chambers)—I call for a reading of the letter.

MR. OATES—I desire only a word or two. I think that the delegate from Coffee, who is a most exemplary and excellent young man, states that he wishes to withdraw the paper, and I think that it is entirely due him that he should be allowed to do it.

MR. HEFLIN (Chambers)—It seems that the letter has been read to the Convention, and the gentleman's explanation about it, I think, is sufficient. I think it is the property of the Convention now, and ought to remain in the stenographic report. I would like to hear the letter read, and I ask for a reading of the letter.

THE PRESIDENT—The letter was read this morning.

MR. HEFLIN—I heard it, but the gentlemen behind me did not.

MR. JACKSON—I insist upon my point of order.

THE PRESIDENT—The Chair is not prepared to rule just now.

MR. BANKS—I move that the Secretary by requested not to read the letter. It is private property, and does not belong to the Convention, and I make a motion that the Secretary be required not to read the letter.

MR. CARMICHAEL (Coffee)—It seems that there is going to be some time wasted over it, and I do not care to have my private woes to consume the publish cash, and, hoping that I will not be put in a bad light in regard to it, through inadvertence, and I will withdraw the question of privilege, and cease to consume the time of the Convention. It seems to me that we are going to

have a parliamentary wrangle, and I do not want to be the cause of it.

THE PRESIDENT—The gentleman withdraws his request. The regular order of business will be the consideration of the report of the Committee on——

MR. LONG (Walker)—I ask unanimous consent to be allowed to introduce a short resolution.

Objection was made.

MR. LONG—I move that the rules be suspended and that I be allowed to introduce a short resolution, to be referred to the proper committee.

Upon a vote being taken, the rules were suspended and the Secretary read the resolution as follows:

Whereas, Sometimes less than one thousand petitions, all of the same form, kind of paper and verbatim in words, and all written upon the same typewriter, have been received by this Convention from almost every section of Alabama protesting against the pass evil, which law if adopted, would force through poverty a great many good people of Alabama to walk, thereby causing an epidemic of the foot or hoof evil, which is much worse and more dangerous than the pass evil; and,

Whereas, This unexplained mystery, unless made known, will go down in history as the eighth wonder of the world;

Therefore, in the interest of an interested, honest and unsuspecting public, with the view of solving this, the greatest of secrets,

Therefore be it resolved by the people of Alabama, in Convention assembled, That a committee of five be appointed by the President of this Convention, whose duty it shall be to unravel the mystery above mentioned if possible, and to report worthwith any knowledge upon the subject obtained, to this Convention.

The said committee shall also have power to summon and to examine under oath, any person or persons residing in the State of Alabama, as witnesses, with full power to examine all letters and letter-heads that accompany said petitions when they are mailed from Montgomery to persons in the different counties in the State of Alabama asking for signatures.

The resolution was referred to the Committee on Corporations.

MR. GRAHAM (Talladega)—I move that privileges of the floor be extended to Captain Thomas S. Plowman, former Congressman from the Fourth District.

The motion was carried.

MR. COLEMAN (Greene)—I rise to renew the motion of the gentleman from Coffee. It seems to me that it is due him as a matter of courtesy and right. The fact that it may have been written by some one not altogether connected with him. We have nothing to do with the questions involved. If the letter had been written to his wife, referring to private matters, no one would have objected at all, and I think he ought to be allowed to withdraw it and I do not think this Convention should prevent it.

MR. BROWNE—I rise to a point of inquiry. If this letter (I do not know its contents, except as I have just been informed) is withdrawn, will there be no record whatever of its contents? I understand that there is a motion made by the gentleman from Greene, Judge Coleman, to allow the letter to be withdrawn.

THE PRESIDENT—It seems to the Chair that where petitions come from different parts of the State, and apparently a spontaneous uprising of the people, and it incidentally comes in with the same petition, which indicates from what source the petition comes, it is not altogether foreign matter. It comes in accompanying the petition. It is a question of course for the Convention to decide whether they will allow it to be withdrawn and obscured and blotted from the records or not, but it seems to the Chair that it is not a foreign matter.

MR. BROWNE—I want to say I rise for that purpose. If it is to be blotted out so that we will never know what it is, then I desire to call for a reading of it so that I for one may know what the contents of the letter are.

THE PRESIDENT—The Secretary will read the letter.

The Secretary read the letter as follows:

Office of the Montgomery Advertiser, Daily and Weekly The leading paper in news, influence and circulation.

Montgomery, Ala., Aug. 5, 1901.

Dear Sir:—I find that it will be most effective to have this petition presented to the Constitutional Convention through a member who represents your county or district. Please be so kind, therefore, as to forward it directly to the member your judgment determines most suitable.

Please inform me to whom you have sent it. Respectfully yours, (Signed) F. P. Glass, Sec'y.

MR. COLEMAN—I rise to make one more remark. The delegate stated here, and we have his word for it, that it was not part of the report and it was sent up inadvertently. Surely the Convention did not get possession of it in a proper and legal way, and if he desires to withdraw it, he should be allowed to do so.

MR. HEFLIN (Chambers)—I would like to inform the gentleman that the gentleman who owns the letter has withdrawn his objection to its being printed in the stenographic report.

MR. COLEMAN—I make the motion. It is apparent why he withdrew it. I make the motion and would like to have a vote on it.

MR. HEFLIN (Chambers)—I move to lay the motion on the table.

Upon a vote being taken a division was called for.

By a vote of 35 ayes and 45 noes the motion to table was lost.

THE PRESIDENT—The question recurs upon the motion of the gentleman from Greene.

MR. LONG (Walker)—I call for an aye and no vote on that.

The call was not sustained.

MR. LONG (Walker)—I rise to a point of order. It is the property of this Convention and it would require a suspension of the rules, and require a two-thirds vote.

MR. KYLE—Suppose the gentleman had sent up a five dollar note in that envelope. It was not addressed to him at all, but to another individual, and this Convention has no more right to it than it would have to a five dollar note sent up in that way.

MR. BROWNE—I rise to a point of inquiry. There seems to be some misunderstanding how that letter got here. I am informed that it was attached to the petition. It was not addressed to Mr. Carmichael of Coffee or addressed to anybody. It was pinned to the petition. Whoever sent the petition to Mr. Carmichael sent that to show why he sent the petition here.

MR. O'NEAL—Did not Mr. Carmichael state that the letter was sent inadvertently to the Clerk and that he did not intend to send it?

MR. BROWNE—Did not the gentleman know it was pinned to the petition when it was set up?

MR. CARMICHAEL (Coffee)—I will state that I opened the petition and as I had received several like it, and it was folded up, I don't know whether it was pinned to it or folded with it. I was striving to secure recognition——

MR. BROWNE—I will ask the gentleman if he knew it was there?

MR. CARMICHAEL—No. I did not know it was there. I knew such a letter was with it——

MR. O'NEAL—Did you intend to send it there?

MR. CARMICHAEL—No, I did not.

MR. LONG (Walker) — I respectfully ask a ruling of the Chair on the point of order which I made.

THE PRESIDENT—The question is on the motion of the gentleman from Greene. The motion just voted upon was a motion to table and the point of order made that the motion involves withdrawing papers from the record, and it would require a suspension of the rules. In the opinion of the Chair the point of order is not well taken. The Convention may, by a majority vote, if it so desires, authorize the withdrawal of some paper from the record.

MR. LONG (Walker)—Do I understand that the motion is also to strike it from the stenographic report or the letter?

THE PRESIDENT—Just to allow him to withdraw the letter as the Chair understands it.

MR. LONG—I have no objection to that in the world.

MR. OATES—I am really astonished at making so much fuss about such a small matter. Would not any man in the State of Alabama have a right to send out a petition? I think the gentleman ought to have been allowed to withdraw it without any fuss over it.

MR. LONG—I withdraw the objection to the letter being withdrawn.

THE PRESIDENT—Those in favor of allowing the gentleman from Coffee to withdraw the letter will say aye.

The motion was carried.

Leaves of absence were granted to Mr. Graham for Saturday, of this week and Monday and Tuesday of next week; to Mr. Mac A. Smith of Autauga, for tomorrow; to Mr. Foshee for this evening and tomorrow.

MR. OATES—Mr. President, I was going to say I think it is entirely proper and I presume nobody will object, if the presiding officer strike from the report the paper which has been withdrawn.

MR. HEFLIN (Chambers)—I object.

MR. OATES—Mr. President, I move that the official stenographer be instructed to omit it from the report. The letter is withdrawn, what is the use of printing it?

MR. LONG—I would like to say a word on that.

MR. O'NEAL — Has not the house decided by its action that the letter was sent to the Clerk's desk by inadvertence, and ought to be stricken from the record.

THE PRESIDENT—It seems to the Chair that the Convention has devoted enough time to this letter. The regular order will be the consideration of the report amending the Constitution and Miscellaneous provision.

MR. JENKINS—I call for the regular order.

MR. OATES—As presiding officer the Chair has the right to instruct that it be not printed in the stenographic report when the letter has been withdrawn.

THE PRESIDENT—The Chair will consider that matter and make some ruling on it during the afternoon.

MR. LONG—I move that the letter be printed. Never mind, I withdraw that.

THE PRESIDENT—The Chair will not entertain any motion just now. The question before the house is the consideration of the report of amending the Constitution and Miscellaneous Provisions.

MR. MERRILL—There are two ordinances that have been reported by the Committee and are now upon the calendar. I desire to know, Mr. President, whether or not these ordinances being reported from this Committee will follow immediately after the consideration of the Article that the Committee has reported.

THE PRESIDENT—The Chair thinks that will be the regular order.

Leave of absence was granted to Mr. Carnathon.

MR. MERRILL—Delegates will observe that there are two ordinances offered by this Committee, one is miscellaneous provision and the other prescribes the mode in which the Constitution may be amended. Article 16 is the first. I move that we take up that ordinance, section by section, and act upon each section until we finish it. I will state to the Convention that there is but one change in the whole ordinance from the Constitution of 1875 and that is the addition of Section 2 of the ordinance which provides that the compensation of no officer shall be increased during his term of office. With that exception the ordinance presented by this Committee is the same as a like provision in the Constitution of 1875.

MR. DENT—You refer to Article 16?

MR. MERRILL—Yes, in the old Constitution. I ask that the Secretary read Section 1.

THE PRESIDENT—The Acting Chairman of the Committee moves that the Convention proceed with the consideration of this section.

A vote being taken the motion was adopted.

The Secretary read as follows:

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

Section 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.

MR. MERRILL—I move that that section be adopted.

A vote being taken the section was adopted.

MR. REESE—I wish to offer an amendment to Section 1.

The Secretary read the amendment as follows: Amend Section 1 of report by adding at the end of the section "but the basis of representation in the legislature shall not be changed by any provision of this section."

MR. MERRILL—I rise to a point of order, the amendment is not germane to the subject matter before the house.

MR. WADDELL—I would suggest the gentleman has the report of the Committee on Representation before him.

MR. REESE—I understood we were considering the Article on amendment to the Constitution.

MR. DENT—It is the report on Miscellaneous Provisions.

THE PRESIDENT—The Chair will hear from the gentleman from Dallas on the question of his amendment being germane to the section.

MR. MERRILL—He is on Ordinance 17, whereas we are considering Article 16.

MR. REESE—I withdraw the amendment.

MR. MERRILL—I move the adoption of the section.

A vote being taken, the section was adopted.

The Secretary read Section 2.

Sec. 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.

MR. MERRILL—I move the adoption of that section.

A vote being taken, the section was adopted.

The Secretary read Section 3 as follows:

Sec. 3. It is made the duty of the General Assembly to enact all laws necessary to give effect to the provisions of this Constitution.

MR. MERRILL—I move the adoption of that section.

A vote being taken, the section was adopted.

MR. MERRILL—I move that the Article and ordinance be engrossed and ordered to a third reading. I am a little doubtful about it, as it had different subject matter, different Articles.

THE PRESIDENT—It is moved that the Article be engrossed and ordered to a third reading.

A vote being taken, the motion was adopted.

MR. MERRILL—I move we proceed with Article XVII, section by section.

The Secretary read as follows:

AN ORDINANCE

To Prescribe the Mode in Which the Constitution may Be Amended.

Be it ordained by the people 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.

Section 1. Amendments may be proposed to this Constitution by the General Assembly in the manner following: The proposed amendments shall be read in the House in which they originate on three several days, and if upon the third reading, three-fifths 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 in 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 is 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 due 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.

MR. REESE—I have an amendment.

The Secretary read the amendment as follows:

Add at the end of the Section, "but the basis of representation in the Legislature shall not be changed by any amendment adopted under the provisions of this Section."

MR. REESE—The purpose of that amendment is this.

MR. BAREFIELD—I rise to a point of order. The amendment is not germane to that Section, it would come in under the head of representation in the General Assembly to vote on representation.

THE PRESIDENT—It seems to the Chair that it is a matter for the decision of the Convention. The Chair does not feel authorized to rule out the amendment on the ground that it is not germane.

MR. REESE—Mr. President, very frequently it is suggested that something or other is not germane, and I would say something on the proposition of germanity suggested by the gentleman from Choctaw. The proposition is entirely germane and it is very germy to this matter, it includes a very serious proposition, and a proposition that has been very seriously considered by the Legislature which passed the enabling act, that has been considered very carefully by the Convention that sent these delegates here, and more than all by the people who sent the delegates here. It is the understanding of every delegate that no man can dare deny, that it was clearly understood that the present basis of representation in this State should remain unchanged. The honorable gentlemen who represent the State of Alabama on this floor came here with the honest determination in their minds to carry out that pledge. It is the steadfast purpose, I believe, of every man in this Convention to redeem the pledges that they made to the people. It has been reported by the Committee having that subject in charge that the present basis shall remain. Let this Convention not only carry out this pledge, but guarantee to the people that this pledge shall be preserved.

MR. LONG—Can you put an amendment to the Constitution that the people themselves through another Constitution cannot change? Is that your object?

MR. REESE—I will explain that the matter is entirely germane. This Section provides the manner in which amendments can be adopted to the Constitution, and to use the expression of a distinguished gentleman on this floor, hereafter amendments will be adopted with great facility, and under the provision in this Section it almost amounts to the Legislature changing the basis of representation. It only requires three-fifths vote of the Legislature to submit an amendment to the people. When the section which I represent have gone in under the workings of this new machinery, their voting power will be very much limited, and we will have to rely upon the liberality, honesty and good faith of North Alabama, and we don't want to have to rely upon the Legislature to keep the faith that delegates made before they came here. The effect of this is to cut off amendments on the subject of representation unless made by a Constitutional Convention. In other words the amendment offered will say to the Legislature you can amend on any other subject, but you cannot deprive counties of representation they have in this Constitution without calling a Constitutional Convention.

Mr. President, a large and influential section will be affected by this change; an intelligent portion, and a wealthy portion of the State. The county that I have the honor to represent in part, with its population, represents more wealth than any other county except three in this State. There are only three counties

in the State of Alabama that are wealthier than the county that I have the honor in part to represent. The county of Montgomery which will be affected by any change in this, is one. I believe there is only one other county more wealthy. It is nothing but right and justice that we shall be guaranteed until there is another Constitutional Convention held that the basis of representation shall remain unchanged. Before this Convention was called, that question more than all others was the issue on which my people determined whether or not they would support this movement. Unless they are guaranteed by this Constitution in the way I suggest, I do not believe that they can consistently ratify the work of this Convention. I do not believe that you can expect them to do it. I know you gentlemen from the different sections of the State, you gentlemen whom I have learned to admire. I know you mean to do right and fair by our people, and if you do, say it in this Constitution and the work that you are doing here and don't leave it in the power of men that will come here hereafter with no sense of the obligations or understandings now resting on this Convention, to undo the work that this Convention is doing. I say that, as far as the black belt is concerned, under the provisions of this Constitution, their representation can be taken away from them with ease in the next legislature and an issue made between the black belt and the other sections of the State. It can be done under the machinery of a law that God only knows how it is to effect our people. I say with all seriousness, that I don't know how it is going to effect our people, and we have got to take a great deal of it on confidence. There are many things that we do not well understand and nothing but the future can disclose to us, but this is a simple plain proposition that my people can understand and they do understand it. They understand if you leave this facile and easy method of taking their representation from them, that the guarantee on the Article of Representation is not worth a cent, that it has a string tied to it. If this Convention desires the hearty co-operation of the counties of the class that I speak of, they will not hesitate to do this thing. I hope that the patriotism and the interest of the delegates in the adoption of this Constitution, will be manifested in this connection. If this is not done, it will be talked on the stump by the opponents of your Constitution in every one of the counties that I have mention, and it will be talked with telling effect, and I for one, am not a man of sufficient ability to explain away the arguments that will be made along this particular line. I cannot explain to my people that, if it was not the intention to leave it in the power of the white counties to deprive the black belt of its representation, why it was that this Convention refused to pass a provision that would guarantee these rights to our people.

Gentlemen of the Convention, the responsibility is with you. I hope the results of this Convention will be a Constitution that we can all honestly recommend to our people to adopt, but, Mr. Presi-

dent, I tell you the work of this Convention will not be ended when it shall have adjourned. It will have but scarcely begun, and in the counties and among the classes of people that I have alluded to is where you will have to do your work. They are loyal people. They have stood up to the white people of Alabama in all times past, in shot and shell, under the flag, when lives were paying the forfeit. Since then they have tried to serve the people of Alabama in the maintenance of Caucasian supremacy. They are a fine, chivalric and noble people. You can trust them to represent the vast quantity of property they have. It may be perhaps in the future that a temptation will come to the people in the northern counties of this State to put us on a white basis of representation, and, Mr. President, you will have a great county like Montgomery, with its vast wealth and its population, the white population being considerably less than its colored population, put down on a par with counties that represent but little value in the State, with good people. Mr. President, but not representing the vast property of this county, and you will probably have my county down on a basis (and I say it without any disrespect at all) counties like Winston and Marshall. You are going to put the four largest tax-paying counties in the State down on a par with the counties that has but ten thousand people. I appeal to you in behalf of a people whose hopes and hearts are with you in this work, and whose heart and hand I hope may go on with you until the dawn of a new era of prosperity in this State when we can announce that the Constitution is adopted.

Mr. Ferguson took the chair.

MR. LONG (Walker)—The basis of representation in the legislature is not changed by any amendment adopted under the provisions of this section. I sympathize with the gentleman, and I know his motive; but to say to the people of a sovereign State like Alabama that we are going to deny you the right to change your Constitution is saying something, in the first place, that you cannot do; it is saying something that you should not do. The people are all-powerful. They have the right, by amendment or otherwise to change anything in that Constitution, and they have always had that right.

MR. REESE—I ask unanimous consent to amend it to the population basis.

MR. LONG (Walker)—I am speaking to that question now. That will come up later. The population basis is the same thing. The people should have the right to make any change they want to in the Constitution. That is the point. Show me where there is a Constitution in any State that its people have not the right to amend in any way they see fit and proper. It takes a two-thirds vote of the Legislature before you can submit to the people an amendment; but when an amendment to the Constitution is sub-

mitted, why shall not the people all-powerful, have the right to do as they see fit and proper? This is a step in the wrong direction, and I am sorry it was brought in here at this time, because it is an omen that will lead to no good. I am sorry it is in here, the Committee's report on the representation fixes it on a population basis. Then why do you want it in there? I ask the delegates to think well before they vote for that. You say to the people, we are greater than the people when you do that. You say that we, the members of this Convention, are greater than the people of Alabama. It is but making the creatures greater than their creators, and that you can not do.

MR. BAREFIELD—I would like to ask the gentleman if, in that report, Walker County has not been given another Representative?

MR. LONG—That is not germane to this subject and has nothing to do with it. I will state yes.

MR. BAREFIELD—Do you want this Convention fixed so the representation of the Black Belt can be cut down?

MR. LONG—No, sir; but I want it fixed so the people will have the right to do whatever they please in the future. It is not a question of cutting down the representation of the people of the Black Belt. It is a question of denying the right of the people of Alabama to amend their Constitution. The people have a right to amend the Constitution. We have no right to deny it to them. I believe that the Supreme Court of Alabama would declare such an act as that on our part null and void. You had as well say the people of Alabama should never call another Constitutional Convention as to put it in there. You say they can not do it in part, why not in whole? It is the same proposition. It is not a question of representation at all. It is a question of the right of the sovereign people of Alabama. They have the right to amend their Constitution. They should have that right. We have no power to deny that right. I think the delegates understand it. It has no place in this report.

MR. OATES—In the present Constitution is this not provided for?

MR. LONG—Yes, sir; of course it does, and it fixes it permanently, as far as it can fix it, on a population basis. What more do you want? Are you going to try to saddle it on the people and to fix something that the people themselves can not change? We of the Convention are great people, but not greater than the people.

MR. GREER—Is it not a fact that the Committee on Representation have reported here that the basis of representation shall be on a population basis?

MR. LONG—Yes, sir; that is a fact. I thought I had answered that several times. We have gone as far as we can, and it is not right and I protest against it. It is not right to put a clause in the Constitution which says that the sovereign people shall never have the right to amend their Constitution. They have got a right to do anything. It is democratic doctrine from time immemorial, that the people alone have the right to change the Constitution. They have the right to amend it. If you are to deny them that right we had better have a King at once. What becomes of your republican form of government with the denial of that right? There is no good reason why this should have been brought in here. I am sorry it has been brought in here for discussion, and we should go over this question as lightly as possible. But as much as the white people of Alabama love the black belt, they will never consent to a clause in the Constitution denying them the right to change the basis of representation if they want to. The people of Alabama will not submit to it. If you deny it in part, you might as well deny it in whole. I can see no good reason or argument why this should be in here. It would be null and void if it were so fixed. I state that, not as a lawyer, but as a man of common sense. I know it is a fact.

MR. COLEMAN (Greene)—As much as we like to hear the gentleman from Walker, sometimes his imagination and volubility runs away with his facts. If there is no guarantee that a provision upon the basis of representation, as stated by him, will be adopted, it would be entirely satisfactory throughout the State. But inasmuch as these questions are up now for argument, not knowing what action this Convention will take, I move as a substitute for both amendments the following, which I will send to the clerk.

The substitute was read as follows:

"Providing that the basis of representation in the Legislature shall be made according to population and shall not be otherwise changed by any amendment to the Constitution.

MR. REESE — I ask unanimous consent to withdraw my amendment and accept the amendment of the gentleman from Greene.

The consent was given.

MR. MALONE—I rise to support that amendment——

MR. COLEMAN—I have the floor yet. I desire to know of the delegate from Walker whether he accepts the substitute? The gentleman from Dallas has accepted my amendment. Mine is in line with what he wants done.

MR. LONG (Walker)—I have no power to accept it. I think the amendment is the same as that offered by the gentleman from Dallas, only in different language.

MR. COLEMAN—Of course it is very clear what is the purpose of this and what is meant by the substitute I offer. It simply places it upon a population basis. That is all we ask. Now if I can get the attention——

THE PRESIDENT PRO TEM. — The Chair is in doubt whether the gentleman from Greene is in order or not. Didn't the gentleman from Greene yield the floor?

MR. COLEMAN—I did not. Now, there is nothing in this which will prevent the Legislature from changing the representation as the population changes, but it shall always remain according to population. Now the great reason some provision of this kind should appear either here or in the report of the Committee on Representations is this: When the Convention assembles as a Convention, of course it can change this provision if it sees proper. When you submit an amendment to the Constitution to the people, on one single question, it can never be presented in all its force and with all its merits. This simply provides that it shall not be altered by a simple amendment made to the Constitution. It should always remain upon a population basis until another Constitutional Convention shall be called, when it can then properly consider all these protections and provisions which are necessary.

Now a great deal has been said about the section of the state from which I come. We realize very deeply the results of this Convention throughout our section of the State. We have always been loyal. We know exactly what we are conceding to the people of Alabama by this Constitutional Convention. We ask no favors. We simply want justice. We realize that the time will come after a while when the white people of this State must take care of us, provided this other race progresses in education and property, for it makes no difference how much education they have, I do not believe they will in one hundred years be qualified to carry on self government, but under the fifteenth amendment, we have to do the best we can. We desire, however, to be relieved of the burdens we have borne so long, and all we ask is protection at the hands of the people of Alabama. This gives us fair representation according to population, according to the taxes we pay, and it secures us in that representation until the people of this state shall see proper to call another Convention, and that is all we want.

MR. MALONE—I wish to support that amendment, and I wish to do so as coming from one of the white counties of this State. If there is anything in this world our people want, it is

every temptation on earth to be removed to pad the returns of election. What we want is to set it upon a right basis. Give us what we are entitled to, and give them what they are entitled to, then there is no inducement on earth that I see, for any frauds hereafter. As far as I am concerned, I would be willing to fix it so it never could be changed by constitutional amendment or any other way. I don't believe any argument could be added here that would give it as much force and strength in all sections of the State as that very thing. Let us settle that thing once and for all. It is fair and just, and let us remove any temptation to do wrong in it. And coming from the white belt section, I support it.

MR. DENT—This is a question of great importance to a large section of Alabama. I am very sorry that the gentleman from Walker saw fit to refuse to accept the amendment or the substitute offered by the delegate from Greene. It arouses a suspicion in the minds of men who come from what is known as the black belt that there may be some effort in the future to base their representations, not upon population, but upon votes. I want to say to this Convention that, if you see proper to make that change, or to cast that shadow over the Constitution which you are making here, you will not find much support for it at the hands of the Democracy of the black belt. We are anxious to be relieved of the conditions that confront us; conditions which have prevailed in the State of Alabama. We want to do as the gentleman who preceded me said, so as to avoid any temptation to do wrong in this matter. But I want to say to the members of this Convention that if it is the purpose of what are known as the white counties of this State to take from those of the black belt the power which should belong to them because of their population, they will strike down in Alabama men who have stood up to her in her hour of need. I want to ask the delegates to this Convention when did the Democracy of the black belt ever do anything except uphold the banner of the Democracy and protect the fair name of Alabama. You may charge upon the black belt of Alabama frauds in election; you may charge that they have been guilty of things which they ought not to have been guilty of, but I challenge any man to say that they have ever been guilty of anything derogratory to the fair name of Alabama so far as her laws are concerned or the preservation of her credit and institutions are concerned. When the very life of Alabama hung in the ballots; when she had been subjected to the rule of carpet-baggers and scallawags and negroes until her fair name had been dragged in the dust and her credit ruined, who was it that rescued her from that condition but the Democracy of Alabama? I tell you it would be the basest ingratitude to strike down the hands and power of these men who have done so much to life the State out of the slough of despondence into which it had been submerged during the days of construction and I hope that the intimation of the gentleman

from Walker does not reflect the purpose of the delegates who represent the white people of this State.

MR. LONG—I rise to a point of order, I hate to do it, but the delegate from Barbour is not discussing the question before the house. The question before the house is whether or not the people shall have a right to make an amendment to the Constitution.

THE PRESIDENT PRO TEM.—The remarks of the gentleman from Barbour are argumentative and in order, and the chair will so hold.

MR. DENT—I say, gentlemen of the Convention, that this is vital to us. It is vital to the preservation of the Democracy of Alabama. You strike the power of the Black Belt; you take away from it the right of representation according to population, and you will see in a few years what will be the condition of Alabama. You will find that a wonderful change will take place. I am a Democrat. I believe in the doctrines of the Democracy, but I want to say, gentlemen of the Convention, that, while I do that, I do not want to be unfair to anybody, I do not want to be treated with injustice myself, and to strike down the power of the Black Belt Democracy in this State, to take away from them the right of representation according to population, would be to destroy that which has preserved Alabama, which has preserved the Democratic Party, and which has enabled the State of Alabama to rise to the position she now occupies among the States of this Republic, and I hope the substitute offered by the gentleman from Greene will be adopted.

MR. GREER (Perry)—Mr. President, I have just been thinking of the remarks of a gentleman in a little conversation I had the other day. My people seem to think now that there is a question of integrity existing between the people of the white belt and the Black Belt of Alabama. Only forty-eight hours ago I was talking with them on this same question, and a little expression from an old gentleman impressed me very forcibly. He said: "I hope the gentlemen composing that Convention will adopt a Constitution that we can support, and we hope that the dividing lines between the White Belt and the Black Belt may be wiped out, and when the day comes to ratify it, instead of reckoning, it will be a day of Pentecost." And they said further that "We hope that when that day comes that it will be the hill billies mingling with the gopher diggers of the wire grass and the crawfishermen of the prairies." That is the sentiment of the Black Belt now, and when you question their fidelity, and come up here and say while they do protect five darkies to one white man, see that they pay their taxes, protect them in the law, see that they are made good citizens and are educated, that they shall not have representation according to population, with their record behind them, they will doubt you, and in justice ought to doubt you. Some of them may

use the same expression, possibly, as you hear among your people, and they say which is the worst, to have the heel of the White Belt upon our necks, or have the negroes upon our right arm? They want to do away with this fraud. They are anxious for it, and all you have to do is to place out your hand and beckon and uphold them, and I guarantee you that the Black Belt of Alabama will ratify this Constitution. I believe if you will support this amendment that it will be the opening key. It may be a little premature, and it may be that it will come up in the report of the Committee on Representation, but it is the opening key. It seems to rise spontaneously and expectantly in the minds and hearts of the White Belt of Alabama. They fear you as you fear them, and I say if this amendment is adopted, it will go out over the Black Belt of Alabama, and it will be the key to unlock the door for the ratification.

MR. deGRAFFENREID—I move the previous question on the adoption of the amendment.

MR. O'NEAL (Lauderdale)—Withdraw that, I want to speak on this matter.

MR. deGRAFFENREID—I will withdraw the motion.

MR. O'NEAL—I heartily favor the amendment offered by the gentleman from Greene. There is no disposition on the part of the people of the white counties of Alabama to interfere with the present basis of representation; yet I must say that I take exceptions to the remark made by the gentleman from Barbour when he intimated that unless this amendment was adopted the Constitution would be defeated. While I heartily favor this amendment, yet I do not like to have threats made that unless I do a certain thing, the Constitution will be defeated. I do not think that style of argument should be used in the Constitutional Convention.

The genleman, too, is mistaken in a fact of history. He says that when the State of Alabama was under the control of the negro and the carpet-bagger, it was the Black Belt that came to the relief of the Democracy and drove the plunderers from power. If I recall the facts of history correctly, when Alabama was under the control of the Republican Party, and when the worst set of thieves in history were in the control of the State Government, it was the people of the white counties, led by the Bald Eagle of the mountain, that came to the relief of the people of the Black Belt, and restored white supremacy in Alabama. It was the people of the white counties who said to the people of the Black Belt, "We will give you relief from your oppressors," and they did do it. From that day to this white supremacy has continued in Alabama. We know that in every great crisis in the history of the Democratic Party, we turn to the Black Belt with confidence that it will roll up the necessary Democratic majority. They have always

been true and loyal, and we of the white counties propose to you that you cut down your voting population by eliminating the great mass of negro votes. We do not say to you that we intend to reduce your representation to your voting strength. We intend to let the representation be what is it today, and I, for one, am in favor of putting it in the Constitution, so that it can not be changed except by the people of Alabama in Convention assembled. That is the sentiment of the people of North Alabama; that is their unbiased sentiment, but don't tell us we have got to do it, because we can not be forced.

MR. BURNS—In 1872 didn't North Alabama send down into this section of the country and call upon Morgan and Pugh, Clanton and Lewis, and those men to come through that country and canvass North Alabama, and didn't they do it? And afterwards didn't they all give credit to John T. Morgan as the saviour of the Democratic party in 1872?

MR. O'NEAL—No; we gave credit to the black belt and the white belt and all the Democracy of Alabama for the grand work they did in 1872 as well as 1874. (Applause). We gave credit to the Walkers and men of that type in North Alabama. That is not the question now, Mr. President. The question now is to state this question definitely so as to remove all suspicion from the minds of the people of the black belt in future. We need their assistance in ratifying this Constitution; we expect it; we are going to have it. We can not have it, though, unless we treat them with fairness and justice, and I say that every sentiment of justice and fairness requires that we make a declaration here which can not be misunderstood or misrepresented, as to our intention relative to representation.

MR. BLACKWELL—Mr. President and Gentlemen of the Convention: As one of the representatives from one of the extreme northern counties of the State of Alabama, and from one of the white counties in the State of Alabama, I want to say that I give my most unqualified endorsement to the amendments offered by the gentlemen from Dallas and from Greene. (Applause). I want to say I think it is right, and Democrats should never be a party to crushing to earth that which is right. As a matter of fact, the great battle of liberty is not yet fought to its conclusion in this State. It is yet to be fought, not with swords and staves and armed men, not amid the bloody shock of embattled legions, marshalled armies and floating navies, but with that grander and stronger weapon, truth. Truth and error are to meet, and truth is represented by the white people of the State of Alabama, and that means the white people from the pines of North Alabama to the white people from the magnolias in South Alabama, as one people moving for one common purpose, and that for the elevation and purification of the politics of the whole State of Alabama.

We recognize what the gentlemen of the black belt are sacrificing; we recognize the love they manifest here; we recognize that although we came when you asked us and went with Morgan in 1874, when Houston was our candidate for Governor and helped with him to roll back the black belt waves that were submerging this part of Alabama and make again the right of the Caucasian race permanent here. We recognize that following that when other conflicts came and North Alabama divided and the white people needed the help of the black belt of Alabama, they came to our rescue and we recognize them as brothers and are in full sympathy with them, and are in hearty accord with the proposition they propose here and will support it. I move the previous question on the amendment.

The main question was ordered.

MR. CUNNINGHAM — I believe, under the rules of the House, the Committee has the right to close.

MR. O'NEAL—This is an amendment.

MR. CUNNINGHAM—I understand that, but the Committee has not been heard from on this amendment.

THE PRESIDENT PRO TEM—Who is the chairman of the Committee?

MR. CUNNINGHAM—The acting chairman of the Committee has yielded the floor to me.

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

MR. CUNNINGHAM—I desire to briefly discuss this question. I desire to say at the outset that this Committee, or at least a portion of it, seriously considered the aspect of the question now under discussion. Now, Mr. President, it is well for us to thoroughly understand the method of amending the Constitution before we go into a discussion of the merits of a pending amendment. Under the Constitution we now have, two-thirds of each house can pass an amendment to the Constitution; of the State of Alabama. The courts have decided, Mr. President, that a majority of the House is a constitutional quorum, whatever that is. In the State of Alabama, it is fifty-one members of the House and seventeen of the Senate. Now, I ask particular attention on this point, because any amendment to the present Constitution can be proposed by thirty-five members of the House of Representatives and by twelve Senators in the Senate of your State. The amendment that is offered to the amendment, and the present Constitution providing for amendments to the Constitution, says three-fifths of the whole number elected to each House. It, therefore, follows that in the report of the Committee, as adopted, in order to amend the Constitution, it will require sixty members of the House

of Representatives to vote for it and twenty Senators. Under the present Constitution, thirty-five members of the House and twelve Senators can do it. Under the proposed Article that comes from your Committee, it will take sixty members of the House of Representatives and twenty Senators. Now, Mr. President, let us see how this applies to this section of the State as to which this question has been raised, and the fears of the gentlemen who are apprehensive that their basis of representation will be changed. It is well known that the representation from this section of the State is as follows: In the House of Representatives, Barbour, 2; Russell, 2; Bullock, 2; Montgomery, 4; Marengo, 2; Wilcox, 2; Lowndes, 2; Dallas, 3; Hale, 2; Sumter, 2; Greene, 1; Autauga, 1; Wilcox, 1; Clarke, 2; Perry, 2; making a total of thirty. In the Senate, Barbour, 1; Russell and Lee, 1; Bullock and Macon, 1; Montgomery, 1; Marengo, 1; Wilcox, 1; Perry and Bibb, 1; Dallas, 1; Hale and Greene, 1; Autauga and Lowndes, 1; Sumter and Pickens, 1; Perry and Bibb, 1; a total of twelve.

Now, under the present Constitution of the State of Alabama, if the Constitution we propose is defeated at the polls, and the great question of representation is raised in Alabama under your present Constitution, two-thirds of a quorum can amend it, and I undertake to say that the provision of this Committee fixes forever the representations of the people in the black belt counties and of the people of the State, whereas you are not secure under your present Constitution. If it becomes the choice of the black belt of Alabama as to whether they will have a Constitution that provides three-fifths of the whole number of the house or two-thirds of a quorum, I submit, as intelligent men that they will take the latter proposition. They will never as between two possible evils choose the greater, and therefore, with all due respect to the people of the black belt, I want to say I think it unfortunate that you have precipitated this discussion on this great question. In regard to the policy pursued on this question, I agree with the gentleman from Walker, that we have no right to tie the hands of the people of Alabama, as to the methods of amending the Constitution, in any particular. It is bad policy to fix it for years to come, and until another Convention shall have been called. I say it is bad policy, and it is a policy that I can not answer for upon the stump, if I am called upon to sustain it.

MR. OATES—I suggest that the present Constitution fixes the apportionment for ten years and it can not be changed until after that time.

MR. CUNNINGHAM—I believe that the basis of representation should be upon population. I believe that the people of Alabama will embrace that doctrine, for the white people of the black belt are responsible for the civilization of the colored people, for their education, for their support and for their protection, and I

for one, am willing to testify publicly, and will adhere to it, that they have a right to representation in the law making bodies of the State, and representation in the State, and there will be enough white people behind you to sustain and support you and you are in no danger. Then why precipitate this dynamite and firebrand into the Constitution which we have been called here to frame.

Now, in concluding this aspect of the subject, I am perfectly willing, so far as I am concerned, as a member of the Committee, to accept an amendment to make it two-thirds of the whole number elected to each house. I haven't any objection to any proposition that upon its face proposes to take no advantage of the people of Alabama in the future. I am perfectly willing to vote for an amendment to put it to two-thirds of the whole house and not of a quorum, but I am unwilling to drive a nail through the plank and brad it upon the other side, because it is unfair and not in keeping with a proper spirit on Constitution-making.

MR. O'NEAL (Lauderdale)—I had an amendment prepared here striking out three-fifths and making it two-thirds.

MR. CUNNINGHAM—Of the whole house?

MR. O'NEAL—Yes, sir.

MR. CUNNINGHAM—I am perfectly willing so far as I am concerned, as one of the Committee, to accept it.

MR. REESE—I rise to a point of order. The previous question has been ordered on the amendment and the gentleman is not discussing the amendment, but is discussing some other amendment between himself and some other gentleman on this floor.

MR. CUNNINGHAM—I have a right to say so far as I am concerned to say what I am willing to accept. Now I move to lay the pending amendments on the table and on that I call for the ayes and noes.

MR. HEFLIN (Chambers)—I would like to ask the gentleman to withdraw that.

MR. O'NEAL—I move that we proceed with the regular order of business.

MR. deGRAFFENREID—I rise to a point of inquiry. Some of us have not been able to be in the house because of Committee work that was going on the outside. Will you have the amendment read so we can know what it is?

"That the basis of representation in the legislature shall be made according to population and shall not be otherwise changed by any amendment to the Constitution.

MR. COLEMAN (Greene)—I wrote that substitute somewhat hurriedly. I have the same idea better expressed here and by unanimous consent I would like to substitute it. I will read it: "Provided, that representation in the legislature shall be based upon, and such basis of representation shall not be changed by constitutional amendment."

I ask unanimous consent to put that in.

Objection was made.

MR. REESE—I move that the rules be suspended and that the gentleman be allowed to offer that in place of his other amendment.

MR. BEDDOW—I rise to a point of order. The previous question has been ordered.

THE PRESIDENT PRO TEM—The question now is, shall the rules be suspended, in order that the gentleman from Greene may offer a substitute to the substitute offered.

MR. BEDDOW—I rise to a point of order. The only way that can be done is by re-considering the vote by which the previous question was ordered.

MR. COLEMAN—I offer that to satisfy some parties as to the verbiage. It will mean exactly the same thing. If there is any objection to it, I will call for a vote upon my original substitute.

THE PRESIDENT PRO TEM.—All those in favor of the suspension of the rules——

MR. COLEMAN—I will just withdraw it.

MR. HEFLIN (Chambers)—I object to withdrawing it. A motion to suspend the rules has been made.

MR. deGRAFFENREID—We insist on that motion.

MR. PETTUS—I rise to a point of order. A motion to suspend the rules was made and has been stated to the Convention and it can not be withdrawn.

MR. deGRAFFENREID—That is true and we want to put it through.

THE PRESIDENT PRO TEM.—The point of order is not sustained. The question recurs on the amendment offered by the gentleman from Greene and the gentleman from Jefferson moves to lay that amendment on the table.

MR. O'NEAL—I ask unanimous consent to allow the gentleman from Greene to substitute. I don't think any objection has been made.

THE PRESIDENT PRO TEM.—The question is upon the suspension of the rules. Shall the rules be suspended in order to put the resolution of the gentleman from Greene upon its passage.

MR. WHITE—I call for the ayes and noes.

THE PRESIDENT PRO TEM.—The gentleman is too late, the ayes and have it and the rules are suspended.

MR. REESE—I call for a reading of the substitute offered by the gentleman from Greene.

The substitute was read as follows:

"Provided, that representation in the Legislature shall be based upon population, and such basis of representation shall not be changed except by a Constitutional Convention."

THE PRESIDENT PRO TEM.—The question is upon the amendment.

MR. WHITE—I call for the ayes and noes.

The call was sustained.

MR. CUNNINGHAM—I move to lay the substitute offered by the gentleman from Greene upon the table.

MR. BURNS—A point of order; the ayes and noes are called on a certain question, it is too late after the ayes and noes have been called on a particular question to change that question to a motion to table.

THE PRESIDENT PRO TEM.—In the opinion of the Chair the call for the ayes and noes was upon another question and the gentleman's point of order is not well taken. Those in favor of laying the substitute offered by the gentleman from Greene on the table will say aye as their names are called, and those opposed will say no.

AYES

Beddow,	Henderson,	Porter,
Burnett,	Jackson,	Reynolds (Henry),
Byars,	Long, of Walker,	Proctor,
Cardon,	Lowe, of Lawrence,	Sanders,
Cofer,	Murphree,	Sloan,
Cunningham,	Oates,	Sorrell,
Eyster,	Parker, of Cullman,	Spears,
Haley,	Pearce,	Studdard,
Harrison,	Phillips,	White,

TOTAL—27

NOES

Almon,
Altman,
Banks,
Barefield,
Bethune,
Blackwell,
Browne,
Bulger,
Burns,
Carmichael, of Coffee,
Carnathon,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Espy,
Ferguson,
Fletcher,
Gilmore,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Hood,
Howze,
Inge,
Jenkins,
Jones, of Bibb,
Jones, of Hale,
Jones, of Wilcox,
Knight,
Ledbetter,
Lomax,
Macdonald,
McMillan, of Wilcox,
Malone,
Martin,
Merrill,
Miller, of Marengo,
Miller, of Wilcox,
NeSmith,
Norman,
Norwood,
O'Neal, of Lauderdale,
Opp,
O'Rear,
Palmer,
Parker, of Elmore,
Pettus,
Pillans,
Pitts,
Reese,
Rogers, of Lowndes,
Rogers, of Sumter,
Sanford,
Searcy,
Smith, of Mobile,
Spragins,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
Williams, of Barbour,
Williams, of Marengo,
Williams, of Elmore,
Wilson, of Clarke,
Winn,

TOTAL—82

ABSENT OR NOT VOTING

Messrs. President,
Ashcraft,
Bartlett,
Beavers,
Boone,
Brooks,
Carmichael, of Colbert,
Case,
Cornwall,
Davis, of DeKalb,
Fitts,
Foshee,
Foster,
Freeman,
Grant,
Hodges,
Howell,
Jones, of Montgomery,
King,
Kirk,
Kirkland,
Kyle,
Leigh,
Locklin,
Long, of Butler,
Lowe, of Jefferson,
McMillan (Baldwin),
Maxwell,
Moody,
Morrissette,
Mulkey,
O'Neill (Jefferson),
Renfro,
Reynolds, of Chilton,
Robinson,
Samford,
Selheimer,
Sentell,
Smith, Mac A.,
Smith, Morgan M.,
Sollie,
Stewart,
Tayloe,
Whiteside,
Willet,
Wilson, of Washington,

MR. SANDERS (during roll call)—Mr. President, for the first time, I ask leave in a very brief way to explain my vote.

Leave was granted.

MR. SANDERS—Mr. President, I am a Black Belt Democrat in sentiment and in sympathy, if I am a hill billy geographically. I came to this Convention fully convinced that we should vote for representation upon the basis of population. I believe that is right. That is Democracy. I believe that Democrats of this section of the State are entitled to that, and I would be willing for the proportion of the members of the Legislature to be fixed at any ratio which should protect the Black Belt, in that representation forever, but I do not think it is wrong and false in principle that this one single thing should be marked out as the only thing which cannot be submitted to the people for amendment without calling another Constitutional Convention, and in the way in which it is expressed I believe it will be irritating to the people of North Alabama, notwithstanding what my friends from Lauderdale and Morgan have said about it, and for that reason, Mr. President, and in full sympathy and believing it as right that the Black Belt should have what they claim and demand, yet because I fear the principle is false, I vote aye.

The result of the roll call was 87 noes and 27 ayes, and the motion to table was lost.

THE PRESIDENT—The question recurs upon the substitute offered by the gentleman from Greene.

Upon a vote being taken the substitute was adopted.

THE PRESIDENT—The question recurs upon the Section as amended.

MR. O'NEAL—I have an amendment.

The Secretary read the amendment as follows:

Amend Section 1, line 3, by striking out "three-fifths" and inserting in lieu thereof "two-thirds."

MR. O'NEAL—My purpose in offering that amendment is because the present Constitution requires a two-thirds vote of the Legislature in order to submit amendments to the Constitution.

MR. COLEMAN—We do not need it now. The Convention has given us all we want.

MR. O'NEAL—It is on the entire question. I am opposed to the Constitution being amended with too much ease. I notice our Constitution already requires two-thirds, and the Constitution of four-fifths of the States of the Union require a two-thirds vote of the Legislature before an amendment may be submitted,

manner as to make it meet all the requirement of the times, to promote the welfare of the whole population. That is the reason I have offered that amendment.

MR. DENT—I think the Convention understands the question. I move to lay the amendment of the delegate from Montgomery on the table, and I move the previous question.

MR. SANFORD—I call for the ayes and noes.

MR. LOMAX—I rise to a point of order. The gentleman from Barbour cannot move to table the question and move the previous question on the same section at the same time.

THE PRESIDENT—The point of order is well taken. The question will be upon the motion to table.

MR. SANFORD (Montgomery)—I call for the ayes and noes.

The call was not sustained.

Upon a vote being taken, the motion to table prevailed.

MR. PROCTOR—I move that we now adjourn.

Upon a vote being taken, the Convention refused to adjourn.

MR. LOMAX—I would like to ask the acting chairman of the Committee a question in reference to this first section. The printed copy seems to have left out some words, and it does not make sense.

MR. MERRILL—The original copy has it correct.

MR. LOMAX—That is what I wanted to know.

MR. MERRILL—I move the previous question on the section as amended.

The main question was ordered.

Upon a vote being taken, the section as amended was adopted.

MR. BLACKWELL—I move that we now adjourn.

Leaves of absence were granted to the following delegates: For Tuesday and Wednesday, for Mr. Sorrell; Mr. Searcy for tomorrow; to Mr. Weakley of Lauderdale for today; to Mr. Espy for tomorrow; to Mr. Harrison for tomorrow; Mr. Reese for tomorrow; Mr. Vaughan for tomorrow; Mr. Ashcraft for Monday and Tuesday next; to Mr. Weatherly, indefinitely on account of sickness in the family.

MR. BLACKWELL—I made a motion that we now adjourn.

Upon a vote being taken, the Convention refused to adjourn.

The Secretary read Section 2 as follows:

MR. O'NEAL—That is what I want.

MR. JENKINS—That will necessitate the calling of another Constitutional Convention, and we want to avoid that, and we ought to make changes in our organic law by amendment, and I move to table the amendment offered by the gentleman from Lauderdale.

Upon a vote being taken the motion to table prevailed.

MR. SANFORD (Montgomery)—I have an amendment.

The Secretary read the amendment as follows:

"Amend Section 1 by striking out 'three-fifths' in third and sixth lines in said Section, and inserting in lieu thereof the words 'a majority of the votes of all members elected to each House of the Legislature.'"

MR. SANFORD—I make that amendment for the very reasons that have been given by the gentleman from Wilcox. It is absolutely necessary that in these changing times in which we live, in the changed conditions of Alabama, that seem to change from season to season, we shall be able to amend the Constitution without calling another Constitutional Convention. It is absolutely impossible, as he says, to amend it under the old system.

MR. O'NEAL—Do you want to make it as easy for the Legislature to change the Constitution as it is for them to make a law?

MR. SANFORD—I do not.

MR. O'NEAL—Is it not a fact that in most of the States they require a majority of those elected to pass a law?

MR. SANFORD—There is nothing more in passing a law to submit it to the people than there is in any other acts passed by the Legislature. It is simply for the purpose of proposing these things to the people, and it will be impossible to propose it to the people under a two-thirds law. If the Legislature was the only power to change, then it might be plausibly stated by the gentleman from Lauderdale, but when it is to be passed upon by the people it makes a very great difference. It is simply to give them an opportunity to say whether the conditions of Alabama are not such that many of the provisions in the present Constitution would be wiser to have changed. We are making an experiment with the present Constitution, and it is a new thing entirely. Many of the provisions I have not noticed anywhere before, in Alabama, certainly, or Georgia. They exist, they say, in Mississippi or in Louisiana, and they have tried it in North Carolina, all of which are on trial, and I think it is nothing more than just that the people in the event this Constitution should prove not what it is hoped to be, but a failure, can change it in such a

and I do not see any reason why we should make the Constitution to be amended by less than that formerly existing, and less than that required in all the States of the Union. I move to strike out the word "three-fifths" wherever they occur in this Section.

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Lauderdale.

MR. JENKINS—I do not think that is a good amendment, and I will explain why. We have had a great deal of trouble in the past in getting two-thirds of the Legislature to vote for a suffrage amendment. In fact we could not get it, and that is the reason this Convention was called, because you never could get two-thirds of the Legislature to vote for an amendment on the suffrage proposition. Now, we do not know but what they want it changed somewhat on these qualifications on suffrage. They may not work well.

MR. O'NEAL—Is it not a fact that a majority of the States in the Union require a majority vote to pass even an ordinary bill, and why is two-thirds too large a number?

MR. JENKINS—We provide here for three-fifths.

MR. O'NEAL—Why is two-thirds too large a number to amend the Constitution?

MR. JENKINS—I will answer the gentleman by saying this, that it has been our experience in the past that we could not get a two-thirds vote of the Legislature to pass an amendment. We have had this suffrage question up for ten or fifteen years, and the only reason that the people have never had a chance to vote upon it, was that the Legislature of Alabama would not submit it to them, and if we go ahead and readopt the old plan we can never change the plan we have adopted by this Convention and it may work wrong, it may be the worst thing in the world we have ever done, and we want to be in position to amend it without calling another Constitutional Convention, and we ought to change it like the Committee has recommended, and fix a special time to hold an election, and not at the general election, because if you adopt the old Constitution, why it has been the experience in the past that all amendments were defeated, and the only way we got an amendment was by twisting the Constitution all out of shape and interpreting it so that a majority could carry it.

MR. O'NEAL—The gentleman entirely misapprehends my amendment. I do not propose to make any change in the Section reported by the Committee except to strike out three-fifths and insert two-thirds wherever it occurs.

MR. JENKINS—That makes it more difficult to pass amendments.

Sec. 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 election shall be indicated by a cross mark before the answer he desires.

MR. WATTS—I have an amendment.

The Secretary read the amendment as follows:

"Add at the end of Section 2 the following, 'And no amendment shall be adopted unless it receives the affirmative vote of the majority of all the qualified electors who voted at such election.'"

MR. MERRILL—We ask unanimous consent to accept that.

MR. WATTS—I am satisfied that is not in there. The object of that amendment is for the purpose of preventing another Birmingham amendment, which was adopted not by an affirmative vote, but by a failure to vote, and the object of that amendment is to prevent that in the future.

Upon a vote being taken, the amendment was adopted.

Upon a vote being taken, the section as amended was adopted.

The Secretary read Section 3 as follows:

Sec. 3. No Convention shall hereafter be held for the purpose of altering or amending the Constitution of the 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 to a vote of all the qualified electors of the State, and approved by a majority of those voting as 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.

MR. WEATHERLY—I have an amendment.

The Secretary read the amendment as follows:

"Provided, nothing herein contained shall be construed as restricting the jurisdiction and power of the Convention duly assembled, in pursuance of this section, to establish such ordinances, and to do and perform such things as to the Convention may seem necessary or proper, to alter, revise or amend the existing Constitution."

MR. WEATHERLY — The purpose of the amendment is simply to set at rest——

MR. WEATHERLY—The Committee are willing to accept the amendment.

Unanimous consent was given to accept the amendment.

Upon a vote being taken, the section as amended was adopted.

The Secretary read Section 4 as follows:

Sec. 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.

MR. MERRILL—I move the adoption of the section.

Upon a vote being taken, the section was adopted.

MR. MERRILL—I move the Article just submitted be engrossed and ordered to a third reading.

Upon a vote being taken, the motion prevailed.

MR. BLACKWELL—I move that we now adjourn.

MR. BURNS—Some days ago our honored delegate from the County of Washington made a famous speech in this hall on the subject of Agricultural Schools, or, rather, in regard to the tag tax. In that speech he told us of an experiment station which he had encountered down in the cane-brakes of Alabama. He told us of that lone vine, and that solitary house of civilization, and of that Doctor whose instruments were used to mark the hogs that belonged to the State, in order that they might grow larger and fatter and bountiful for the repasts of other visitors which might follow the old gentleman to the cane-brake station. There has been sent to this gentleman from Washington by the friends of that station a huge basket of fruit, various varieties of peaches, and numerous varieties of grapes said to have sprung from that vine since that famous speech of the gentleman from Washington. It is reported in these proceedings that since that famous speech that vine has grown to cover one-half square mile, and its topmost branches are one hundred yards in the air, and that among those branches have been found within the last day or two fowls from the different districts and the different counties of this State, that they first found sitting upon a branch over one hun-

dred feet from the ground, firmly fixed upon the limb, or a branch at least two and half inches in diameter a fine, proud bronze gobbler, fit game upon which John Marshall and Mark Twain in the days gone by would have been glad to feast, and that gobbler (Opp) from the county of Covington; next to him was chirping away a sweet singer from Birmingham said to have escaped from the cages at Ensley, a mocking-bird whose heart is touched as much for woman as for man. Next to him and close by that lone cooing turtle dove mourning for his true-love, that turtle dove is said to have come down not exactly from Athens, but from the county of Limestone. Next to him was a plump Bob-White, that had gone where the grapes were ripe, and going way up yonder, he there sat, as he is always welcome in any part of the country, and in any part of the tree, and they say he came from the county of Butler, plump Bob-White from Butler. The next was a modest Joree, always jolly and at work. It is in dispute as to whether he came from Monroe or Randolph, but he was there all the same, and there too, was the faithful Wood-pecker, always pecking on hard questions. Whether he was from Jefferson or Lauderdale is hard to decide. (Laughter.) Right by on the branches was the hopping Jay, which had always something to say. Where he came from I leave this Convention to conclude. You know that there are more jays than one in this Convention and they have hopped and hopped, and had their say. The next of the sitting was a Screech-Owl whose voice we will never forget. Some say he is from one place and some say another. But it will be long and weary days before we could get the screech owl's voice that came here from Lauderdale. Then sitting low down in the darkest place in the shade of the tree was an old groaning owl, always ready to fight and growl, whether he came from Hale or Pike. Come go home my friends, and decide among yourselves. He must have come from one or the other. Then soaring above in the blue ether there was a screaming eagle, said to have come from Chambers. There was a blue darting hawk that is said to have come from Marengo. There was a sparrow hawk which lay between the county of Macon and the county of Dallas. Let them decide for themselves. And then there was the chicken hawk, and again Pike claiming the price. Then the old hen catching hawk. Where was he from. From up among the hill-billies, the miners and the convicts. The old hen-catching hawk.

THE PRESIDENT — The Chair understood the gentleman arose for a question of personal privilege. Does the gentleman propose to go through the list of one hundred and fifty-five names?

MR. BURNS—No, sir; my five minutes are not quite out.

Then there was the cunning crow from Blount, and last but not least was the wabbling sea gull from Mobile, a man just in front as in the rear and that knows nothing like fear. Now, I

have been instructed to invite the President of this Convention and the members to come down and view this house of civilization as it sits away up above on top of those vines and to interview that doctor. Come down and help yourself, and I have the assurance from everybody down in that section that any one our distinguished friend from Washington invites on this visit shall not be interrupted by that doctor because his pruning knives have been laid aside.

THE PRESIDENT—The gentleman from Dallas raised a question of personal privilege, and having been a member of two constitutional conventions possibly has double the privileges of any other delegates.

MR. PALMER—I want to thank the gentleman for his poetical speech as to this basket of fruit. I am not poetic, but deal more in facts. I feel gratified that the experiment station at Uniontown did not become mad or offended at the criticism I gave the station here the first of the month. In token of their respect and esteem for me they have sent me an elegant basket of peaches and grapes that equal any that I have ever seen that came from California. Now I hope and trust that the experiment station today is a success. I have not seen it in six or seven years, and I hope great good will result to the State from this station, and that we may feel that it has accomplished a great good amongst us. Now as there has been no resolution sent up here, or petitions from the various precincts and counties, of this State against statesmen giving away fruit, and as we delegates can eat this fruit that is given to us, I now present this basket of fruit to the Convention. (Loud applause.)

MR. BLACKWELL—I move that we adjourn.

SIXTY-EIGHTH DAY

MONTGOMERY, ALA.,
Saturday, August 10, 1901.

The Convention met pursuant to adjournment, and was called to order by the President.

Upon a call of the roll 69 delegates responded to their names.

Mr. deGreffenreid took the Chair.

MR. BULGER—I rise to a point of parliamentary inquiry. How many members are present?

The President resumed the Chair.

THE CLERK—69.

MR. BULGER—I move that the Sergeant at Arms be directed to bring in a quorum.

THE PRESIDENT—What is the suggestion of the gentleman?

MR. BULGER—I move that the Sergeant at Arms be ordered to invite the absent members to come into the hall.

THE PRESIDENT — The Sergeant at Arms is directed to summon the absent members.

MR. O'NEAL (Lauderdale)—I suggest that the absent members be brought before the bar of the House to show cause why they are not present.

THE PRESIDENT—The duty of the Sergeant at Arms will be to bring them before the House.

The Secretary will call the roll of the absent members.

Rule 33 says: Twenty-five delegates shall have the power to send for absent delegates or to move a call of the House; but no call of the House shall be made except upon concurrence of the majority of the delegates present. A majority of the Convention shall be a quorum to transact business.

The gentleman from Lauderdale moves that the absent members be sent for by the Sergeant at Arms, and the Chair suggests that it is necessary to have a call of the House.

MR. OATES—A call of the House is necessary to furnish the Sergeant at Arms a list of the absent members.

Upon a call of the roll, seventy-eight delegates responded to their names.

THE PRESIDENT—The Chair called attention yesterday or the day before to the fact that we are unable to proceed with the business of the Convention on account of failure of the delegates to report, and answer to their names when the roll is called. The Chair sincerely hopes that this will not continue to occur. It seems to the Chair that it is certainly the duty of delegates to report here and discharge the business for which we were delegated.

MR. WILLIAMS (Marengo)—I have a resolution.

MR. PITTS—I rise to a question of personal privilege. I have been informed by a friend who was informed by my colleague, Mr. Craig, yesterday evening that the solicitor of the Fourth Circuit, Col. W. W. Quarles, had taken umbrage at some of my remarks before this body on the 7th inst. while discussing the section of the Judiciary report in regard to the election of solicitors. I desire to say that I certainly did not intend to reflect

upon him either as a man or as an officer, and if I said anything that would reflect on him or may have been offensive to him I now retract it. It would have been indelicate to say the least for me to have said anything that reflected upon him, for private reasons. I will say that he was elected twice, and at the last election he carried every county in his circuit. He has the confidence of the good people of his circuit, and is an efficient officer, fearless in the prosecution of crime and has always given satisfaction. I am sorry that he has taken exceptions at what I said, and had I known it earlier I would have made an apology to him.

MR. CARMICHAEL—In the stenographic report yesterday I am reported on the final passage of the article on Suffrage and Elections as absent or not voting. I desire to be recognized as voting. In the commotion, I do not recall whether I voted at all, as I sit back where I cannot hear very well.

THE PRESIDENT—It is impossible for the Chair to correct the roll except before the result of the vote is announced. It is proper for the gentleman to say how he would have voted, if he desires.

MR. CARMICHAEL—I would have voted aye.

MR. JACKSON—I desire to ask if leave of absence was asked for my colleague, Gen. Harrison, on yesterday.

THE PRESIDENT—Leave of absence was asked for him.

The next order of business is the call of the roll of delegates for the introduction of ordinances.

MR. WADDELL—I move to dispense with the call of the roll.

MR. WILLIAMS (Marengo) — Before he does that I ask unanimous consent to introduce an ordinance.

MR. WADDELL—I withdraw the motion.

Objection was made.

THE PRESIDENT—It is moved that the rules be suspended and that the call of the roll of delegates for the introduction of ordinances and the call of the roll of standing committees be dispensed with.

Upon a vote being taken the motion to suspend the rules was carried.

MR. BROOKS—I tried to get the recognition of the Chair before that motion was put, and I called for the attention of the Chair as loud and as often as I could.

THE PRESIDENT—The Chair declines to be interrupted when the Chair is putting a motion.

MR. BROOKS—I have the right before the vote is completed after the affirmative is taken and before the negative vote, to offer to debate the question if it is debatable.

THE PRESIDENT—For what purpose did the gentleman arise, to lecture the Chair, or to state a motion?

MR. BROOKS—I rose to object, as I have seen it done here for seven or eight days, to a suspension of the roll call, on the ground that it never results in any economy of time.

THE PRESIDENT—The gentleman is not in order. He is not speaking to any motion before the House.

MR. BROOKS — The question I wanted to interpose was that I insisted upon a suspension of the rules for making that motion.

THE PRESIDENT—The time for any delegate to submit his remarks is when a motion is made, and not while the Chair is submitting the question to the Convention. Delegates have been frequently in the habit of interrupting the Chair and it has sometimes been difficult for the Chair to put the question.

MR. BROOKS—I disclaim any purpose to interfere with the Chair when he is putting a motion, but I rose repeatedly and addressed myself to the Chair, for the purpose of making a motion in my own right.

MR. MULKEY—I have a short petition I desire to have read.

The resolution offered by Mr. Williams of Marengo was read as follows:

Resolved. That this Convention adjourn at 1 o'clock today and convene at 12 o'clock Monday next.

MR. O'NEAL (Lauderdale)—I move to amend by substituting 2 o'clock for 1 o'clock.

MR. GRAYSON—I move to amend by inserting 11 o'clock on Monday instead of 12 o'clock.

MR. SANFORD (Montgomery)—The objection to that is the train does not come in in time for some of the delegates to get here by 11 o'clock.

MR. WILLIAMS (Elmore)—Is the motion to adjourn open to amendment?

THE PRESIDENT—The motion to fix the time to adjourn is.

MR. deGRAFFENREID—I move to lay both amendments on the table.

THE PRESIDENT—It seems to the Chair that a motion to adjourn is not one to be laid on the table.

MR. WILLIAMS—My reason for putting it 12 o'clock is because we cannot get a quorum here by 11 o'clock on Monday.

MR. GRAHAM (Talladega)—There is a motion to table.

THE PRESIDENT—It seems to the Chair that the motion to table is not in order. The motion is a privileged motion to fix the time at which to adjourn. The gentleman from Madison moves to strike out 12 o'clock Monday and insert 11 o'clock.

Upon a vote being taken the amendment was lost.

THE PRESIDENT—The question is on the motion of the gentleman from Madison to strike out 12 o'clock and insert 11 o'clock.

MR. WILLIAMS (Elmore)—I move to table that.

THE PRESIDENT—The Chair has ruled that a motion to table will not be in order.

MR. GREER (Perry)—I move to strike out 1 o'clock and insert 12, to adjourn at 1 o'clock today and reconvene at 12 o'clock Monday.

THE PRESIDENT—The motion is that when we adjourn at 1 o'clock, we adjourn to meet at 12 o'clock Monday.

MR. COFER—I move to strike out 2 o'clock and insert 12 o'clock today.

THE PRESIDENT—It is not 2 o'clock in the resolution, as the question now stands, the motion is to insert 2 o'clock instead of 1 o'clock.

MR. COFER—As a substitute, I move to insert 12 o'clock today.

Upon a motion being taken, the substitute was lost.

THE PRESIDENT—The question is then upon the motion of the gentleman from Lauderdale to strike out 1 o'clock and insert 2 o'clock today.

Upon a vote being taken the motion of the gentleman from Lauderdale was lost.

THE PRESIDENT—The question will be upon the motion of the gentleman from Marengo which is that when this Convention adjourn today at 1 o'clock it adjourn to meet at 12 o'clock Monday.

Upon a vote being taken, the motion was carried.

MR. GRAHAM (Talladega)—As the roll call has been dispensed with, I ask for unanimous leave to introduce a petition.

Leave was granted, and the clerk read the petition as follows:

To the Constitutional Convention, Montgomery, Ala.:

We the undersigned citizens of the State of Alabama do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county, or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective self-operative provision to that end.

Talladega, July 18, 1901.

G. T. McEldery, manufacturer fertilizers; C. S. Weaver; J. H. Rogers, clerk; W. M. Graham, merchant; J. M. Woods, farmer; J. S. Peters, farmer; J. D. Davis, farmer; Bud Reeves, farmer; F. B. Bowie, merchant; William Braden, farmer; J. W. King, clerk; A. E. Bartlett, clerk; P. A. Stamps, merchant; J. W. Hubbard, merchant; J. B. Woodward, merchant; R. T. B. Anderson, merchant; J. C. Burt, clerk; F. C. McAlpine, merchant; R. L. Stringer, merchant; J. W. Cowan, merchant; A. O. Hammell, contractor; J. D. Lewis, broker; W. H. Sindlinger, stone cutter; T. H. White, farmer; W. J. Handley, tailor; A. W. Orgo, merchant; E. Hobbs, merchant; J. M. Sparks, merchant; J. E. Russell, merchant; Kyser, G. P.; J. F. Warnick, farmer; T. M. Long, clerk; C. R. Iver, clerk; J. M. Thornton, merchant; D. M. Remson, merchant; B. A. Boyd, clerk; Goldberg & Lewis, merchants; Thomas Hayden, clerk; G. A. Joiner, M. M. Mogle, harness; J. H. Hicks, cotton mill; Mont Lane, clerk; W. Bleatenbourg; J. F. Klein, J. F. Barnes, merchant; L. W. Clardy, Alabama Hardware Co.; L. L. Brothers, merchants; E. O. Hobbs, merchants; G. T. Smith, merchant; W. A. Speer, clerk; W. T. Groger, farmer; G. O. Smith, clerk; J. H. Samuel, clerk; J. A. Adams, farmer; J. W. Dickinson, farmer; T. R. Williams, Rep.; J. B. Terry; C. W. Sharp, merchant; W. B. Glover, clerk; Z. Katzenstein, clerk; R. S. Sayre, broker; P. Williams, merchant; W. B. Harison, law; J. H. Foster, law; W. C. McMillan, law.

Referred to Committee on Corporations.

MR. WHITESIDE—On yesterday I had unanimous consent to offer a petition—two petitions, one from Oxford and the other from Anniston. Only one of them was read, both of them being identically the same, but the names in the petition were not published in the official proceedings. I ask unanimous consent that they be printed under the petition just read.

Consent was granted.

To the Constitutional Convention, Montgomery, Alabama:

We the undersigned citizens of the State of Alabama do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective self-operative proviso to that end.

Oxford, Ala., July 23, 1901.

B. Dudley Williams, physician; A. W. Ligon, physician; James M. Gunnels, druggist; W. C. Warnock, merchant; R. N. Wanock, merchant; John N. McAdams, jeweler; W. D. Smith, merchant; Draper & Co., merchant; S. L. Green, Jr., merchant; J. B. Key, farmer; D. C. Cooper, banker; A. M. Humphries, merchant and many others.

Referred to Committee on Corporation.

MR. ROGERS (Sumter)—I move that all of the gentlemen who have petitions against the railroad pass evil be allowed to send them up now to have them printed in the stenographic report without further action on the part of this Convention.

The motion was adopted.

The following petition was sent up by Mr. Mulkey:

To the Constitutional Convention, Montgomery, Ala.:

We, the undersigned citizens of the State of Alabama do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made and unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective, self-operative provision to that end.

J. J. Johnson, merchant; J. M. Jeter, cashier; T. B. Early, salesman; A. S. Hendrick, salesman; W. W. Barnett, merchant; J. Merritt, stock man; S. W. Douglas, minister; A. D. McKinnon, salesman; W. J. Keith, merchant; E. D. Donaldson, trader; C. D. Carmichael, attorney; G. M. Leigh, merchant; G. W. Williams, jeweler; Adair Bros., merchants; H. G. McLaney, bookkeeper; J. H. Ard, M. D.; J. F. Webb & Co., merchant; Chapman & Co., merchants; D. O. Vaughan, J. P.; M. B. Pierce, merchant; J. M. Merritt, merchant; W. R. Jons, merchant; J. D. Holloway, R. Y.

Daniel, brick layer; L. W. Weston, merchant; D. L. Watson, merchant.

Geneva, Ala., July 23, 1901.

Referred to Committee on Corporations.

THE PRESIDENT—The regular order will be the consideration of the report of the Committee on Amending the Constitution.

MR. MERRILL—The next matter in order is Ordinance No. 412 with favorable report by the committee. I ask that the clerk read that ordinance.

The report of the Committee on Journal was read, stating that they had examined the journal for the sixty-seventh day, and found the same correct, and the report was adopted.

The Secretary read Ordinance No. 412 with favorable report of the Committee on Amending the Constitution and miscellaneous provisions.

An ordinance relating to the bonded indebtedness of the State.

Be it ordained by the people of the State of Alabama in Convention assembled:

That an act of the General Assembly of Alabama, entitled "an act to consolidate and adjust the bonded debt of the State of Alabama," approved February 18, 1895, and an act amendatory thereto, entitled an act to amend Section 6 of an act to consolidate and adjust the bonded debt of the State of Alabama, approved February 18th, 1895, which said last named act was approved February 16th, 1899, be and the same are hereby made valid, and both of said acts shall have the full force and effect of law. The Governor is authorized and empowered to act under the same, and carry out all the provisions thereof.

MR. MERRILL—I have an amendment.

The amendment was read as follows:

Amend ordinance No. 412 by adding at the end thereof the following: Provided that the bonds mentioned in said acts and issued thereunder may be payable at any time not exceeding 50 years from the date thereof, and shall not be redeemable until their maturity.

THE PRESIDENT—The question will be on the amendment offered by the gentleman from Barbour. Is the Convention ready for the question?

MR. MERRILL—I desire to be heard on the amendment. I desire to explain to the Convention the purpose and intention for

which action is asked. As is well known, the bonded debt of Alabama will mature in the near future, and under the Constitution of 1875, there is no provision for refunding that debt, and no authority in that Constitution to issue new bonds. If there was no other reason why this Convention should have been held, that one reason would have been sufficient to cause the people of Alabama to call this Convention. The authority for issuing bonds by the State of Alabama is contained in Section 3 of Article XI of the Constitution of 1875, which reads thus: "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 ayes and noes and entered on the Journal, and any act creating or incurring any new debt against this State, except as therein provided, shall be absolutely void." Mr. President, it was held by some of the lawyers that under that provision of the Constitution the State had the authority to refund the debt that existed. The former Governors undertook, acting on that theory, to go into the refunding of the bonded debt. And in the course of that matter the bond buyers or the bond buyers in prospective had their attorneys to investigate and ascertain whether under the law as it stood the State of Alabama had a right to refund or issue bonds to take up these old bonds. In that investigation, Mr. Hornblower of New York, representing the expectant bond buyers, gave the opinion that under the Constitution a reissue of bonds, even for the purpose of refunding the old debt, was such an innovation that there was no authority under the Constitution for that action, that it was an innovation, a new contract and not authorized by the Constitution of 1875. Therefore, Mr. President, two of our Governors before the present incumbent, undertook to have the Legislature pass these laws, but when it ran up against the opinion of Mr. Hornblower, the matter stopped. It may be contended that Mr. Hornblower's opinion was erroneous, but the bond buyers would be guided by it, and it would be impossible to overcome that obstacle. If Alabama undertook to float her bonds to refund the present debt—it is an insurmountable obstacle because the opinion given to them by their attorney—and in my opinion, Mr. President, the opinion given by Mr. Hornblower is a correct one. Therefore, the act passed for the purpose of enabling the Governors to refund the debt of Alabama are all unconstitutional and the matter stands thus. Now, at the instance and request of our present Governor, this ordinance was introduced, and I will say, Mr. President, that it was after consultation by the Governor with the Attorney General and some learned lawyers who are delegates upon this floor, that this action on the part of the Governor was initiated.

He is a conservative, wise and economical man, and before taking any action in this matter he consulted those who were in-

terested in the welfare of Alabama, and he himself had that interest greatly at heart. Now, the first act that was passed was 1894-5. That was during the administration of our distinguished delegate, Governor Oates, and I ask, Mr. President, if it is the desire or wish of the delegates to have these Acts read.

I pause for a moment, and it seems that that is not the desire of the Convention.

The first Act was passed during the administration of Governor Oates. The next Act was passed in 1898-9, during the administration of Go. Johnston. The act of 1898-9 was merely an amendment of the previous act. There is also an Act in 1897 which undertakes to extend or permit the limit of 50 years on the bonds, which act was vague, and so uncertain that, to cover that question, the amendment was offered. Now, Mr. President, these acts, or the main act, authorizes the issuance of bonds for the purpose of refunding the debt, and it makes those bonds redeemable at the pleasure of the State after the expiration of 15 years. In the discussion of that feature of the act, the Governor ascertained that to make the bonds redeemable at the pleasure of the State in 15 years, was equivalent to issuing a bond known as a 15-year bond, and a bond which runs only fifteen years would not float in the market at so high a price as the one that ran a longer time than fifteen years. Therefore the amendment offered is for the purpose of making these bonds issued for a time longer than fifty years and not redeemable until their maturity according to the face of the contract.

THE PRESIDENT—The time of the gentleman from Barbour has expired.

MR. WATTS—I would like to ask the gentleman a question.

MR. MERRILL—I would like for the Convention to extend my time just a little.

Upon a vote being taken the time of the delegate from Barbour was extended ten minutes.

MR. WATTS—What is the object of incorporating in your amendment that bonds shall not be redeemed until their maturity.

MR. MERRILL—If you had heard what I have just said, you would understand that. Under the act of the legislature the bonds are redeemable, that is, they can be issued payable in fifteen years, and then can be called in and paid at the expiration of fifteen years under the acts as they now exist. The fact that they were payable in so short time after issue rendered them less valuable and they would float for a less price in the market, and would demand a higher rate of interest. Therefore the amendment was offered for the purpose of making them what is known as fifty year bonds

which bonds are of the most valuable character of any bonds, and they can be floated at a very low rate of interest. Now, Mr. President, the question may be asked why this matter does not go over to the legislature? It is possible, though a contingency that we dislike to consider, that this Constitution we are now making may not meet the approval of the people of Alabama, and it is the opinion of learned lawyers that even though the Constitution should fail, with this ordinance passed, it would be valid, and the Governor could proceed under it. Now the bonds will not mature for some little time to come but the Governor thinks, and he has good reasons for believing, that even now he can float bonds at 3 1-2 per cent. which are now drawing 5, and that the bondholders will take care of that 1 1-2 per cent between now and the time the old bonds fall due, that is, he is under the impression, and based as I say, upon good reason, that he can now take up the 5 per cent bonds, or a large number of them, and issue in lieu thereof bonds only drawing 3 1-2 per cent under this ordinance, thereby saving to the State 1 1-2 per cent on between $8,000,000 and $9,000,000 from now until the bonds mature. Now I think I have explained the matter fully, and I move that the ordinance be adopted.

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Barbour.

MR. MERRILL—I think that under the rules of this Convention an aye and no vote will have to be taken upon the passage of the ordinance, because an act of the legislature to be valid which authorizes the payment of money out of the treasury, must be adopted on an aye and no vote, and I want to have this matter in such shape that the astute lawyers that come on afterwards can have no reason to object.

THE PRESIDENT—Does the gentleman ask unanimous consent to accept the amendment.

MR. MERRILL—Yes, sir.

There was no objection.

MR. ROGERS—There is no need for an aye and no vote upon the amendment.

THE PRESIDENT—The question will be upon the adoption of the ordinance as amended.

MR. MERRILL—I move the adoption of it, and upon that I call for the ayes and noes. I do not think the call has to be sustained, because under our rule that has to be done any way.

THE PRESIDENT—It seems to the Chair that the gentleman is correct. The question will be upon the passage of the ordinance. The Secretary will call the roll.

During the call of the roll:

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

The leave was granted.

MR. OATES—At any earlier date of the Convention, I offered a well prepared ordinance providing for the refunding of the bonded debt of the State, a matter with which I am familiar, if I am with anything, but like nearly all of the measures I have offered in this Convention, it was voted down. Some action is necessary. This proposition is the next best thing, I have seen presented, and therefore I vote aye.

MR. SANFORD (Montgomery)—I understand that this ordinance provides that the bonds shall not be paid for fifty years. I believe the State ought to have the right to pay its obligations any time it sees fit to do so, and therefore I vote no.

MR. ROGERS (Sumter)—The ordinance does not mean that.

THE PRESIDENT—The Chair will state to delegates that it is not within the rules to explain their vote without obtaining the consent of the Convention.

MR. SANFORD (Montgomery)—I have already explained my vote.

THE PRESIDENT—But the gentleman did it in violation of rules of the House and the gentleman from Sumter called him to order.

MR. SANFORD—I did not intend to violate any rule or law.

MR. ROGERS (Sumter)—I do not want to be put in a wrong attitude with my friend from Montgomery. I asked the Chair to explain the ordinance to him, and said that it did not mean that.

THE PRESIDENT—The Chair will call the attention of the gentleman from Montgomery to Rule 40.

MR. SANFORD—I do not care about the rules. I am more anxious to know the meaning of the ordinance. I admit the rule is correct.

THE PRESIDENT—I will read 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."

MR. SANFORD (Montgomery)—Now I understand that the ordinance signifies that it may be paid at any time before fifty years. It only says that it shall not run beyond that time. Am I correct in that?

THE PRESIDENT—The Chair thinks not. The Chair thinks that the bonds issued will run fifty years, and that they cannot be paid until maturity. The Secretary will continue the call of the roll.

MR. SANFORD (Montgomery)—Then I vote no.

Upon the completion of the call of the roll.

MR. SANFORD (Montgomery)—The ordinance has been shown to me, and it says that it shall be payable at any time not exceeding fifty years; therefore I will change my vote to aye.

The call of the roll resulted as follows, and the ordinance was adopted:

AYES.

Messrs. President,
Almon,
Altman,
Banks,
Barefield,
Beavers,
Beddow,
Bethune,
Blackwell,
Browne,
Bulger,
Burns,
Cardon,
Chapman,
Coleman, of Greene,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Fletcher,
Gilmore,
Glover,
Graham, of Talladega,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Hood,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Bibb,
Jones, of Wilcox,
Kirkland,
Knight,
Long (Walker),
Macdonald,
McMillan (Wilcox),
Malone,
Martin,
Merrill,
Miller (Marengo),
Mulkey,
Murphree,
NeSmith,
Norman,
Oates,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pettus,
Pillans,
Pitts,
Porter,
Proctor,
Reynolds (Henry),
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Smith (Mobile),
Spears,
Spragins,
Studdard,
Waddell,
Walker,
Watts,
White,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),

Total—84.

NOES.

Brooks,
Byars,
Cofer,
Freeman,
Phillips,
Sloan.

Total—6.

ABSENT OR NOT VOTING.

Ashcraft,	Hodges,	Reese,
Bartlett,	Howell,	Renfro,
Boone,	Jones, of Hale,	Reynolds (Chilton),
Burnett,	Jones, of Montgomery,	Robinson,
Carmichael, of Colbert,	King,	Searcy,
Carmichael, of Coffee,	Kirk,	Selheimer,
Carnathon,	Kyle,	Sentell,
Case,	Ledbetter,	Smith, Mac. A.,
Cobb,	Leigh,	Smith, Morgan M.,
Coleman, of Walker,	Locklin,	Sollie,
Cornwall,	Lomax,	Sorrell,
Craig,	Long (Butler),	Stewart,
Cunningham,	Lowe (Jefferson),	Tayloe,
Espy,	Lowe (Lawrence),	Thompson,
Ferguson,	McMillan (Baldwin),	Vaughan,
Fitts,	Maxwell,	Weakley,
Foshee,	Miller (Wilcox),	Weatherly,
Foster,	Moody,	Willet,
Graham, of Montgomery,	Morrisette,	Wilson (Clarke),
Grant,	Norwood,	Wilson (Wash'gton),
Grayson,	O'Neill (Jefferson),	Winn.
Harrison,	Pearce,	

Mr. Brooks here took the Chair.

MR. LONG (Walker)—I ask unanimous consent to introduce an ordinance and have it referred to the Committee on Rules.

MR. O'NEAL (Lauderdale)—I rise to a question of privilege: On yesterday in my remarks in reference to the amendment offered by the delegate from Greene, as to representation——

MR. LONG (Walker)—I have the floor.

Ordinance No. 447, by Mr. Long (Walker) was read as follows:

"Be it ordained by the people of Alabama in Convention assembled, That the Secretary of this Convention is instructed to obtain a sufficient number of the stenographic reports with the indexes thereto and to have the same properly bound so that he may forward each member of this Convention one of the said copies, and he is hereby instructed to forward to each member of this Convention one of said copies as he has obtained the same, and for his services he shall be paid the sum of twenty-five dollars ($25) for which amount the Auditor is authorized to draw his warrant on the State Treasurer, and said sum is hereby appropriated out of the moneys of the State not heretofore otherwise appropriated for paying for such services."

Referred to Committee on Rules.

MR. MERRILL—I move that the ordinance just adopted be engrossed and ordered to a third reading. But on reflection I desire to have it referred to the Committee on Order and Harmony.

Upon a vote being taken the motion to refer the ordinance to the Committee on Order and Harmony was carried.

MR. O'NEAL—On yesterday in my remarks in reference to the amendment offered by the delegate from Greene as to representation, I made the following statement: "I must say that I take exceptions to the remarks made by the gentleman from Barbour when he intimated that unless this amendment was adopted the Constitution would be defeated. While I heartily favor this amendment, yet I do not like to have threats made that unless I do a certain thing, the Constitution will be defeated. I do not think that style of argument should be used in the Constitutional Convention."

Since reading the stenographic report of the remarks of the gentleman from Barbour, for whom I entertain the highest regard, I recognize that I did him an injustice in stating that he made threats that the people of the Black Belt would oppose the ratification of the Constitution unless the proposed amendment was adopted. I so understood him at the time, but it is evident from the stenographic report, that I was mistaken, and it gives me pleasure to withdraw any remarks I made imputing any intention on the part of the delegate from Barbour to threaten those who opposed the amendment.

I also desire to make a correction in the stenographic report. I am reported as saying in reply to the question from Mr. Dent: "I am of opinion that a provision confining the right to vote to white women, would be no violation of the fourteenth and fifteenth amendments." I said just the opposite. I said was of "opinion that a provision confining the privilege to vote to white women would be a violation of the fourteenth and fifteenth amendments."

Also in another sentence, I am reported as saying, "Whenever you depart from that principle, however, you say to the fair women of the State, you must go out and mingle in politics, you must lobby with men on the streets for votes. You lower the high standard which now prevails." The word "however," should be "whenever," which changes the sense.

Also in my remarks on yesterday I am reported as saying this: "They have always been true and loyal, and we of the white counties propose to you that you cut down your voting population by eliminating the great mass of negro votes. We do not say to you that we intend to reduce your representation to your voting strength." What I did say was this: "You have always been true and loyal, and we of the white counties recognizing that under

the suffrage article adopted your voting population will be reduced by the elimination of the vicious and incompetent, we concede it would be manifestly unfair and unjust to reduce your representation to your voting strength." The report as made is entirely misleading as to my meaning.

MR. BROWNE (Talladega)—I rise for the purpose of making a statement in regard to the stenographic report: In my explanation on yesterday of Section 5 of Article XI. on County Taxation, the stenographic report is so full of errors that it is impossible to correct it, and I simply want to say that no one reading it can have any conception of what I was undertaking to say, or the explanation that I made of the contents of the Section. I cannot undertake to correct it, because there is an error in every line.

THE PRESIDENT PRO TEM.—Does the gentleman desire to have the report changed?

MR. BROWNE—No sir, but I desire my statement to go in the stenographic report that the report is so full of errors that it is impossible to correct it without re-writing the whole matter.

THE PRESIDENT PRO TEM.—The next order of business will be the report of the Committee on Amending the Constitution and Miscellaneous Provisions.

The report was read as follows:

Report of Committee on Amending Constitution and Miscellaneous Provisions.

Mr. President.

Your 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 as to the policy of adopting the ordinance, some of its members reserving the right to oppose its adoption.

Under the instructions from the committee, the chairman reports, for the information of the Convention, the facts showing the necessity of 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 the 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.

MR. deGRAFFENREID—I rise to a point of inquiry. Hasn't that report of the committee been once read?

THE PRESIDENT PRO TEM.—The Clerk informs the Chair that it has been read.

MR. deGRAFFENREID—Then all we need is to have the ordinance read.

THE PRESIDENT PRO TEM.—That is all.

MR. deGRAFFENREID—Then the reading of the report is out of order isn't it?

THE PRESIDENT PRO TEM.—It is unless the reading was called for at the time.

The ordinance was then read as follows:

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 Mountain, 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 by this Convention, for a vote of the qualified electors 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 names of all places to be voted on shall be printed, and the choice of the elector 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 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, are defendants, shall, except as otherwise provided by law, be at the Court House herein provided for. Provided, however, That Ashville, in St. Clair County, shall continue to be the county seat until changed by vote of the qualified electors residing in that part of St. Clair County which lies north and 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 the 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 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 courts at the Court House provided for in this ordinance.

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.

MR. BEAVERS—I have a substitute I desire to offer—The Clerk proceeded to read the substitute as follows: "Amend the caption by adding thereto the following, and also to establish a Court House and jail in Shelby County, at some point on the Georgia Railroad in Shelby County, to be determined by election by the qualified electors of that portion of Shelby County lying in precincts 9, 10, 11, 12, 13, 14, 15, 16, 18 in said county,——

MR. deGRAFFENREID—I rise to a point of order. The amendment is not germane to the subject of this ordinance.

THE PRESIDENT PRO TEM—Does the gentleman desire to be heard?

MR. BEAVERS—Yes sir.

MR. MERRILL—Will the gentleman yield the floor to me a moment?

MR. BEAVERS—Yes sir, I will do so.

MR. MERRILL—Mr. Spears introduced this ordinance and the Committee proposes to turn over the rights and privileges of the Committee to Mr. Spears to manage and conduct this matter as he sees fit, and I hope that the Chair will recognize him as if he were the Committee.

MR. BEAVERS—Now on the proposition as to whether this is germane, I want to say that the exact language is used here in every particular except in regard to the territory and location of Court House and jail.

THE PRESIDENT PRO TEM.—The subject matter is the location of a Court House in St. Clair County.

MR. BEAVERS—It is certainly germane to the ordinance, it is identical except as to place and territory, and the provisions are identical with the ordinance.

THE PRESIDENT PRO TEM—The Chair thinks the point of order of the gentleman from Hale is not well taken, and that it is germane.

The Secretary read the ordinance as follows:

Amend substitute for Ordinance No. 320, as reported by the Committee on Amending the Constitution and Miscellaneous Provisions, as follows:

Amend the caption by adding thereto: "And also to establish a court house and jail for Shelby County at some point on the Central of Georgia Railway, in Shelby county, to be determined by an election by the qualified voters of that portion of Shelby county, lying the precincts numbered 8, 9, 10, 11, 13, 14, 15, 16 and 18 in said county." Amend Section 1 by adding thereto the following: "That it shall be the duty of the Judge of Probate of Shelby county to order an election to be held in precincts number 8, 9, 10, 11, 13, 14, 15, 16 and 18 in Shelby county not later than sixty days after the ratification of the Constitution to be submitted by this Convention, for a vote of the qualified electors in said precincts for the selection of a place at which a court house and jail shall be erected and maintained. Officers of said election shall be appointed

and the election shall be conducted and the result ascertained in all things as provided by the laws governing general elections so far as the same are applicable. Upon the ballots to be used at said election the names of all places to be voted on shall be printed, and the choice of the elector shall be indicated by a cross mark before the place of his choice. At the place receiving the highest number of voters at such election, there shall be erected and maintained a court house and jail for the trial of all causes and the transaction of all legal business originating in said precincts 8, 9, 10, 11, 13, 14, 16, 18, and the venue in all actions and suits (other than such as are tried before Justices of the Peace) in which only residents of that portion of Shelby county lying within said precincts 8, 9, 10, 11, 13, 14, 15, 16 and 18 are defendants, shall, except as otherwise provided by law, be at the court house herein provided for. Provided that Columbiana, in Shelby county, shall continue to be the county seat until changed by a vote of the qualified electors residing in that part of Shelby county now embraced in precincts No. 8, 9, 10, 11, 13, 14, 15, 16 and 18 in said county. Amend Section 2 by adding after the word "county" in the first line the words "and the Court of County Commissioners of Shelby County resectively" and by inserting after the word "county" in the third line "and Shelby county" respectively "court house and jail" in line 11 the words "for St. Clair County" and by adding at the end of said section the following: "and such court house and jail for Shelby county shall be completed in every way and ready for the holding of courts and the transaction of legal business on or before the first day of September, 1903."

Amend Section 3 by adding thereto the following "and said officers for Shelby county shall likewise keep offices in the additional court house which shall be erected in accordance with the provisions of this ordinance in the county of Shelby."

Amend Section 4 by inserting after the words "court house" in line 3, the words "or court houses."

Strike out all after the words "Shelby county," in first provision second page and strike out the words "that part of" in said provision.

MR. BEAVERS — I want to say in regard to the amendment I have offered here to this ordinance: That the people of the northern part of Shelby county and in the southern part of St. Clair county want a new county up there. That is the question nearest to their hearts, they want a new county. They came down here before the Committee on State and County Boundaries and made strong representations to that committee that they wanted a general reduction of the area of counties in the State so that they could secure a county up there. They lose out on that proposition because the Convention refused to reduce the minimum area of the counties of this State. Then they came back here and

asked that the Committee on State and County Boundaries report favorably an ordinance similar to the Malone amendment to Section 3 or Article 2 of the proposed Constitution. That committee has reported that ordinance favorably—I did not mean to say reported, but they have passed on it unanimously and authorized the chairman to report that ordinance back to this Convention with a favorable report. Now, I want to make this statement to the Convention that on the representation and showing made before this Committee on State and County Boundaries, on that territory, they made the strongest showing, the most meritorious of any district in the State of Alabama, why they should have a new county, and I refer to each member of that committee to substantiate what I state. I say the people want a new county but if you will not give them a new county, then they want this, it is better than nothing because they are in a bad shape up there. They do not ask this Convention to carve and give them a county, but simply ask to come in as in the Malone ordinance that the State and County Boundaries Committee is instructed to report favorably, in other words, ask you to do what you have already done in regard to the counties of Henry, Dale and Geneva.

MR. PARKER (Cullman)—I desire to say that the gentleman is correct in that the committee was unanimous in that report the other night, upon the statements made that there was no opposition to it, that on yeserday it came to the knowledge of the chairman and other members of the committee that there was a serious opposition, and that those parties desired to be heard before the committee.

MR. BEAVERS—I am glad the chairman made that statement, because I see some people here from my county, I don't know whether to fight this proposition or not. I want ot state that those gentlemen from Columbiana, when we were in the midst of the court house fight, agreed with me that they would not fight me on the new county proposition. Whether they are here to do that or not I don't know except upon the representation of the chairman of the committee. He says that there is opposition, and I see the gentlemen here, and I suppose the opposition is coming from them. So far as opposition from St. Clair county is concerned, I want to say this, that Judge Inzer, a prominent citizen, came down before this committee and asked them to give this section of the county a new county, that they were entitled to it and ought to have it. I understand that my friend, Mr. Spears, from St. Clair has a letter from Judge Inzer in which he states that upon the representation of Mr. Spears that 95 per cent. of the people of that territory would be satisfied with a court house and jail, why that would be all right to get the court house and jail.

MR. SPEARS—Will you permit me to interrupt?

MR. BEAVERS—I will if the gentleman desires to ask a question.

MR. SPEARS—I gave the gentleman the letter to read and Judge Inzer states in the letter——

MR. BEAVERS—I yielded to a question, otherwise I did not. The gentleman can make a statement after I get through.

MR. SPEARS—Judge Inzer states in his letter that he has information of his own that the majority of these people—

MR. BEAVERS—That information comes, I doubt not, through Mr. Spears. I want to state another thing, that Mr. Spears went before that Committee and made a very enthusiastic speech in favor of the original request of this Committee to give these people up there a new county. So far as Shelby County is concerned, three-fourths or four-fifths of Shelby County want this new county. There can be no opposition from Shelby County to this measure unless it come from Columbiana, and as I stated, these gentlemen agreed with me through their representative, Mr. W. B. Browne not to fight this matter. I want to say that I agitated this matter on every stump in Shelby County in the campaign, and I want to say that but for this proposition, I could never have been here representing Shelby County as a Democrat. Now, I want to State as to the topography of the country up there, that these people need some relief. They tell me that they want a new county. They have come down here and asked the Convention twice, and urged them to take some action whereby they could secure a new county up there. They tell me that you won't put them in a position so as to get the legislature to give them a county—if you won't give them a piece of bread, they will take the crumbs, they will take this, it is a great deal better than nothing at all, because those people in the upper part of the country, in order to get to their court house, have to go a distance of anywhere from twenty-five to forty miles through the country. The roads are not very good in Shelby County, and to go by train they must go to Talladega and come around, or to Jefferson by Birmingham and come around, there is no way of getting to the court house without going out of the county by train, I mean otherwise than by private conveyance. I want to lay these facts before the Convention so they can do what is right in the premises. There is no doubt but these people want a new county up there. There may be some little opposition from the county sites—that opposition has not been coming before in the argument before the Committee on State and County Boundaries. The gentlemen could have come there, discussed the question and opposed it. They never did do it. On the other hand, the people from St. Clair came before the Committee and urged for the new county.

THE PRESIDENT—The time of the gentleman has expired.

MR. HEFLIN (Chambers)—I move that the time of the gentleman be extended ten minutes.

The motion to extend the time was adopted.

MR. DENT—Will the gentleman yield for a question?

MR. BEAVERS—Yes, sir.

MR. DENT—What would be the size of the county you propose?

MR. BEAVERS—Under the ordinance which I introduced here two or three weeks ago and which this Committee passed upon and gave a unanimous report, is to allow them to form a county with not less than 400 square miles so as to leave the other county with not less than 500 square miles. I will state to the gentleman that there are 1,497 square miles in the two counties which would enable these people to have a county with 479 miles and leave each of the old counties with 500 miles—70 miles is left in there for the lines to be satisfactory to the people. I laid down the proposition that this Convention has decided that it would be just not to reduce the minimum area, to leave it at 600 for old and new counties, that as a matter of expediency and for the best interests of the people of Alabama, it is best not to reduce this area. I say that in special cases like St. Clair and Shelby, where there is no question, there cannot be a single argument made upon the floor of this Convention to show that this section of country does not need a new county. No man can rise here and state one thing as a valid reason why this section should not have a new county. The taxable values are here, they are able to support it. I will state that the population is not quite sufficient to do it now. I would say that there are anywhere from 15,000 to 20,000 persons in there now, but in a few years they will have double the necessary population. I say, gentlemen, when we finish this proposed Constitution, and it is ratified by the people of Alabama, as I believe it will be, that it ties the people in this section of the country for perhaps fifty years, because when we complete this Constitution, I think it will be such a wise instrument that it will not be disturbed within fifty years to come. That being true, these people will be bound hand and foot.

They want to go out for themselves and form a new county so as to give them a county site and work on the road, macadamize their roads, and all the other advantages that come with a county seat. I say that they would be absolutely cut off from it. And why? Simply because they lack a few square miles of coming within the requirements of the Constitution, and when they are able to comply with every requirement. This Convention has already granted just what these people want in the matter of the counties of Geneva, Dale and Henry. We want to come in under that, but if this Convention sees fit not to give the people what they

want, then as I say they will take whatever you give them, because they are in a bad shape up there. Now, Mr. President, I think it would be wise for this Convention to take that course, and I am going to make a motion and test the sense of the Convention, that this ordinance and amendment be laid upon the table to be taken therefrom and be reported when the report of the Committee on State and County Boundaries in regard to this territory is made, or when it comes up.

MR. SPEARS—I hope the gentleman won't make that motion until I can be head from. Mr. President and gentlemen of the Convention, the first thing I want to do is to have the letter read from Judge Inzer of St. Clair County, and I will ask the Clerk to read it.

The Clerk read the letter as follows:

Ashville, Ala., Aug. 1, 1901.

Hon. N. B. Spears, Montgomery, Ala.:

Dear Sir—Your appreciated favor of the 30th ult., has been received and contents noted I supposed after the proposition to build a Court House in Coosa Valley was made, the people over there, or a large majority of them, were content and that nothing further would be done looking to the making of a new county. You say that 95 per cent. of the people over there will be satisfied with the erection of a Court House, and if this is done they prefer remaining in the old county. I feel sure from the information I have, that a large majority of our people over there prefer remaining in the old county provided they can have a Court House in the valley, and this I am sure they will obtain if they desire it. So I think it would be well for you to press through the Convention the pending ordinance, authorizing and empowering the Commissioners' Court of St. Clair County to build Court House and jail at some point in Coosa Valley, to be selected by a vote of the people, etc.

When I said to you in Montgomery in June last that I was willing that the people of Coosa Valley should have a Court House and jail for their convenience, I meant all I said. And I desire that they have nice buildings erected for such purpose at the cost of the county, and I hope this will be done, and as speedily as it can well be done. So I again say press your measure, authorizing the Commissioners' Court to commence the good work as soon as possible. You can show this letter to any one you wish.

Yours truly,
John W. Inzer.

MR. SPEARS—Mr. President and gentlemen of the Convention, I hope you will give me your kind attention while I undertake to explain the situation in St. Clair County. As the report of the

Committee shows you, St. Clair County is divided into two parts by what is known as the Backbone Mountain, which reaches from the east boundary line of the county to the west boundary line. This Backbone Mountain is very rough, rugged, barren and difficult to cross, it is hard to get up and hard to get down for man or beast. The county site, the town of Ashville, is on the north side of Backbone Mountain. Between the foot of the Backbone Mountain on the north side and the county seat we have a strip of land that we call the flatwood. It is a boggy place and you can hardly get through it in wet weather. This country averages in width from three to five miles, so the people of the Coosa Valley on the south side of Backbone Mountain where it is proposed to build a Court House, have to go through that flat woods and over the mountain. These people in going to the present county seat have to cross the mountain, and when they get across have to go through the flat woods. A great many of the people of St. Clair County on the south side, where we want the Court House, live forty-five miles from the Court House. They never have any business on that side of the mountain except the business of going to court and discharging their duties as citizens when summoned as jurors, litigants, etc., they have no other business in that part of the country at all, no more than in Montgomery County. They never go over there to trade, never go over there for a doctor, have no business whatever, and it is to go to court and to go to court alone that takes the people of the Coosa Valley to Ashville. Now, let me call your attention to another fact. In 1888, we had an act passed by the Legislature at Montgomery authorizing an election to move the county seat from Ashville to a more convenient place. We did hold the election, and the question was removal or no removal, and the people decided to move the Court House by about 600 majority. Then the next election provided under the act was for the location of the county seat. We had a second election and there were so many towns running that no town got a majority, and that left the Court House at Ashville, where it is now. We had so much bitterness and so much prejudice and bad feeling engendered in the minds and hearts of our people growing out of that campaign in 1888, that we have never wanted another election, and we have looked forward to this Convention with a great deal of anxiety and hope, expecting when this Convention would assemble we would get relief from the troubles our people have endured ever since the State was admitted into the Union. I say that the people of the Coosa Valley have looked forward to the holding of this Convention with the greatest anxiety, expectation and hope, believing that this Constitutional Convention would give them relief from the difficulties that they have labored under so long. I hope you will bear with me a little further. When this Convention was called we all expected that the Convention would reduce the area of the counties from 600 to 400 square miles. I hope you will bear that in mind, that we expected that. Judge Inzer expected that and

came down here and went before the Committee on State and County Boundaries in advocacy of that policy. I went before the Committee and I made a talk and I was in earnest. Before Judge Inzer left the city he and I consulted together, and we concluded that we had discovered that a majority of the Convention were averse to cutting down the size of the counties; we thought we discovered a disposition on the part of the majority of this Convention not to reduce the minimum size of counties to 400 square miles. We had a talk and Judge Inzer said, we can build a Court House and jail in the Coosa Valley somewhere convenient, to be selected by a vote of the people at an election to be held for that purpose, we can do that and tax the whole county to build a Court House and jail, and give you people on your side of the mountain all the relief they want. I will go home and talk to the people on the north side of the mountain on that subject, and he did go home, and he did do what he promised. He went there and talked to the biggest men, the richest men, the Democrats at the Court House and all along the north side of the mountain, and I have letters here written me that Judge Inzer went to see these people, that he had been there talking to them on the subject. After getting all these letters, I introduced that ordinance. Now, let me say something else.

MR. JENKINS—Can you not build a court house and jail in your county by the act of the legislature?

MR. SPEARS—We could do it. We believe we could do it, because the people are united upon this point. But whatever the legislature can do in a matter of this kind, another legislature can undo, and it would make it the political foot ball to be kicked here and there, for the politicians that might want to run for office in the county or for the legislature. We talked that matter over and we do not want to build a court house and jail and set out shade trees and induce people to buy land and then have some politician to raise the question and stir up prejudice and tear it down as they have been doing in Blount County. Therefore, we conclude it better to have relief given by this Convention so it would give it a kind of constitutional character and when we leave it to the people to select the place by a vote they will build a court house and let it stand.

MR. O'NEAL—If we give you the additional court house that you desire in your county, would it be popular among your people and would the people of your county ratify the Constitution, in your judgment?

MR. SPEARS—I will say this in reply to that question.

MR. O'NEAL—I just asked for information.

MR. SPEARS—I will just state the facts in the case. I have been approached by some of the gentlemen on the floor of this

Convention this morning who wanted to know if I would agree to vote for the ratification of the new Constitution if they passed this ordinance. I said to the people that this is not a fair question to ask. I said give us justice and see what we will do. But in reply to your question, as a matter of information, I will say that people of Coosa Valley and St. Clair County came before the Committee, of which Mr. Foster was Chairman, and they told the Committee that the people of Coosa Valley and the country to be affected by this ordinance would almost to a man support the Constitution; that they would shut their eyes to anything you put in it, because they want this relief. And if you want me to tell you further, they believe this Constitution is going to be ratified anyhow.

MR. ROGERS—They know it, don't they?

MR. SPEARS—They pretty nearly know it, yes, sir. I do not want to be misunderstood about this. I would not surrender my convictions as a man upon questions of constitutional government and constitutional liberty for a hundred court houses. And I do not believe the Convention will undertake to put me in that attitude, but treat me right and treat my people right and you take the chances of my treating you right.

MR. O'NEAL—I desire to say that the gentleman misunderstands me, if he thinks I intended to put him in that attitude. I simply ask his judgment as to how this matter would be received by his people.

MR. SPEARS—No, I do not think you did. I will say on that line, that the people of Coosa Valley have been led to believe it is the purpose of this Convention to give them a new Constitution that will be better for them and the State of Alabama than the one we now have. They have been led to believe and they expect that this Convention will give them a new Constitution that will forever fix and make it certain and everlasting that the white people of Alabama will rule every nook and corner of it without any question. (Applause.) That is not all we have been led to believe. They have been led to believe by a hundred promises made on this floor and by the platform of the Democratic party of Alabama written and adopted by three State Conventions that no white man in Alabama, worthy to be a white man and a citizen, would be disfranchised. Now, then you have Coosa Valley and the people of Coosa Valley that I represent. I want to say this, I have a petition signed by all the living Probate Judges of St. Clair County, the best Democrats and best men in it, and they ask the Convention to adopt this ordinance.

MR. BROWNE—I move that the time of the gentleman be extended ten minutes.

Upon a vote being taken the time was extended ten minutes.

MR. BURNS—As a member of the Committee, I was going to make a motion to extend the time.

THE PRESIDENT—The time of the gentleman has been extended.

MR. MERRILL—I want to make a statement to the presiding officer, that I made to the former occupant of the Chair. The Committee desires that the gentleman from St. Clair shall have a fair opportunity to present his matter and so far as the Committee are concerned, they have turned the matter over to him.

The Secretary read the following petition:

Ashville, Ala., July 31, 1901.

To the Constitutional Convention now in session at Montgomery, Ala.:

Gentlemen—We, the undersigned citizens, residing in the northern part of St. Clair County, hereby petition your honorable body to adopt the ordinance authorizing the Commissioners' Court of this county to build a court house and jail on the south side of Backbone Mountain, the place for the same to be selected by ballot by the qualified voters living on that side of the mountain. We believe that this would meet with the approval of a large majority of the people living in this county.

(Signed) W. S. Forman, Judge of Probate; M. E. Forsyth, County Treasurer; Jas. L. Henry, E. J. Robinson, M. M. Smith, R. R. Hodges, W. R. Hood, Geo. N. Hodges, Jr., J. P. Phillips, John B. Bass, W. T. Smith, C. C. Montgomery, Thos. Lumis, John Yarbrough, A. Crow, W. B. McBrayer, Jas. T. Greene, J. Manly Inzer, John W. Inzer, T. J. Hodges, R. M. Hodges, Jas. L. North, Sheriff; T. H. Hyatt, J. A. Roberts, W. T. Hodges.

MR. SPEARS—Now, gentlemen, if you will give me your attention, I want to explain that that petition is signed by Judge Foreman, Probate Judge. It is signed by Judge James T. Greene, former Probate Judge, who lives there, it is signed by E. J. Robinson, another Probate Judge; it is signed by John W. Inzer also, and now, gentlemen, I want to say to you it is signed by all of the Democratic lawyers in the town of Ashville, and signed by the merchants and signed by the best men in St. Clair County, and they are all anxious for the adoption of this ordinance. The men who signed that petition represent in my judgment, $400,000 on which they pay taxes in St. Clair County, and they are Democrats, if that will do you any good. I do not know if that has anything to do with it, but I want to call your attention to some remarks made by Mr. Beavers in regard to the people of Coosa Valley wanting a new county. I have letters here, gentlemen, from H. B. Guy, one of the most prominent merchants in Coosa Valley, perhaps he does more business than any one merchant, and I am informed that

he is down as the biggest tax-payer in the county. He is a Democrat and a Hardshell and he writes in his letter, "Give us this new court house." I have letters from other members of the Democratic Committee, of the Democratic party, in Coosa Valley, asking for this court house. I have a letter from John G. Mabry, Secretary and bookkeeper of the Lathrop-Hatton Lumber Company. He was until a short time ago, Chairman of the Executive Committee of the Democratic party in St. Clair County, and he writes to give us this court house. I have a letter from Dr. Crump, a leading physician, and from Dr. Brown, another leading physician. I have letters from the best men in Coosa Valley, and I cannot help what Mr. Beavers may think about it, I want to say to you that ninety-five per cent of the entire population of St. Clair County will be happy—not only satisfied, but happy—when they hear the news that you have given them an opportunity to have a court house and jail on their side of the mountain. Now, Mr. President and gentlemen of the Convention, unless some one else wants to speak on this question, I move the previous question on the adoption of the ordinance and the amendment offered by the gentleman from Shelby.

MR. JENKINS—I move to lay the motion for the previous question on the table.

MR. O'NEAL—I make the point that the motion is out of order.

THE PRESIDENT—The gentleman moves the previous question on the adoption of the ordinance and the amendment. In the opinion of the Chair, it is not in order to lay a motion for the previous question on the table. The gentleman can move to lay the ordinance on the table or the amendment.

MR. JENKINS—I move to lay the amendment and the ordinance on the table.

MR. deGRAFFENREID—I call for a division of the question.

THE PRESIDENT—The question will be first upon the motion to lay upon the table the amendment offered by the gentleman from Shelby.

Upon a vote being taken, the motion to table was lost.

THE PRESIDENT—The motion is to table the ordinance reported by the Committee.

Upon a vote being taken, the motion to table was lost. The main question was ordered.

THE PRESIDENT—The question is upon the amendment offered by the gentleman from Shelby.

MR. BROWNE—I call for a reading of the amendment.

The amendment was again read.

MR. BROWNE—I move to reconsider the vote by which the previous question was ordered upon that amendment, for the reason that I have been misinformed, and so have members of this Convention, as to the contents of that amendment. It was stated that it was identically the same as the one from St. Clair, when it was not.

MR. BEAVERS—I want to say it is identical. I reiterate my statement.

THE PRESIDENT—The question is not debatable. The question will be upon the suspension of the rules. The Chair will state to the gentleman from Talladega that under the rules of the House, it is not in order to reconsider a motion whereby the previous question has been ordered. Rule No. 27, "When a vote has passed, except on a previous question, or on motion to lay on the table,, etc.," it may be reconsidered.

MR. SAMFORD (Pike)—I rise to a point of parliamentary inquiry. Could I make a motion now to recommit the whole thing to the Committee?

THE PRESIDENT—Not after the previous question has been ordered.

MR. SAMFORD (Pike)—A thing of that sort is powerfully dangerous.

THE PRESIDENT—The question is not debatable.

MR. ROGERS—Would it be in order to move to lay the amendment offered by the gentleman from Shelby on the table?

MR. MULKEY—A point of order. That has been voted down.

THE PRESIDENT—That motion has been voted upon.

MR. ROGERS—We do not want to knock anybody out. We want to consider the amendment.

MR. BROWNE—I have the permission of the author of this ordinance to ask unanimous consent to strike out of this amendment the first proviso on the second page, which reads as follows: "Provided, that Columbiana, in Shelby County shall continue to be the county seat until changed by vote of the qualified electors residing in that part of Shelby County not embraced in precincts Numbers 9, 10, 11 and 12. I ask to be allowed to draw it so that there can be no question about it. Now, strike out the words in this proviso after the words "Shelby County." Strike out the words of that part of the proviso, "Provided that Columbiana in Shelby County, shall continue to be the county seat until chang-

ed by the vote of the qualified electors residing in Shelby County.' I ask unanimous consent of the Convention, by agreement with Mr. Beavers.

Unanimous consent was given and the amendment adopted.

THE PRESIDENT—The question is upon the adoption of the ordinance as amended.

Upon a call of the roll, the vote resulted as follows:

AYES

Messrs. President,
Altman,
Almon,
Banks,
Barefield,
Beddow,
Bethune,
Blackwell,
Brooks,
Browne,
Bulger,
Burns,
Byars,
Cardon,
Carmichael, of Coffee,
Cofer,
Davis, of Etowah,
deGraffenreid,
Duke,
Fletcher,
Freeman,
Gilmore,
Glover,
Graham, of Talladega,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Hood,
Howze,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Wilcox,
Kirkland,
Knight,
Ledbetter,
Lomax,
Long, of Walker,
Lowe, of Lawrence,
Macdonald,
McMillan (Wilcox),
Malone,
Miller (Marengo),
Mulkey,
Murphree,
NeSmith,
Norman,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Phillips,
Pillans,
Pitts,
Porter,
Reynolds, of Henry,
Rogers (Lowndes),
Rogers (Sumter),
Sanders,
Sloan,
Smith (Mobile),
Spears,
Stoddard,
Waddell,
Walker,
Watts,
Weatherly,
White,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Winn,

TOTAL—80

NOES

Dent,
Eley,
Eyster,
Jenkins,
Merrill,
Oates,
Pettus,
Samford,
Spragins,

TOTAL—9

ABSENT OR NOT VOTING

Ashcraft,	Greer, of Perry,	Proctor,
Bartlett,	Harrison,	Reese,
Beavers,	Hodges,	Renfro,
Boone,	Howell,	Reynolds (Chilton),
Burnett,	Jones, of Hale,	Robinson,
Carmichael, of Colbert,	Jones, of Montgomery,	Sanford,
Carnathon,	King,	Searcy,
Case,	Kirk,	Selheimer,
Chapman,	Kyle,	Sentell,
Cobb,	Leigh,	Smith, Mac A.,
Coleman, of Greene,	Locklin,	Smith, Morgan M.,
Coleman, of Walker,	Long, of Butler,	Sollie,
Cornwall,	Lowe, of Jefferson,	Sorrell,
Craig,	McMillan, of Baldwin,	Stewart,
Cunningham,	Martin,	Tayloe,
Davis, of DeKalb,	Maxwell,	Thompson,
Espy,	Miller (Wilcox),	Vaughan,
Ferguson,	Moody,	Weakley,
Fitts,	Morrisette,	Willet,
Foshee,	Norwood,	Wilson (Clarke),
Graham, of Montgomery,	O'Neill, of Jefferson,	Wilson (Washington).
Grant,	Pearce,	

And, by a vote of eighty ayes and eight noes, the ordinance as amended was adopted.

MR. MERRILL — I desire to know what is the proper course, whether this ordinance needs any further action on the part of the Convention; whether it ought to be engrossed and ordered to a third reading, or whether it is now passed without further action of the Convention?

THE PRESIDENT—The usual practice has been after it is adopted that it be ordered engrossed and referred to the Committee on Harmony.

MR. MERRILL—Then I ask that this ordinance take that course.

THE PRESIDENT—The ordinance will be engrossed, printed, and referred to the Committee on Order, Consistency and Harmony.

MR. BROWNE—It should be engrossed and ordered to a third reading.

THE PRESIDENT—It has been read three times. Under the rule, the ordinance would be referred to the Committee on Order, Consistency and Harmony and be printed. The Chair will so direct and make the same reference in regard to the ordinance introduced by the gentleman from Barbour.

MR. HEFLIN (Randolph)—I ask unanimous consent to make a report for the Committee for Schedule, Printing and Incidental Expenses.

MR. PITTS—I object.

MR. HEFLIN—I move that the rules be suspended and that I be permitted to make this report for the Committee.

Upon a vote being taken a division was called for, and upon a further vote of 41 ayes and 14 noes, the rules were suspended and the report ordered read.

The Secretary read the report as follows:

Report of the Committee on Schedule, Printing and Incidental Expenses:

Mr. President:

The Committee on Schedule, Printing and Incidental Expenses has instructed me to make the following partial report, viz:

The Committee has audited the accounts hereto attached and finds that the State of Alabama is charged by parties named in this report the amounts set opposite their names for articles furnished said State for us of Constitutional Convention, all of said accounts are itemized as shown by bills hereto attached.

We find said State of Alabama charged by D. F. Gorrie of Montgomery, Ala. $22.50

We find said State of Alabama charged by Jos. S. Wing of Montgomery, Ala. 44.70

We find said State of Alabama charged by Tennille Furniture Co., of Montgomery, Ala. 12.00

We find said State of Alabama charged by B. Wolff of Montgomery, Ala. 12.75

We find said State of Alabama charged by Jno. L. Cobbs and Co., of Montgomery, Ala. 29.15

We find said State of Alabama charged by Wolff and Loeb of Montgomery, Ala. 28.50

We find said State of Alabama charged by Ellis and Gay of Montgomery, Ala. 18.00

Your Committee has carefully examined each account and after a careful examination of each item named in said accounts, have come to the conclusion that many of the charges are excessive, and we recommend that the following named parties or firms be paid the following amounts:

D. F. Gorrie	$17.50
Jos. S. Wing	28.50
Tennille Furniture Company	12.00
B. Wolff	11.00
Jno. L. Cobbs and Co.	20.00
Wolff and Loeb	25.00
Ellis and Gay	10.00
Miss Mamie Offutt	8.00

All of which is respectfully submitted.

Jno. T. Heflin,

Chairman Committee on Schedule, Printing and Incidental Expenses.

MR. HEFLIN—I ask that the report take its usual course.

THE PRESIDENT—The report of the Committee will be printed under the rules.

THE PRESIDENT—The next order of business will be the consideration of the report of the Committee on Representation.

MR. PITTS—I move that the Article be taken up Section by Section.

Upon a vote being taken, the motion was carried.

The Secretary read Section 1 as follows:

Sec. 1. The whole number of Senators shall be not less than one-fourth, or more than one-third of the whole number of Representatives.

MR. PITTS—I will state, Mr. President, that that is an exact copy of the old Constitution, and I move its adoption.

Upon a vote being taken, the Section was adopted.

The Secretary read Section 2 as follows, (with the minority report):

Sec. 2. The House of Representatives shall consist of not more than 105 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.

MINORITY REPORT.

We recommend that Section 2 be amended by striking out the words "one hundred members." Also striking out the words "next session" and insert "first session."

MR. PITTS—I submit, Mr. President, that that question has already been settled by the Convention in the Legislative Department. They fixed there the number of representatives in the House at 105, and the number of Senators at 35, and I therefore move to lay the minority report on the table.

MR. GRAYSON—That being the report of the minority of the Committee, I think I have a right to make some statement with reference to it.

THE PRESIDENT—Does the gentleman from Dallas withdraw his motion to table?

MR. PITTS—Yes sir.

MR. JENKINS—I rise to a point of order. This matter has already been passed upon by the Convention.

THE PRESIDENT—It seems to the Chair that the point is well taken without a motion to reconsider.

MR. GRAYSON—I merely wanted to state that we desire to withdraw the report of the committee, the minority report.

Unanimous consent was given to withdraw the minority report of the committee and the same was withdrawn.

MR. PITTS—I move the adoption of Section 2.

Upon a vote being taken the section was adopted.

Section 3 was read as follows:

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.

MR. FITTS—I move the adoption of Section 3.

Upon a vote being taken the section was adopted.

The Secretary read Section 4 as follows:

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 shall not be changed until the next apportioning 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 continguous to each other.

MR. OATES—I rise for the purpose of suggesting to the Chairman of the committee that the word "Legislature" has been adopted instead of "General Assembly", and should be changed where that occurs in this ordinance.

MR. deGRAFFENREID—That will be done by the Committee on Harmony.

MR. PITTS—I move the adoption of Section 4.

Upon a vote being taken the section was adopted.

Section 5 was read as follows:

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.

MR. PITTS—That is an exact copy of Section 5 in the old Constitution and I move its adoption.

Upon a vote being taken the section was adopted.

Section 6 was read as follows:

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 nineteen hundred and ten, 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, Marengo, 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.

MR. PITTS—I move the adoption of Section 6.

Upon a vote being taken the section was adoption.

Section 7 was read as follows:

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, Tuscaloosa; Twelfth District, Fayette, Lamar and Walker; Thirteenth District, Jefferson; Fourteenth District, Pickens and Sumter; Fifteenth District, Autauga and 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.

MR. PITTS—I move the adoption of the section.

MR. JENKINS—I would call the attention of the Chairman to line twelve. We have the twenty-third district Henry County and in the last line we have the thirty-fifth district Dale and Geneva. The Senator from the twenty-third district lives in Dale County, and he is a hold-over Senator. He was elected as Senator from the twenty-third district and if it is passed like it is, he will

be legislated out of office. I suggest this amendment, that we strike out in line twelve the word "Henry" and insert in lieu thereof, the word "Dale and Geneva." That would keep him in the district, and insert in the last line the word "Henry."

MR. PITTS—We will accept that and ask unanimous consent.

MR. JENKINS—I desire to amend the amendment.

THE PRESIDENT—The question has not been submitted to the Convention. You may alter it.

MR. SAMFORD (Pike)—Mr. President, under the former ruling of the Chair, as I understand it, in discussing this matter, I would have to address myself to the amendment.

THE PRESIDENT—Incidentally the Chair thinks the gentleman may speak to the section.

MR. SAMFORD—I desire to say to the Convention that the report of this Committee does the senatorial district that I have the honor to represent, a gross injustice. The twenty-fifth senatorial district is composed of the counties of Pike, Coffee and Crenshaw and the population of those three counties approximate 70,000. Upon the other hand, the report of the Committee takes the County of Henry with about 35,000 or 36,000 and, gives it two representatives and one Senator. The county of Barbour with about 35,000 has two representatives and one Senator.

MR. JENKINS—We have nearly 36,000.

MR. SAMFORD—Well, nearly 36,000. The County of Hale has thirty odd thousand with two representatives and one Senator.

MR. ROGERS—Hale and Greene are together.

MR. SAMFORD—Well, Hale and Greene together. The County of Calhoun, as I understand, has a Senator and two Representatives and some thirty-odd thousand. I am informed as to that by the gentleman from Montgomery. I have not looked into the county of Calhoun, but at any rate, Mr. President, it seems to me that this Committee should not leave the counties in a condition like that. In the first place, I contend that this Constitutional Convention is no place to fix representation; that it is a matter which should be left to the General Assembly, but when I made that suggestion I am confronted with the proposition that that Constitutional Convention of 1875 did embody it in their Article, but the circumstances are entirely different.

At that time we were reforming the State government; we were adjusting ourselves to the circumstances of reconstruction; we were beginning anew to build a house for our people to abide

in, and that being the case, it was necessary that we should form as many parts of its as possible. We were evolving from Republican rule and coming into Democratic rule, and that Constitutional Convention admitted that it was legislative by providing that it should continue no longer than the next legislature or the next session of the legislature. Now, then there is no necessity for this Convention changing its representation at all. Let the matter go over until the General Assembly meets, and let the General Assembly handle this matter. It is entirely within their province; it is entirely within their jurisdiction.

MR. ALMON—Isn't it a fact that this report also provides that it shall remain until the next census is taken?

MR. SAMFORD (Pike)—Yes, sir, that is all true, but there is no necessity for this Convention taking hold of this matter. The next General Assembly meets next year——

MR. HINSON—I rise to a point of order, the gentleman is not speaking to a question before the House. This Convention has already decided to increase the representation, and has already taken hold of the matter by adopting these sections. He is speaking against an increase and a change when the Convention has already made the increase.

THE PRESIDENT — The Chair has just ruled before the gentleman came in that the Convention having passed upon the number of Senators, that question would be considered as decided unless it was reconsidered, or a motion by independent ordinance introduced to vacate and rescind it.

MR. SAMFORD (Pike)—I am not attempting to vacate and rescind it. It makes no difference to me if the representation is made 100 or 150. The point I am addressing myself to is that the apportionment of this representation should be left to the General Assembly of the State, and not create the dissatisfaction that will arise by giving to certain portions of the State such entirely partial representation. I have been in favor of standing by certain counties in this State with regard to their representation based upon their population. I have been in favor of adhering to that rule, but they come in here, and not only do they demand representation based on population, but with regard to the Senators they require our people to have twice as many population, to have a Senator, as do the counties that have been claiming representation by population. That is not fair, and the people of this State will never agree that it is fair. I am willing to go as far as any man towards satisfying that section of our State wherein live some of the noblest characters that the State has ever produced, men who have always stood by good government and honest government, and stood by the white people of the State, but when they make such unequal discriminations, it will not be appreciated by the

people of the counties that I represent, and I dare say that any fair-minded man can see it in a moment. I ask you why it is that you cannot take the county of Henry and put it on the county of Geneva——

THE PRESIDENT—The time of the gentleman has expired. The Chair recognizes the gentleman from Dallas.

MR. PITTS—The Committee on Representation labored earnestly and diligently to so arrange these Senatorial districts as to have them as near in population as possible and as satisfactory to all of the different counties as possible. In order to be fair and honest, we submitted to the Chairman of the Committee on Legislative Department our report, and asked him to criticise it and see if he could do any better. He found that there had to be at least one or two congested senatorial districts, as we found, but how did he fix it? In this very manner. He puts Washington, Baldwin, Escambia and Covington, four counties together, in one Senatorial District, and he puts Coffee and Pike together. In other words, he takes Covington from Coffee and Pike, and puts it with Washington, Baldwin and Escambia. Well, Covington objected to that. She wanted to remain in the same Senatorial District. Coffee objected to it. They said, of course, we would like to have a Senatorial District to ourselves, if possible, but rather than put us into another Senatorial District, let us remain together, and we will be satisfied, even if we are a congested district. Of course, I did not consult every particular member, but we talked with them. This is a congested district, but we had to congest one somewhere, and it was agreeable and satisfactory to all of them except to the delegate from Pine, that they should be. Now, I move the previous suestion on the amendment on the Section.

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

The main question was ordered.

MR. JENKINS (Wilcox)—I offer an amendment.

The amendment was read as follows:

"Amend Section in line 12 by striking out the word 'Henry' and inserting in lieu thereof the words 'Dale and Geneva;' also amend by striking out the words 'Dale and Geneva' in line 18 and inserting in place thereof the word 'Henry.'"

MR. OATES — Does that make any change except in the number?

A DELEGATE—Just changes the number.

Upon a vote being taken the amendment was adopted.

Upon a further being taken the Section as amended was adopted.

MR. SAMFORD (Pike)—I desired to change my vote before the vote was announced, so that I could move a reconsideration.

MR. GREER (Calhoun)—I rise to a point of order——

MR. SAMFORD (Pike)—I understand I am cut off.

THE PRESIDENT—The Chair did not understand that the gentleman from Pike wished to take any such action. The Chair regrets very much——

MR. SAMFORD—I understand that, the Chair did not intend to do that, but I suppose I have some friend on this floor that will make the motion for me.

MR. PITTS—I move that the Article be engrossed and ordered to a third reading.

Upon a vote being taken, the motion was carried.

MR. SAMFORD (Pike)—I move that the vote by which this ordinance was ordered engrossed and to a third reading be reconsidered.

MR. LONG (Walker)—I move to lay that motion on the table.

THE PRESIDENT—The motion is not before the Convention for consideration.

MR. WILLIAMS (Marengo)—I move that the rules be now suspended in order that we may take up the motion to reconsider.

Upon a vote being taken, the motion to suspend the rules was carried.

MR. WILLIAMS—Now I move that the motion to reconsider be laid upon the table.

MR. deGRAFFENREID—I desire to offer as a substitute that it be indefinitely postponed.

THE PRESIDENT — A motion to table cannot be substituted. Should it fail, it would be in order for the gentleman to make his motion.

Upon a vote being taken, the motion to table the motion to reconsider was carried.

THE PRESIDENT—The next order before the Convention will be the report of the Committee on Exemptions.

MR. HOWZE—There is no change whatever in any particular in the Article as we find it in the Constitution as it now exists. It is identically the same in every respect, and unless some

member has an amendment which he wants to offer to some particular Section. I think we will save time by submitting it as a whole and have it read and adopted as a whole and I so move unless I see an indication on the part of some member to offer an amendment.

MR. WATTS—I desire to offer an amendment to Section 2.

THE PRESIDENT—The gentleman will send up his amendment.

MR. WATTS—I have not written it because we have not reached the Section.

THE PRESIDENT—There is no rule of the Convention that articles shall be considered by sections.

MR. WATTS—I want to make a proviso in that second section that in the event of the insanity of the wife, the legislature may provide for the disposition of the homestead.

MR. MULKEY—I have an amendment I desire to offer.

MR. HOWZE—I move that it be taken up section by section, because if any one desires to amend it, I have no objection.

Upon a vote being taken the motion was carried.

Section 1 was read as follows:

Sec. 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 thirteenth day of July, 1868, or after the ratification of this Constitution.

MR. HOWZE—I move the adoption of Section 1.

Upon a vote being taken Section 1 was adopted.

Section 2 was read as follows:

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, 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 any other process from a court, for any debt contracted since the thirteenth day of July, eighteen hundred and sixty-eight, or after the ratification of this Constitution. Such exemptions however, shall not extend to any mortgage lawfully obtained, but such mortgage, or other alienation of said homestead by the owner thereof, if a mar-

ried man, shall not be valid without the voluntary signature and assent of the wife to the same.

MR. OATES—I desire to ask the Chairman a question. If I understand the language, "eighty acres of land" there it has been held by the Supreme Court that it is not a limitation and that the legislature can add as much more as they please, hasn't it?

MR. HOWZE—Yes, sir.

Amendment to Section 2 by Mr. Watts was read as follows:

Add to Section 2 of the report of the Committee on Exemptions the following: "Provided that the legislature shall provide for the disposition of the homestead in the event of the insanity of the wife or husband."

MR. MURPHREE—I have an amendment.

THE PRESIDENT—The Chair will inquire of the gentleman from Pike if his amendment relates to the amendment offered by the gentleman from Montgomery.

MR. MURPHREE—No, sir.

MR. COLEMAN (Greene)—I desire to read to this Convention one section of the Democratic platform, Section 6: "That the provisions of the present Constitution relating to exemptions of real and personal property shall remain unchanged." That was written that way purposely, in order that the people might be quieted on the subject of exemptions, and it was adopted unanimously. We have stood by the platform thus far and I protest against breaking it this time. I move to lay the amendment on the table.

MR. WATTS—I request the gentleman from Greene to withdraw that motion for a moment.

MR. COLEMAN—I will withdraw it if you will allow me a part of your time in which to renew it.

MR. WATTS—I don't think this amendment is open to the objection made by the gentleman from Greene. The platform, when it spoke about changing the exemptions, referred necessarily to the amount of the exemption and the waiver of exemption, but it did not refer to putting it within the power of the wife or the husband if misfortune should visit the family in the shape of insanity, to enable them to dispose of their property, and the Convention will readily recognize, at least those who are lawyers, that a great difficulty has arisen as to the disposition of homesteads where the wife is insane, and that although the legislature has attempted by an act to remedy it, it is the opinion of a large number of lawyers with whom I have talked over that matter, that that act is unconstitutional, and should the wife unfortunately become

insane, that there could be no disposition of the homestead, no matter what the desire may be and I think this Convention ought to adopt the amendment and that it is not a violation of the Democratic platform. I yield to the gentleman from Greene.

MR. COLEMAN (Greene) — The gentleman's argument of itself refutes his proposition. What is the necessity of legislating if it is not a change in the law? But, Mr. President, it is impossible to conceive of a case of insanity that the courts of this country are not competent to deal with.

THE PRESIDENT—The Chair will call the attention of the gentleman from Greene to the fact that the Chair recognized the gentleman from Jefferson, the Chairman of the Committee.

MR. COLEMAN — I arose simply because he promised to give me a part of his time.

MR. HOWZE—I merely want to add a few words to what the gentleman from Greene has said. Not only was it put in the Democratic platform, but the legislative enactment calling this Constitution has provision of similar character in it. Undoubtedly many people voting for this Convention were influenced by that provision. I read that: "That if such Convention be called, it shall not incorporate in any Constitution it may adopt any clause or matter making any change in the present exemption laws of this State." It is even broader than the platform on which most of us were elected, and this committee were of course governed by that as well as by the platform. We regarded it as being a change if we change anything in it.

MR. OATES—Don't you think that the exemption law as it stands is very incomplete and is unequal to the beneficiaries under it and that it could be greatly improved but for that plank in the platform?

MR. HOWZE—I think there are certainly changes that could be made.

MR. OATES—Beneficial?

MR. HOWZE—Beneficial; but we were governed by those two declarations and the committee thought it right and proper that they should make no change and consequently have reported this article in this shape. I therefore move to lay the amendment on the table.

Upon a vote being taken a division was called for and the motion to table prevailed by 49 ayes and 12 noes.

Amendment by Mr Murphree was read as follows: "Strike out eighty acres and insert 'shall be one hundred and sixty acres and no more.'"

MR. MURPHREE — Notwithstanding the fact that the exemption law of 1875 says that eighty acres shall be exempt, yet it has been construed that the Legislature may allow eighty acres additional, which would make one hundred and sixty acres in all. We ought to use such language in the Constitution as is definite and cannot be changed by the Legislature as to the amount of the exemption. Therefore I think this ought to be incorporated into the Constitution so that it will not leave it to the Legislature to change it at any time they see proper. If they can add eighty acres, they could add one hundred and sixty or five hundred acres and it seems to me some definite figure ought to be placed in the Constitution.

MR. HOWZE—There is no doubt merit in the gentleman's amendment, but we are controlled by the same principle and I therefore move that it be laid upon the table.

Upon a vote being taken to table the amendment prevailed.

MR. HOWZE—I move the adoption of the section now.

Upon a vote being taken the section was adopted.

Section 3 was read as follows:

Sec. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted since the thirteenth 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.

MR. HOWZE—I move its adoption.

Upon a vote being taken the section was adopted.

Section 4 was read as follows:

Sec. 4. The provisions of Sections 1 and 2 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.

MR. HOWZE—I move the adoption of that section.

Upon a vote being taken the section was adopted.

Section 5 was read as follows:

Sec. 5. If the owner of a homestead die, leaving a widow, but no children, such homestead shall be exempt, and the rents and profits thereof shall inure to her benefit.

MR. HOWZE—I move the adoption of that section.

Upon a vote being taken the section was adopted.

Section 6 was read as follows:

Sec. 6. The real or personal property of any female in this State, acquired before marriage, and all property, real or personal, to which she may afterwards be entitled by gift, grant, inheritance or devise, 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 was a feme sole.

MR. HOWZE—I move the adoption of that section.

Upon a vote being taken the section was adopted.

Section 7 was read as follows:

Sec. 7. The right of exemption 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.

MR. SANFORD (Montgomery)—I offer an amendment to Section 7.

THE PRESIDENT — The Chair recognizes the gentleman from Geneva.

MR. MULKEY—I move to strike out Section 7. I have no remarks to make except to say personally I do not think of any one has an exemption they should be permitted to waive it.

MR. deGRAFFENREID—I move to lay the motion on the table.

Upon a vote being taken the motion to table the motion prevailed.

MR. SANFORD (Montgomery)—I have an amendment to Section 7.

The amendment was read as follows:

Amend by substituting for Section 7 the following:

"The right of exemption hereinbefore secured shall not be waived or the real estate exempted be mortgaged, but the property so exempted may be sold by the husband and wife by an instrument in writing."

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Montgomery.

MR. SANFORD (Montgomery)—The waiver of exemptions by notes or by mortgage has wrought a great evil to many people. That very provision has taken from them really the benefit intended. Exemptions are not intended merely to secure shelter

for the man and his family, but they are also for the benefit of the State. As long as a man can hold any property, it is taxable, and he is a supporter of the Government. His labor contributes to its prosperity, but when his property is taken away from him, either by waiver of personal property or by mortgage of real estate, he becomes instead of a supporter of the Government a charge upon the Government. It does not prevent the sale of the property by him and his investment in other possessions, but the waiver or the mortgage is a sale practically by men who are compelled to waive these things or to mortgage this property for inferior or lower prices, and therefore for the benefit of the State as well as for the benefit of the individual he should hold it.

I have offered that substitute. It will not be well to say that if you take from him the privilege of waiving and of mortgaging that, he will have no credit, because a man with property which he cannot mortgage or cannot waive will have more credit than a man who has no property whatever to waive, and the waiving or mortgaging of property is practically the transferring of it from the family, and it is an impoverishment of the State to that extent, and therefore I have offered this substitute and it is also offered at the request of many of my constituents.

MR. LONG (Walker)—As a member of the Committee on Exemptions, if it were not well known that my modesty would not permit such a motion I would be tempted to make a motion that this Convention, by a rising vote, tender this Committee a vote of thanks for having reported back one Section of the old Constitution verbatim. Now this substitute offered here is absurd on its face, and it requires but a moments' thought to see the absurdity of such a proposition. In the first place, a poor man with a homestead could never borrow money on it, and he could never get any advances, and if this amendment were adopted the Constitution would not get a corporal guard from the poor people of this State.

MR. SANFORD (Montgomery) — Wouldn't he have more credit if he has property?

MR. LONG—He could not get any credit for any property he could not mortgage or waive. This is in violation of the Democratic platform and I say that this committee is entitled to a blue ribbon for reporting the article back without any change, and I move to lay the substitute on the table.

Upon a vote being taken the motion to table the substitute prevailed.

MR. HOWZE—I move the adoption of the section.

Upon a vote being taken the section was adopted.

MR. HOWZE—I move that it be engrossed and ordered to a third reading.

Upon a vote being taken the motion was carried.

THE PRESIDENT—The next order of business will be the report of the Committee on Impeachments.

MR. WADDELL—I understand that this report will precipitate somewhat of a fight and I move that this Convention do now adjourn. (Expressions of dissent.)

MR. HOOD—There is a minority report to each section of this report, and hence I move that the article be taken up and passed section by section.

Upon a vote being taken the motion was carried.

MR. COLEMAN (Greene)—There is a minority report upon every section, and we have gotten along very fast this morning with our work and I move that we adjourn.

THE PRESIDENT—The gentleman from Russell made a motion to adjourn, and the Chair failed to recognize him because he had not heard from the chairman of the committee.

MR. HOOD—The committee are perfectly willing to adjourn until Monday and think perhaps it would be better. I will state that the committee have reported an ordinance repealing that portion of the report of the Committee on Executive Department authorizing the Governor to suspend the Sheriff. We would have to have a full Convention for the consideration of that question.

THE PRESIDENT—The Chair did not recognize the gentleman for the purpose of making a motion to adjourn because it has been customary when a report was taken up to recognize the chairman of the committee, but the Chair will now put the motion to adjourn.

Upon a vote being taken a division was called for and by a vote of 60 ayes and 14 noes the motion to adjourn was carried.

Leaves of absence were granted to the following delegates: Mr. Pitts for Monday and Tuesday; Mr. Miller of Wilcox for Monday, Tuesday and Wednesday; Mr. Kyle for today, Monday and Tuesday; Mr. Burnett for today and Monday; Mr. Bulger for Monday, Tuesday and Wednesday; Mr. Locklin from the 5th to the 10th inst.; Mr. M. M. Smith for today and Monday.

THE PRESIDENT—The house stands adjourned until 12 o'clock Monday.

CORRECTIONS.

The remarks at bottom of first column second page, 66th day's proceedings, commencing on the 21st line from the bottom of the column, should be attributed to "Mr. Merrill" and not "Mr. Smith," as printed.

In remarks of Mr. Dent on 67th day, fourth page, sixth column, 17th line from bottom of page, read: "Slough of despond" and head of 7th column read: "You strike from the power of the Black Belt."

SIXTY-NINTH DAY

MONTGOMERY, ALA.,
Monday, August 12, 1901,

The Convention met pursuant to adjournment, and was called to order by the President.

Upon a call of the roll 87 delegates responded to their names.

Leaves of absence were granted to the following delegates: Mr. White, for today and tomorrow; Mr. Howze, for today and tomorrow; Mr. Sentell, indefinitely on account of the death of his brother; Mr. Thompson of Bibb for today; Mr. Whiteside for today; Mr. Fletcher for today, tomorrow and Wednesday; to Mr. Rogers of Sumter, indefinitely, on account of sickness; to Mr. Hodges of Jackson for today; to Mr. Parker of Cullman for today; to Mr. Miller of Wilcox for today.

The report of the Committee on the Journal was read, stating that the Journal for the sixty-eighth day had been examined and found correct, and the same was adopted.

MR. deGRAFFENREID—I desire——

MR. SANFORD (Montgomery)—I rise to a question of personal privilege.

THE PRESIDENT—The gentleman from Hale has the floor.

MR. deGRAFFENREID—I yield to the gentleman.

MR. SANFORD—In the report of the vote upon the article on Suffrage and Elections, I am made to vote aye in the stenographic report. I voted no, and I hope that correction will be made.

THE PRESIDENT—The stenographer will make a note of the correction.

MR. deGRAFFENREID—I move to reconsider the vote by which "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 county which lies south and southeast of Backbone Mountains, and which is embraced in precincts Nos. 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21, in said county" was ordered engrossed and referred to the Committee on Harmony last Saturday. I state that the motion is made not for the purpose of interfering with the action of the Convention with reference to the establishment of a court house in St. Clair county, but that I may be enabled thereby to move a reconsideration of the vote whereby the ordinance which was introduced by the gentleman from St. Clair, Mr. Spears, was amended by an ordinance introduced by Mr. Beavers, to establish a court house at Calera, and for the purpose of enabling certain beats situated near Calera to have their cases tried at the Calera court house. I do this, Mr. President, because, as I am informed, since that action was taken by the Convention on last Saturday, much dissatisfaction has arisen over the action among the people of Shelby county. It was local legislation, and for that reason I was somewhat inclined to oppose it, but voted for it because I understood from all the people here, that everybody in Shelby county was satisfied with it, but I understand in that portion of Shelby county which is affected by this particular provision, there are some 1,350 or 1,400 voters, and that on yesterday, which was Sunday, something like a thousand people who were affected by this particular provision, manifested their disapprobation of what was done, and signed a petion to this Convention asking that they reconsider that action. Now I make that motion and I want to say, so far as I am concerned, I have no interest in it at all. I know nothing of the people of Shelby county, but I make it at the request of some of the interested parties. There is not a full convention this morning, and if the Convention prefers this matter can be laid over until tomorrow, when we will have a larger attendance, or it can be taken up now. If it is laid over until tomorrow I would like to be permitted also to make this other motion, so as to be sure to have both in time, and in order to test the question as to whether the Convention wants to take it up now. I move that the consideration of this particular motion that I have made be laid over until tomorrow after the reading of the Journal.

I have entered the motion to reconsider, and I now move that the consideration of that motion be deferred until tomorrow morning after the approval of the Journal.

MR. BEAVERS—I call for a reading of the motion.

MR. deGRAFFENREID—The first motion is——

MR. BEAVERS—The other motion——

MR. deGRAFFENREID—The other motion will be to reconsider your amendment to the ordinance of Mr. Spears from St. Clair county.

THE PRESIDENT—It is moved that the vote whereby ordinance No. 390 was ordered engrossed and to a third reading, be reconsidered. Thereupon the gentleman from Hale moves to postpone further consideration of that motion until tomorrow after the reading and approval of the Journal.

MR. HOOD—I want to ask the gentleman his object or purpose for making the motion to reconsider the vote whereby this ordinance was adopted.

MR. deGRAFFENREID—I tried to state it. It was in order that I might move to reconsider the amendment offered by Mr. Beavers, in which amendment there was a provision that there could be established a court house in Shelby county at Calera.

MR. BROWNE—It is not Calera, but a point on the Georgia Central Railway.

MR. deGRAFFENREID—It is for the purpose of moving to reconsider the amendment offered by Mr. Beavers. That is the sole object, because I am informed that a good many people who were affected by Mr. Beaver's amendment are dissatisfied with what we have done.

MR. PILLANS—I move to amend the motion last made by my friend to postpone consideration by making the time at which the motion for reconsideration shall be taken up, a time posterior to the consideration of all the articles of constitution now on the calendar; that it be held and put behind the articles which are on the calendar for consideration. I think we came here to make a Constitution, and not pass ordinances, and it is very necessary for us to get through some day with the making of the Constitution, and the best thing we can do with the time which we have is to make a Constitution, and when we get through with that, then we can determine whether we have time to take up these ordinances.

THE PRESIDENT—It is moved to amend by postponing the consideration of this motion until after the work of framing a Constitution is finished.

MR. BEAVERS—I want to know if that is a subject for discussion.

THE PRESIDENT—The Chair is disposed to hear discussion on the question, if the gentleman from Shelby desires to be heard.

MR. BEAVERS—It seems to me that this Convention is as well informed on this subject now as it will ever be. I am not disposed to advise this Convention what they ought to do with this

matter at all. I leave that entirely to them, to their sense of justice and right, but I want to say this, gentlemen, that I have read somewhere that, "He who is armed with justice and right is thrice armed." I want to say, gentlemen of the Convention, that this is a just cause; that if that portion of St. Clair needs a court house and jail, the upper portion of Shelby also needs one. As I stated in my former talk on this matter, the people up in that country, really wanted an opportunity to have a county formed, when they would be enabled to comply with the requirements of this Constitution, and I offered an ordinance here to that effect, which was referred to that Committee, and that committee passed on it, and unanimously reported it favorably. That is not before the Convention yet.

I offered this amendment because the gentleman from St. Clair offered an ordinance and had it reported here favorably to establish in St. Clair, to be formed into a new county, a second court house and jail. Of course that would destroy the necessity for a new county. I say that the people of Shelby are as badly in need of a court house and jail as the people in that portion of St. Clair county. I want to say that on my offering this amendment to this ordinance to establish a court house, as the record will show, on last Saturday, I made a motion to lay the amendment and the ordinance on the table, to be taken therefrom whenever this new county matter was brought before the Convention, so as to leave both of these matters before the Convention, in order to enable them to do in justice what they thought ought to be done. Gentlemen were here representing Columbiana, and I will say that there is no serious opposition coming to this except from the town of Columbiana. They were here Saturday.

I made that motion and upon the request of the gentleman from St. Clair, I withdrew it to allow him to discuss his ordinance. While he was discussing it gentlemen here, and there were four of them, representing Columbiana, called me back in the lobby and together with Mr. Cecil Browne, requested me not to renew that motion, but to let the amendment and the original ordinance and the whole thing go through. They were in favor of it, if I would consent to allow them to make one amendment to my amendment, which I consented to. Mr. Browne of Talladega offered that amendment. By the unanimous consent of this body and my consent, it was adopted. The whole matter went through, the amendment and the original ordinance by consent, and I will say that it amounts to a consent judgment in open court. I will say that these gentlemen agreed to it. They asked me not to make that motion to lay on the table, but to let the whole matter go through, and that would settle the new county proposition up in St. Clair and Shelby. I consented to that. They went around and asked their friends to vote for it, and I told my friends to vote for it, and it got 80 votes here. Now these gentlemen are

back here from Columbiana Monday morning, wanting to reconsider this whole matter and tear this whole thing up. They give as grounds for this proposition that two beats over which this court is to be given jurisdiction, run a little closer to Columbiana than they like. That isn't a good valid reason. Those gentlemen live there in Columbiana. They know exactly these beat lines, know all about it. They had the ordinance read a second time and amended it, and then consented to its passage. To show you there are no valid grounds of objection in that matter, I would readily consent for that part of it to be cut off, so as not to run closer than seven miles to Columbiana, which the new Constitution allows in the provision in which it says a county line shall run no closer than seven miles to a new county site, so there is nothing in that. I want to say these gentlemen who came down here and consented to this matter, so to speak, in open court, went back to Columbiana, and I have been reliably informed, that they started runners out Sunday; that they told people up there that I rushed this thing through without their consent, and without the consent of the people, and they got a great long petition, I haven't seen it, they haven't shown it to me, but delegates upon this floor know that with personal influence of that kind, they could get these farmers to sign a petition. It is an easy matter to get up a petition, but I want to state that on the new county proposition, the people of the upper part of Shelby county and lower part of St. Clair had three or four mass meetings; that each section appointed three as a committee, composed of the best Democrats in that section of the country and among the largest property owners and they came down here to represent that section, and to these gentlemen down here last week from the upper part of Shelby, I submitted that amendment to the ordinance of the gentleman from St. Clair County. They approved it and said they wanted it if they could not get the other; that if they could not get a loaf, they would take a part of the loaf. I say they consented to it. I will state further that Mr. W. B. Browne, who is one of the representatives and a leading man in this fight, called me in the cloak room, after this matter was passed, and said to me: "Mr. Beavers, now this matter has gone through and we have consented and agreed, and I hope we have settled this county site matter. We object to it a little because it runs a little too close to Columbiana, but we have agreed to it, it is all settled now, and I make the request to you to go into the upper part of Shelby county and tell the people up there that we from Columbiana helped you to get this thing through, and ask them to stand by us in future fights on Shelby county, showing he fully understood the amendment, and I say that this matter ought not to be disturbed, because I say it amounts to a consent judgment in open court. They agreed to it unanimously. They had four men here representing Columbiana; they agreed to it, provided I would consent to let them amend it in one particular, which I consented to do. They asked the unanimous

consent of this body to allow that amendment and it was given. Then they went around here and requested their friends on the floor of this Convention to vote for it, and they voted for it. Now I say before the Committee on State and County Boundaries the evidence showed that the people in the upper part of Shelby are as badly in need of a court house and county jail, as are the people in St. Clair County, and I say it would be an injustice to those people and to the delegate from Shelby County for this Convention to give relief in one case and refuse to give it in another. I say and I will state upon the floor of this Convention, and I do not at all fear successful contradiction, that the people of Shelby County want this measure, if they cannot get the other. I would be perfectly willing to leave it to a vote of the entire people of Shelby County; I would be perfectly willing to leave it to a vote, and stand or fall on it, to the upper part which is put under the jurisdiction of this court, that section—I say they want it, they need relief, they should have it; that these gentlemen came down here and consented to it, and now for this Convention to allow them to temporize and experiment with this august body, I say is ridiculous in the extreme, and I do not believe the delegates upon the floor of this Convention will ever vote for such action. I say gentlemen in this matter, that I made the motion to lay the matter on the table, the whole matter, to be brought up with this report for a new county up there, and let this Convention consider the whole matter and do what they think in justice ought to be done to those people. Give them one or the other or nothing.

THE PRESIDENT—The time of the gentleman has expired.

MR. BROWNE—Mr. President and gentlemen of the Convention, the gentleman is mistaken in regard to the conversation that he has quoted between Mr. W. B. Browne and him, as I am informed. The gentleman from Shelby introduced an ordinance creating a new county out of a part of St. Clair and a part of Shelby Counties. That ordinance did not include beats 8, 9, 13 and one-half of Beat 11. He did not introduce an ordinance on this measure about giving them a new court house in certain beats——

MR. BEAVERS—Will the gentleman permit me to interrupt him?

THE PRESIDENT—Will the gentleman yield?

MR. BROWNE—I did not interrupt the gentleman. On Saturday morning, without the knowledge of any man in Shelby County that we know of, certainly without the knowledge of the two men here, that he was going to do it, he introduced an ordinance giving a new court house to a part of Shelby County, which embraced two and one-half of the biggest beats, and one of the smaller beats not included in his new county scheme. Mr. W. B. Browne of Shelby and Judge Longshore were here; they came

Saturday morning. The amendment for an additional court house came like a clap of thunder out of a clear sky; they had no knowledge or information on the subject. They were out yonder in the hall. Mr. Beavers stated that he had seen the people in the section affected and that they wanted a new county or if they could not get that, another court house, and those gentlemen naturally inferred that he was speaking of the same area. Afterwards, they ascertained that it took two and one half large beats and another small beat, making three and one-half beats more than were in his proposed new county. Now with reference to this new court house area, I will ask the members of the Convention to look at this map, which I have and will show to the Convention. This is the county of Shelby (describing on a map held facing the members of the Convention.) From this point to this, is the proposed county court house and jail area. Here is the upper edge of Shelby County right here, all the colored portion is Shelby County. Here is Columbiana six miles south of the center of the county. Here is the line of railroad that the gentleman from Shelby presents a measure that there shall be a court house and jail upon—away off up here. While he only embraced this (describing) in the territory for the new county in the court house area, he came down and took in Beat 9 which goes down a little further south than Columbiana, these people living two and one-half miles from Columbiana must go twenty miles to court when the court house is situated at Vincent—away over here is Beat 8, where my umbrella is pointing, these people must go by Columbiana and on to Vincent. Up here is Beat 13; no way to get from Beat 13 to Vincent, on account of insurmountable hills; they have to take a train this way (pointing) and then another train this way. On account of a gap in the mountain they can go down to Columbiana this way. He proposed to give exclusive jurisdiction in this territory. I ask the attention of the convention for a moment. He proposes to create a court house up here (describing) and giving exclusive jurisdiction of all cases arising in this territory (pointing it out) and he makes that territory come within two and one-half miles of Columbiana, and these people behind Columbiana, must go by it about twenty miles to get up there. Now he speaks about the petitions. Mr. Beavers stated in his speech Saturday morning that he agitated the question of a new court house and that these gentlemen agreed not to oppose him. That was on the general proposition to cut down the area limit of counties generally, but not for any particular county. After they found out on Saturday what the measure really was, they went home getting there about 7 o'clock Saturday night, and on yesterday, in this area affected they have gotten 800 signatures against this measure. There are 1,300 voters in that district and against his proposition they secured 800 in one day.

Here are petitions signed by more than half of the people who live within the area, and they protest against Mr. Beavers amendment.

MR. deGRAFFENREID—I withdraw my motion to postpone the consideration of this matter, so we can get through with it.

MR. BROWNE—Will the gentleman from Mobile withdraw his motion?

MR. PILLANS—I most certainly will not. I think it entirely out of order, and ought to be postponed until we get through framing this Constitution.

MR. BROWNE—If the motion, as made by the gentleman from Mobile, is carried, it means to tie these people hand and foot to this measure, because it is well known that if you delay this matter until the whole Constitution is made, members will go home, and that will be the last of it. Now, I have shown you that map, and it is an answer to any argument that can be made by any man. Not only that, the gentleman stated on Saturday those people wanted the new court house. Now those two men did not know whether the people in the upper part of the county wanted it or not, but they believed and you believed that this amendment for a court house embraced the same area as was incorporated in his new county plan. But it is entirely different and would carve the county up in such a shape that the State of Alabama would not recognize the county, and I have shown you on the map how those changes will be made. This matter was never considered in committee. The St. Clair county court house was considered in committee, but this matter was not. When the gentleman stated the people wanted it up there, I thought he referred to the other upper or smaller area and the two gentlemen who were here thought so too. They were out at the door and could not hear the numbers of the precincts read.

THE PRESIDENT—The time of the gentleman has expired.

MR. BROWNE—I move to lay the motion of the gentleman from Hale to postpone consideration until tomorrow and the motion of the gentleman from Mobile to postpone it until after the Constitution is framed—the amendments—I move to lay them upon the table.

A vote being taken, the motion to table was carried.

THE PRESIDENT—The question recurs upon the motion to reconsider.

MR. deGRAFFENREID—I move the previous question upon that.

A vote being taken, the previous question was ordered.

THE PRESIDENT—The question is on the motion to reconsider the vote whereby this ordinance was ordered engrossed and to a third reading.

A vote being taken, a division was called for.

MR. BROWNE—I ask that the question be restated.

THE PRESIDENT—As many as favor the motion to reconsider the vote whereby this ordinance was ordered engrossed and to a third reading will please rise and remain standing until counted.

The vote resulted in there being 35 ayes, 38 noes, and the motion to reconsider was lost.

MR. BROWNE—My motion was to lay on the table the motion to postpone consideration.

THE PRESIDENT—That motion has been submitted to the Convention. The motion was carried, and the motion to reconsider was submitted to the Convention and lost.

MR. BROWNE—I call for a verification. There was some misunderstanding. My motion was to table the motion to postpone.

THE PRESIDENT—The Chair submitted to the Convention the motion to table, and it prevailed, and the motion to reconsider was lost.

MR. BROWNE—I call for a verification of the vote.

MR. HEFLIN (Chambers)—It is entirely too late.

MR. O'NEAL—It is not too late. No business has intervened since the vote.

THE PRESIDENT—It is customary where a verification is asked for to submit it to the convention.

MR. LONG (Walker)—The vote has already been verified by a rising vote on a division.

THE PRESIDENT—The Chair will have the vote taken over again. There seems to be some misundertanding. Some gentlemen caused confusion by talking to other delegates, while this matter was under consideration. The question is on the motion to reconsider the vote whereby this ordinance was ordered engrossed and to its third reading.

A vote being taken, there were ayes 34, noes 40, and the motion to reconsider was lost.

MR. deGRAFFENREID—I make the point of order, Mr. President, that there was no quorum voting.

THE PRESIDENT There is a quorum in the convention.

MR. BEAVERS—I make the point of order that there is a quorum.

MR. LONG (Walker)—I make the point of order that they cannot make that point of order on the verification of a vote.

THE PRESIDENT—The Chair will count a quorum, if necessary.

MR. OATES—When the vote was first taken, if there was not a quorum that was the time to make the point but on a mere verification, it was to ascertain whether the first vote was correct or not.

THE PRESIDENT—It seems to the Chair that the gentleman from Montgomery is correct.

MR. LONG (Butler)—I ask unanimous consent to present a petition and have it included in the stenographic report without being read. It is about the pass evil. (Laughter.)

To the Constitutional Convention, Montgomery, Ala.:

We the undersigned citizens of the State of Alabama do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county, or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective self-operative provision to that end.

Greenville, Ala., July 23, 1901.

J. A. McGehee, J. D. Owen, E. H. Smith, W. M. Connor, S. F. Ewing, M. W. Wimberley, F. M. Boutel, J. Beland, R. A. Belan, Jas. F. Belan & Bro., J. P. Reynolds, C. E. Hamilton, C. C. Stewart, J. H. Dunklin & Co., J. H. Steiner, T. L. Lee, A. R. McQueen, F. C. Smith, W. T. Dunklin, J. N. McBride, E. D. Thames, J. F. Thames, E. M. Kirkpatrick, R. A. Thaggard, W. T. Thaggard, A. C. Whitehead, Dunklin Sons, W. F. Shell, H. E. Brown, H. D. Lampley, H. J. Greton, C. B. Herbert, J. Long, J. A. Stewart, Thos. W. Peagler, T. D. Stallings, M. D., J. M. McKenzie, F. Mack, P. E. Luns.

Referred to Committee on Corporations.

MR. WILSON (Clarke)—I have a similar petition to the one introduced by the delegate from Butler, which I desire to have read and referred.

To the Constitutional Convention, Montgomery, Alabama:

We the undersigned citizens of the State of Alabama do hereby offer our protest against the railroad pass evil, and do hereby declare our desire that it be made an unlawful act for either State, county or municipal officials to accept railroad passes from any railroad company, or for any such company to give such passes.

We further petition the Constitutional Convention now in session in Montgomery to incorporate in the proposed Constitution some effective self-operative provision to that end.

Grove Hill., Ala., July 23, 1901.

John M. Wilson, Judge of Probate; C. E. Pugh, M. D.; A. K. Rennie, Pharmacist; J. M. Cobb, Physician; J. F. Gillis, Register; S. P. Chapman, farmer; W. M. Gordon, farmer.

Referred to Committee on Corparations.

THE PRESIDENT—The next order will be the call of the roll for the introduction of ordinances, etc.

MR. WILLIAMS (Marengo)—I move that the call of the roll for the introduction of ordinances, etc., and the call of the roll of committees, be dispensed with, and that we proceed to the other business.

MR. JENKINS—I rise to a point of personal privilege. I ask that the gentleman will withdraw that until I can introduce an ordinance.

THE PRESIDENT—The gentleman can only introduce it now by unanimous consent. The question before the house is the motion of the gentleman from Marengo, that the Convention dispense with the call of the roll for the introduction of ordinances, etc., and the call of the standing committees.

Upon a vote being taken the motion was carried.

MR. O'NEAL—I move that we remain in session——

MR. JENKINS—I desire to introduce an ordinance.

There being no objection Ordinance No. 448, by Mr. Jenkins of Wilcox, was read as follows:

An ordinance to provide for the election of the successors of the hold-over Senators whose term of office expires in 1904.

Be it ordained by the people of Alabama in Convention assembled, that the State Senators whose term of office expires in 1904, shall continue to hold office until the general election for State officers in 1906, or until their successors are elected, provided, if a special session of the legislature is called by the Governor

between August, 1904 and the general election for State officers in 1906, it shall be the duty of the Governor when he issues his call for said special session of the legislature to order a special election in all the odd number senatorial districts except thirty-fifth, and persons elected at said special election shall qualify as members of the said special session of the legislature. The term of office of the persons so elected as successors to the aid hold-over Senators, now in office and whose terms expire in 1904 shall be from the date of the said special election, and the general election for State officers in 1906; provided, further, that the Senator for the thirty-fifth senatorial district shall be elected in 1902 at the general election for State officers and shall hold office for four years and all laws governing the election of Senators in the even numbered districts shall apply to the thirty-fifth senatorial district.

THE PRESIDENT—The ordinances is referred to the Committee on Legislative Department.

MR. JENKINS—I ask that it be referred to the Committee on Harmony in order that they may consider the same and make report on it.

THE PRESIDENT—The Chair does not think that it has any jurisdiction over an original ordinance. The gentleman can file a copy with them if he desires. The Chair refers it to the Committee on Legislative Department. If they find it should go to the Committee on Harmony, they can bring it back.

MR. WILLIAMS (Elmore)—I ask leave to introduce a short resolution.

The resolution was read as follows:

In order that the records of this Convention may be complete, be it

Resolved, That the Secretary of this Convention be and he is hereby instructed and directed to furnish to the printers of the daily "Stenographic Reports" a copy of the proceedings of the first, second and third days of this Convention, and to order five hundred (500) copies thereof to be printed, and that the same be distributed among the members of this Convention as are the "Stenographic Reports."

Said copies to be of like size and form as the said report.

THE PRESIDENT—A similar ordinance was referred to the Committee on Printing, was it not?

MR. WILLIAMS—Referred to the Committee on Rules but it was lost.

THE PRESIDENT—This will be referred to the Committee on Rules. The Chair was under the impression it was referred to the Committee on Printing.

MR. O'NEAL—I move that the Convention remain in session until 1:30 o'clock today.

MR. HEFLIN (Randolph)—I move to lay the motion of the gentleman on the table.

THE PRESIDENT—The Chair is of the opinion it cannot be laid upon the table. The Convention may accept or reject it as they see fit.

Upon a vote being taken the motion was lost.

MR. BURNS—I have a short resolution.

Resolution No. 295 was read as follows:

Resolved, That when this Convention adjourns on Friday next the 16th it will stand adjourned until 12 o'clock m. on Tuesday the 27th of August.

Resolved further, That delegates be paid during such recess 5 cents per mile going to and returning from their homes, and no per diem.

Upon a vote being taken the resolution was lost.

THE PRESIDENT—The special order will be the consideration of the report of the Committee on Impeachments. The gentleman from Etowah.

MR. SEARCY—I desire to call attention to an error in the stenographic report Friday on the final vote on the Article on Suffrage. I am reported as being absent and not voting. I was present and voted aye.

THE PRESIDENT—The stenographer will make note of the correction.

MR. BURNS—I rise to a point of order. My understanding was that the resolution I sent up was referred to the Committee on Rules.

THE PRESIDENT—The Chair submitted the gentleman's resolution to the Convention and it was rejected. The Chair construed it to be a privileged motion, as it fixed the time to which the Convention should adjourn.

MR. BURNS—I asked that it be referred to the Committee on Rules, and it was so announced.

THE PRESIDENT—The gentleman's hearing must be getting defective.

MR. BROWNE—I ask the gentleman to yield for the purpose of introducing a short ordinance.

The Clerk read Ordinance No. 449 as follows:

Ordinance No. 449, by Mr. Browne (with thirty-one petitions):

Be it ordained by the people of Alabama in Convention assembled, That so much of 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 Backbone Mountain, and which is embraced in precincts numbered 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21, in said county, as amended by striking out of the same all that applies to the county of Shelby.

THE PRESIDENT—The resolution is referred to the Committee on Amending the Constitution.

MR. WATTS—I move that we adjourn until 3:30.

Upon a vote being taken, the motion was carried and the Convention thereupon adjourned until 3:30 p. m.

AFTERNOON SESSION

The Convention met pursuant to adjournment, there being 78 delegates present upon the call of the roll.

Mr. Lomax took the chair.

MR. SAMFORD (Pike)—I ask unanimous consent to make a report from the Committee on Engrossment, two articles, so that they may be passed and referred to the Committee on Harmony, who are anxious to have them.

Unanimous consent was given.

MR. SAMFORD—I move the adoption of the report and that the articles be considered and read a third time.

THE PRESIDENT PRO TEM.—The question is on the adoption of the report of the committee.

The report of the committee was adopted.

THE PRESIDENT PRO TEM.—The question is on ordering these articles to a third reading.

The Secretary read the articles as follows:

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 years 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 one dollar and fifty cents 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 surpress 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 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 construed as to prevent the issuance of bonds for the purpose of refund ing the State's 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 one-hundredths of one 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 one per centum. Provided, that to pay debts existing at the ratification of the Constitution of 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 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 bridges 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 one-fourth of one 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 was so levied and collected.

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. 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. 8. No county shall become indebted in an amount greater than three and one-half per centum of the taxable value of the property thereof; provided, this limitation shall not apply to any existing indebtedness, in excess of such three and one-half per centum, which has already been created or authorized by now existing law, to be created.

Sec. 5. No city, town or other municipal corporation shall become indebted in an amount, including present indebtedness, exceeding five per centum of the assessed value of the property thereof, except for the construction or purchase of water works, or electric lighting plants and sewerage, or for the improvement of streets, for which purpose an additional indebtedness, not exceeding three percentum, may be created; provided, this limitation shall not apply to any debt now authorized by law to be created, and excepting also temporary loans to be paid within one year, made in anticipation of the collection of taxes, not to exceed one-fourth of the general revenues of such cities and towns; provided, however, that this limitation shall not apply to towns and cities having a population of six thousand or more, nor to the city of Gadsden and Ensley, the town of Andalusia, Decatur and New Decatur, which last described cities and towns shall not become indebted in an amount, including present indebtedness, exceeding seven per centum of the assessed valuation of the property thereof, and provided further, that there shall not be included in the limitations of the indebtedness of such last described cities and towns the following class of indebtedness, to wit: temporary loans to be paid within one year, made in anticipation of the collection of taxes, and not to exceed one-fourth of such taxes; bonds or other obligations already issued, or which may hereafter be issued for the purpose of acquiring, providing or construction school houses, water works and sewers; and obligations incurred, and bonds issued for street or sidewalk improvements, where the cost of the same, in whole or in part, is to be assessed against the property abutting said improvement; provided, that the proceeds of all obligations issued as herein provided in excess of said seven per centum, shall not be used for any purpose other than that for which said obligations were issued. Nothing herein contained shall prevent the funding or refunding of existing indebtedness. Provided, this section shall not apply to the cities of Sheffield and Tuscumbia.

Sec. 10. The Legislature may levy a tax of not more than two and one-half per centum on every one hundred ($100) dollars of the value of all estate, real, personal and mixed, money, public and private securities of every kind, passing from any person who may die, seized and possessed thereof, being in this State, or any part of such estate, money or securities, or interest therein, transferred by the intestate laws of this State, or by will, deed, grant, bargain, sale or gift, made or intended to take effect in possession after the death of the grantor, the deviser or donor to any persons, bodies politic or corporate, in trust or otherwise, other than to or for the use of the father, mother, husband, wife, brothers, sisters, children or lineal descendants of the grantor, devisor, donor or intestate.

THE PRESIDENT PRO TEM.—This ordinance has had three readings in this Convention, and the question is shall it be adopted. As many as favor its adoption will say aye, and those of contrary opinion no, as theis names are called. The Chair will request the delegates who are present to vote, as the lack of a quorum may be developed if they do not vote.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,
Almon,
Altman,
Ashcraft,
Banks,
Barefield,
Beddow,
Bethune,
Blackwell,
Brooks,
Browne,
Burns,
Byars,
Cardon,
Chapman,
Cobb,
Coleman, of Greene,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid.
Duke,
Eley,
Eyster,
Gilmore,
Glover,
Graham, of Talladega,
Grayson,
Greer, of Perry,
Handley,
Harrison,
Heflin, of Randolph,
Henderson,
Hood,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Lomax,
Long, of Walker,
Lowe, of Jefferson,
Lowe, of Lawrence,
Macdonald,
Martin,
Maxwell,
Merrill,
Miller (Marengo),
Moody,
Mulkey,
Murphree,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Elmore),
Pettus,
Phillips,
Pillans,
Porter,
Reynolds, of Henry,
Rogers (Lowndes),
Samford,
Sanford,
Searcy,
Sloan,
Smith, Mac. A.,
Spears,
Spragins,
Vaughan,
Waddell,
Walker,
Watts,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson (Clarke),
Wilson (Washington),
Winn,

TOTAL—85

NOES

Foshee,
Freeman,

TOTAL—2

ABSENT OR NOT VOTING

Bartlett,
Beavers,
Boone,
Bulger,
Burnett,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Case,

Cofer,	Kirk,	Reynolds (Chilton),
Coleman, of Walker,	Kirkland,	Robinson,
Cornwall,	Lyle,	Rogers (Sumter),
Craig,	Ledbetter,	Sanders,
Espy,	Leigh,	Selheimer,
Ferguson,	Locklin,	Sentell,
Fitts,	Long, of Butler,	Smith (Mobile),
Fletcher,	McMillan, of Baldwin,	Smith, Morgan M.,
Foster,	McMillan (Wilcox),	Sollie,
Graham, of Montgomery,	Malone,	Sorrell,
Grant,	Miller (Wilcox),	Stewart,
Greer, of Calhoun,	Morrisette,	Stoddard,
Haley,	NeSmith,	Tayloe,
Heflin, of Chambers,	O'Neill, of Jefferson,	Thompson,
Hinson,	Parker (Cullman,	Weakley,
Hodges,	Pearce,	Weatherly,
Howell,	Pitts,	White,
Howze,	Proctor,	Whiteside,
Jones, of Hale,	Reese,	Willet.
King,	Renfro,	

The Article was adopted, ordered printed and referred to the Committee on Order, Consistency and Harmony.

Mr. Burns sought recognition.

THE PRESIDENT PRO TEM.—The Chair will say to the gentleman from Dallas that there is another article to be read, and he will recognize the gentleman from Dallas as soon as that is read. The Secretary will read the Article on the Judiciary.

The Secretary read the Article as follows:

JUDICIAL DEPARTMENT

Section 1. The judicial powers of the State shall be vested in the Senate sitting as a court of impeachment, a Supreme Court, Circuit Courts, Chancery Courts, Courts of Probate, such courts of law and equity inferior to the Supreme Court and to consist of not more than five members as the Legislature from time to time may establish, and such persons as may be by law invested with powers of a judicial nature; but no court of general jurisdiction, at law or in equity, or both, shall hereafter be established in and for any one county having a population of less than 20,000 or property assessed for taxation at a less valuation than $3,500,000.

Sec. 2. Except in cases otherwise directed in this Constitution, the Supreme Court shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this Constitution, as may from time to time be prescribed by law, except where jurisdiction over appeals is vested in some inferior court and made final therein; provided, that the Supreme Court shall have power to issue writs of injunction, habeas corpus, quo warranto, and such other remedial and

original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

Sec. 3. The Supreme Court shall be held at the seat of Government, but if that shall become dangerous from any cause, it may adjourn to another place.

Sec. 4. Except as otherwise authorized in this Article, the State shall be divided into convenient circuits. For each circuit there shall be chosen a judge who shall, for one year next preceding his election, and during his continuance in office, reside in the circuit for which he is elected.

Sec. 5. 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 other than suits for libel, slander, assault and battery, and ejectment, shall have jurisdiction only where the matter or sum in controversy exceeds $50.

Sec. 6. A circuit Court or a court having the jurisdiction of the Circuit Court, shall be held in each county in the State at least twice in every year, and judges of the several courts mentioned in this Section may hold court for each other when they deem it expedient, and shall do so when directed by law. The judges of the several courts mentioned in this Section shall have power to issue writs of injunction returnable in the Courts of Chancery, or courts having the jurisdiction of Courts of Chancery.

Sec. 7. The Legislature shall have power to establish a court or courts of chancery, with original and appellate jurisdiction, except as otherwise authorized in this Article. The State shall be divided by the Legislature into convenient chancery divisions, each division shall be divided into districts, and for each division there shall be a Chancellor, who shall have resided for one year next preceding his election or appointment, and at the time of his election or appointment, and during his continuance in office, in the division for which he shall be elected or appointed.

Sec. 8. A Chancery Court, or a court having the jurisdiction of the Chancery Court, shall be held in each district, at a place to be fixed by law, at least twice a year, and the Chancellors may hold court for each other when they deem it necessary.

Sec. 9. Any county having a population exceeding 20,000 according to the next preceding Federal census, and also taxable property exceeding $3,500,000 in value, according to the next preceding assessment of property for State and county taxation, need not be included in any circuit or chancery division; but if the value of its taxable property shall be reduced below that limit or if its population shall be reduced below that number, the Legislature shall not include such county in a circuit or chancery division, or either, embracing more than one county. No circuit or chancery division shall contain less than three counties, unless there be embraced therein a county having a population exceeding 20,000 and taxable property exceeding 20,000 and taxable property exceeding $3,500,000. The Legislature may confer upon the Circuit Court or of the Chancery Court the jurisdiction of both of

said courts. In counties having two or more courts of record, the Legislature may provide for the consolidation of all or any of such courts of record, except the Probate Court, with or without separate divisions, and an appropriate number of judges for the transaction of the business of such consolidated court.

Sec. 10. The Legislature shall have power to establish in each county within the State a court of probate, with general jurisdiction to grant letters testamentary and of administration, and of orphans' business; provided, that whenever any court having equity powers has taken jurisdiction of the settlement of any estate, it shall have power to do all things necessary for the settlement of such estate, including the appointment and removal of administrators, executors, guardians and trustees, and including action upon the resignation of either of them.

Sec. 11. The Justices of the Supreme Court, Chancellors and the Judges of the Circuit Courts, and other courts of record, except Probate Courts, shall, at stated times, receive for their services a compensation which shall not be diminished during their official term; they shall receive no fees of 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 or appointed.

Sec. 12. The Supreme Court shall consist of one Chief Justice and such number of Associate Justices as may be prescribed by law.

Sec. 13. The Chief Justice and Associate Justices of the Supreme Court, Judges of the Circuit Courts, 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 at such times as may be prescribed by law, except as herein otherwise provided.

Sec. 14. The Judges of such interior courts of law and equity as may be by law established, shall be elected or appointed in such mode as the Legislature may prescribe.

Sec. 15. Chancellors and Judges of all courts of record shall have been citizens of the United States and of this State for five years next preceding their election or appointment, and shall be not less than than twenty-five years of age, and, except Judges of Probate Courts, shall be learned in the law.

Sec. 16. Except as otherwise provided in this Article, the Chief Justice and Associate Justices of the Supreme Court, Circuit Judges, Chancellors and Judges of Probate, shall hold office for the term of six 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, division, or county, in the mode or time of election.

Sec. 17. The Chief Justice and Associate Justices of the Supreme Court shall be chosen at any 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, until the Legislature shall, by law, change the time of holding such election. The term of office of the Chief Justice who shall be elected in the year 1904, shall be as provided in the last preceding section. The successors of two of the Associate Justices elected in 1904, shall be elected in the year 1906, and the successors of the other two Associate Justices elected in 1904 shall be elected in the year 1908. The 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 and 1908 and until their respective successors are elected or appointed and qualified; the result of such determination shall be certified to the Governor by such Associate Justices, or a minority of them, prior to the first day of January, 1905, and such certificate shall be entered upon the minutes of the court. In the event of the failure of said 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. In the event of an increase or reduction by law of the number of Associate Justices of the Supreme Court, the Legislature shall, as nearly as may be, provide for the election, each second year, of one-third of the members of said court.

Sec. 18. All judicial officers within their respective jurisdictions shall, by virtue of their offices, be conservators of the peace.

Sec. 19. Vacancies in the office of any of the Judges who hold office by election, 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 occurs, and until his successor is elected and qualified; the successor chosen at such election shall hold office for the unexpired term and until his successor is elected and qualified.

Sec. 20. Whenever any new circuit, or chancery division, is created, the Judge or Chancellor therefor shall be elected at the next election for Representatives to the Legislature for a term to expire at the next general election for Judges and Chancellors; provided that if said new circuit or chancery division is created more than six months before the next election of Representatives to the Legislature, the Governor shall appoint some one as Judge or Chancellor, as the case may be, to hold the office until such election.

Sec. 21. If, in any case, civil or criminal, pending in any Circuit Court, Chancery Court, or in any court having the jurisdiction of a Circuit or Chancery Court, or either of them, in this State, the presiding Judge or Chancellor shall, for any legal cause, be incompetent to try, hear or render judgment in such case; the parties, or their attorneys of record, if it be a civil case, or the solicitor or 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 a special Judge or Chancellor to sit at a court and to hear, decide and render judgment, in the same manner and to the same effect as a Chancellor or as a Judge of the Circuit Court, or of a court having the jurisdiction of a Circuit and Chancery Court, or either, sitting as a court might do in such case. If the case be a civil one and the parties or their attorneys of record do not

agree; or if it be a criminal one and the prosecuting officer and the defendant or defendants do not agree upon the special Judge or Chancellor, or if either party in a civil cause is not represented in court, the Register in Chancery, or the clerk of such circuit or other court, in which said cause is pending, shall appoint a special Judge or Chancellor, who shall preside, try and render judgment, as in this section provided. The Legislature may prescribe other methods for supplying special judges in such cases.

Sec. 22. The legislature shall have power to provide for the holding of chancery and circuit courts, and for the holding of courts having the jurisdiction of circuit and chancery courts, or either of them, when the chancellors or judges thereof fail to attend regular terms.

Sec. 23. No judge of any court of record in this State shall practice law in any of the courts of this State or of the United States.

Sec. 24. Registers in chancery shall be appointed by the chancellors of the respective divisions, and shall have been at least twelve months before their appointment, and shall be at the time of their appointment, and during their continuance in office, resident citizens of the district for which they are appointed. They shall hold office for the term for which the chancellor making such appointment was elected or appointed. Such registers shall receive as compensation for their services only such fees and commissions as may be specifically prescribed by law, which fees shall be uniform throughout the State.

Sec. 25. The clerk of the Supreme Court shall be appointed by the judges thereof, and shall hold office for the term of six years, and the clerks of such inferior courts as may be established by law shall be selected in such manner as the legislature may provide.

Sec. 26. Clerks of the Circuit Court shall be elected by the qualified electors in each county for the term of six years, and may when appointed by the chancellor also fill the office of register in chancery. Vacancies in such office of clerk shall be filled by the judge of the circuit for the unexpired term.

Sec. 27. The clerk of the supreme court and registers in chancery may be removed by the justices of the Supreme Court and by the chancellors, respectively, for cause to be entered at length upon the minutes of the court.

Sec. 28. A solicitor in each county shall be elected by the qualified electors therein, every four years, whose salary shall be fixed by law, according to the requirements of each county. The office of circuit solicitors shall cease at the termination of the terms of the present incumbents.

Sec. 29. In each precinct not lying within or partly within any city or incorporated town of more than fifteen hundred inhabitants, there shall be elected, by the qualified electors of such precinct, not exceeding two justices of the peace and one constable. Where one or more precincts lie within a city or incorporated town having more than fifteen hundred inhabitants, the legislature may provide by law for the election of not more than two justices of the peace, and one constable, for each of such precincts, or an inferior

court for such precinct or precincts, in lieu of all justices of the peace therein. justices of the peace and inferior courts herein provided for, shall have jurisdiction in all civil cases where the amount in controversy does not exceed one hundred dollars, except in cases of libel, slander, assault and battery and ejectment. The legislature may provide by law what fees may be charged by justices of the peace and constables, which fees shall be uniform throughout the State. The right of appeal from any judgment of a justice of the peace, or from any inferior court authorized by this section, without the prepayment of costs, and also the term of office of such justices, and of the judges of such inferior courts and of notaries public, shall be provided for by law. The Governor may appoint notaries public without the powers of a justice of the peace, and may, except where otherwise provided by an act of the legislature, appoint not more than one notary public, with all the powers and jurisdiction of a justice of the peace, for each precinct in which the election of justices of the peace shall be authorized.

Sec. 30. The attorney general shall be elected by the qualified electors of the State at the same time and places of election of members of the legislature, whose term of office shall be four years, and until his successor is elected and qualified. He shall reside at the seat of government during his term of office, shall be the law officer of the State, and shall perform such duties as may be required of him by law.

Sec. 31. The style of all process shall be "The State of Alabama," and all prosecutions shall be carried on in the name and by the authority of the same and shall conclude, "Against the peace and dignity of the State."

Sec. 32. After suit has been commenced on any cause of action the legislature shall have no power to take away such cause of action, or to destroy any defense that may exist to any suit after such suit has been commenced.

Sec. 33. The legislature shall have the power to abolish any court (except the supreme court and the probate courts) whenever its jurisdiction and functions have been conferred upon some other court.

Sec. 34. Nothing in this article shall be so construed as to effect the term of office of any officer now in office.

Upon the call of the roll upon the final passage of the Article, the vote resulted as follows:

AYES.

Messrs. President,	Bethune,	Cunningham,
Almon,	Blackwell,	Davis, of DeKalb,
Altman,	Brooks,	Davis, of Etowah,
Ashcraft,	Browne,	Dent,
Banks,	Burns,	deGraffenreid,
Barefield,	Cardon,	Duke,
Bartlett,	Chapman,	Eley,
Beavers,	Cobb,	Eyster,
Beddow,	Coleman, of Greene,	Espy,

Fitts,
Foshee,
Freeman,
Gilmore,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grayson,
Greer, of Perry,
Handley,
Harrison,
Heflin, of Randolph,
Henderson,
Hood,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Lomax,
Long (Walker),
Lowe (Jefferson),
Lowe (Lawrence),
Macdonald,
Martin,
Maxwell,
Merrill,
Miller (Marengo),
Moody,
Mulkey,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Elmore),
Pettus,
Phillips,
Pillans,
Porter,
Reynolds (Henry),
Rogers (Lowndes),
Samford,
Searcy,
Smith, Mac. A.,
Spragins,
Vaughan,
Waddell,
Walker,
Watts,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson (Clarke),
Wilson (Wash'gton),
Winn,

Total—87.

NOES.

Byars,

Total—1.

ABSENT OR NOT VOTING.

Boone,
Bulger,
Burnett,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Case,
Cofer,
Coleman, of Walker,
Cornwall,
Craig,
Ferguson,
Fletcher,
Foster,
Grant,
Greer, of Calhoun,
Haley,
Heflin, of Chambers,
Hinson,
Hodges,
Howell,
Howze,
Jones, of Hale,
King,
Kirk,
Kirkland,
Kyle,
Ledbetter,
Leigh,
Locklin,
Long (Butler),
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Miller (Wilcox),
Morrisette,
Murphree,
NeSmith,
O'Neill (Jefferson),
Parker (Cullman),
Pearce,
Pitts,
Proctor,
Reese,
Renfro,
Reynolds (Chilton),
Robinson,
Rogers (Sumter),
Sanders,
Sanford,
Selheimer,
Sentell,
Sloan,
Smith (Mobile),
Smith, Morgan M.,
Sollie,
Sorrell,
Spears,
Stewart,
Studdard,
Tayloe,
Thompson,
Weakley,
Weatherly,
White,
Whiteside,
Willet.

MR. deGRAFFENREID—I ask unanimous consent to explain my vote, I will only take a moment.

THE PRESIDENT—The gentleman from Hale asks unanimous consent to explain his vote. Is there objection? The Chair hears none.

MR. deGRAFFENREID—It was my understanding in some way on last Friday that this Article would not be ordered to a third reading before Tuesday. It came to me in some way. I don't know how, from the Chairman of the Committee on Judiciary, Mr. Smith. The agreement was not made between Mr. Smith and myself, but was so reported to me by some one. I don't know who. Mr. Smith is not here. There was an agreement on Friday that on Tuesday there would be some effort made looking to a change in this Article to the solicitorships, whether we should have county or circuit solicitors, and as to the manner of their election. Mr. Smith is not here. When he comes I will ascertain whether there was any agreement of that sort made. If there was such an agreement, I know him well enough to believe that he himself will tomorrow morning move the reconsideration of this Article. I vote aye for the purpose of moving that reconsideration myself. I do not make the motion now, but I vote aye for the purpose of making that motion.

By a vote of 87 ayes and 1 no, the Article was adopted.

THE PRESIDENT—The Article will be ordered printed and referred to the Committee on Order, Consistency and Harmony of the Whole Constitution.

MR. BURNS—I ask unanimous consent to introduce a short resolution.

Unanimous consent was accorded.

The Secretary read the resolution as follows:

Resolution No. 295 by Mr. Burns:

Whereas, Not less than 48,000 adult males who should not be allowed to vote, and not more than 300 who should be allowed to vote would be barred by the insertion of one word, in the Article on "Suffrage and Elections" and

Whereas, Provisions could be made whereby the disabilities of all those competent and worthy to vote, and hold office could be removed.

Resolved, That the Committee on Amendments to the Constitution be authorized and instructed to report an ordinance which shall include "bastards" among these, who shall not be qualified electors in this State, by the Governor, or Board or some court, or competent jurisdiction.

MR. BURNS—I ask that the resolution be referred to the Committee on Amending the Constitution. The gentleman from Barbour happens to be the Chairman of that Committee.

THE PRESIDENT—It bears upon the question of suffrage, and resolutions relating to that subject should be referred to the Committee on Suffrage and Elections.

MR. BURNS—I understood Mr. Browne of Talladega, offered an ordinance today on State and County Boundaries, which was referred to the Committee on Amending the Constitution.

THE PRESIDENT—That related to building of an extra Court House.

MR. BURNS—I ask that the resolution under the rules go to the Rules Committee.

THE PRESIDENT—The Chair will refer the resolution to the Committee on Rules at the suggestion of the gentleman from Dallas.

Leaves of absence were granted as follows: To Mr. Stoddard for Monday and Tuesday, on account of sickness, to Mr. Sanders for today, to Mr. Jones of Hale indefinite leave on account of sickness.

THE PRESIDENT—The special order for this evening will be the consideration of the report of the Committee on Impeachments. Unless the Chairman desires to make some general statement, the report will be taken up Section by Section.

MR. HOOD—I ask that the first Section be read.

MR. LONG (Walker)—I would call attention to the minority report, which under the rules should be considered first.

THE PRESIDENT—The minority report will be considered as an amendment to the majority report, and will be the first considered.

The Secretary read the report as follows:

AN ORDINANCE.

Be it ordained by the people of Alabama in Convention assembled, That Article VIII of the Constitution be stricken out and the following Article inserted in lieu thereof:

ARTICLE ——.

Impeachments.

Section 1. The Governor, Lieutenant-Governor, Secretary of State, Auditor, State Treasurer, Attorney-General, Superintendent of Education, Commissioner of Agriculture and Industries and

Judges of the Supreme Court may be removed from office for wilful neglect of duty, corruption in office, incompetency, or intemperance in the use of intoxicating liquors or narcotics to such an extent, in view of the dignity of the office and importance of its duties, as unfits the officers for the discharge of such duties, or for any offense involving moral turpitude while in office, or committed under color thereof or connected therewith, by the Senate sitting as a court for that purpose, under oath or affirmation on Articles or charges preferred by the House of Representatives.

The Secretary read the minority report as follows:

MINORITY REPORT.

Mr. President—The undersigned members of the Committee on Impeachments do not concur in the report of the majority as to Sections 1, 2 and 3, and in lieu thereof, we recommend the following:

Section 1. The Governor, Lieutenant-Governor, Secretary of State, Treasurer, Auditor, Attorney-General, Superintendent of Education, Commissioner of Agriculture and Industries and Judges of the Supreme Court, may be removed from office for willful neglect of duty, corruption in office, habitual drunkenness, incompetency, in any offense involving moral turpitude while in office, or committed under color thereof or connected therewith, by the Senate, sitting as a court for that purpose, under oath or affirmation, on articles or charges preferred by the House of Representatives.

The minority report was signed by the following members constituting the minority: Messrs. Thompson, Robinson, Haley, Smith (Mac. A.) and Long (Walker.)

MR. LONG (Walker)—The question is on the substitution of the minority report for that submitted by the majority of the Committee. The minority report has added the words "Lieutenant-Governor and Commissioner of Agriculture and Industry." With that exception, it is the same. I have the honor of sitting on two committees. The other reported back exactly what was in the old Constitution, and that is what we have tried to do on the Article on Impeachments. It is not necessary to discuss it. There is not much difference in the two sections. I think it is better as it is in the old Constitution, and, therefore, I move the adoption of the minority report.

MR. HOOD—The only differences between Section 1, as reported by the majority of the Committee and the old Constitution, (the same section in the old Constitution) is that the office of Commissioner of Agriculture and Industries and Lieutenant-Governor have been added; the words "habitual drunkenness" have been stricken out, and in lieu thereof the following inserted, "or intem-

perance in the use of intoxicating liquors or narcotics to such an extent, in view of the dignity of the office and the importance of its duties, as unfits the officer for the discharge of such duties."

MR. OATES—I want to inquire if that change was made in consequence of the decision of the Supreme Court in the Robinson case?

MR. HOOD—Yes, sir; that last change that I mentioned, was made in consequence of two decisions of the Supreme Court of Alabama; the first of which was the Savage case, the impeachment of the Probate Judge of Cherokee County in this State; and the second the Robinson case from Lee County. The latter case is reported in 20 Southern Reporter. By an examination of that case, it will be found that the Supreme Court have decided the words "habitual drunkenness," in effect, mean a person who is drunk more than sober. It will also be observed by an examination of this entire Article that these words, "habitual drunkenness," apply to all officers of the State, from the Governor of the State, the members of the Supreme Court of the State, to the constables in the several beats of the State. Under the rule as laid down in these two cases, a Supreme Court Judge is not required to be a more sober man than a constable of a precinct. With those purposes in view, the Committee has undertaken to meet the necessities of the case, and have added, "intemperance in the use of intoxicating liquors or narcotics to such an extent, in view of the dignity of the office and importance of its duties, as unfits the officer for the discharge of such duties." We apprehend that from the use of that language the same rule would not apply to a Judge of the Supreme Court in view of the dignity of that office that would apply to the Justice of the Peace or the constable of a precinct. I move the previous question on the section and the amendment.

A vote being taken, the previous question was ordered; a further vote being taken on the substitute to the majority report, the motion to substitute was lost. The question recurring upon the adoption of the report of the majority, a vote being taken, Section 1, the report of the Committee, was adopted.

The Secretary read Section 2 as follows:

Sec. 2. The Chancellors, Judges of the Circuit Court, Judges of the Probate Court, Sheriffs, Solicitors of the Circuits and Judges of the inferior courts, from which an appeal may be taken directly to the Supreme Court, may be removed from office for any of the causes specified in the preceding section, by the Supreme Court, under such regulations as may be prescribed by law.

The Secretary read the minority report for Section 2 as follows:

Sec. 2. The Chancellors, Judges of the Circuit Courts, Judges of the Probate Courts, Solicitors, and Judges of the inferior courts, from which an appeal may be taken directly to the Supreme Court, may be removed from office for any of the causes specified in the preceding section, by the Supreme Court, under such regulations as may be prescribed by law.

MR. LONG (Walker)—Mr. President and Gentlemen of the Convention: This is an important section. Five members of the Committee on Impeachments have seen proper to sign the minority report. I regret that Mr. Thompson and Judge Robinson are not here to defend this report, as we expected them to lead the fight. In my judgment, if the majority report is adopted, it will seriously interfere with the ratification of this Constitution. The report of the majority will require every sheriff of the State of Alabama, no matter what he is charged with, if articles of impeachment are filed against him, for failing to make a levy for one hundred dollars, or to turn over fifty dollars that some attorney might claim, to come before the Supreme Court of Alabama to defend himself against impeachment. It is much more radical, to my honest judgment, than the report of the Committee on Executive Department, which was a slap, as I said, at every sheriff in the State of Alabama. I want this Convention to adopt Section 2 of the minority report, which leaves it exactly as it is in the old Constitution, without a single change whatever. Now, the distinguished chairman of the Executive Department, as we all know, saw fit to encroach upon the Article on Impeachments and added to the Article on Executive Department a provision which allows the Governor of the State of Alabama to impeach the sheriff without hearing him and without hearing the evidence. This report makes the sheriff come before the Supreme Court; while it denies to the Executive the power to suspend from office, it requires the sheriff to come before the Executive not only in cases of lynching, but for every other charge brought against him. Now, I appeal to the Convention in the name of the sheriffs of Alabama, who are good people, as to whether there are any good reasons why the majority report should be adopted? There is no reason why a sheriff should be required to come here to Montgomery and stand trial before the Supreme Court of Alabama. Leave the whole Article exactly as it is in the old Constitution. The distinguished chairman (Mr. Jones, Montgomery), in addressing the Convention on the Article on Executive Department, asked why should not a sheriff die in defense of his duty, the same as an engineer at the throttle of his engine? I will tell him why; the engineer at the throttle has perhaps numbers of innocent women and children in his charge, and it is his duty to stay there and save them if possible; but a sheriff may have some black brute that is guilty of taking from some white woman in this State that to the loss of which death would be a thousand times more preferable, and would cause her kin people to the

fourth or fifth generation to hang their heads in shame. It is not his duty to die in defense of a black villian like that, and I never want to see the time come in Alabama when there is not a disposition to carry out this opinion to such an extent that whenever a black brute in Alabama shall ravish a white woman, he shall be lynched regardless of law, and white women should not be permitted or required to go into the court house to testify against him.

I hope this minority report will be adopted. It is the same constitutional provision we have lived under for a long time, and I tell you the sheriffs of Alabama will do their duty—I have never seen one who would not do his duty—but I never have thought it was his duty to die, to give up his life, for a prisoner that the law should not protect. I know that mob law is a bad thing, but I know there are laws a thousand times worse than mob laws in this State, and you can say what you please, but the time will never come in this country when the white man's blood will fail to boil to such an extent all over this country that they will rise up and demand the execution of a brute, be he white or black, who takes things in his own hands and seeks to destroy virtue in this country. You take a "nigger" as black as the ace of spades, with a hundred dollars behind him, and he can keep his case in court for five or ten years in spite of justice, and in spite of juries. I tell you that this is an important section. It should be adopted exactly like it is in the old Constitution, and there is no reason why it should be changed. There is no good reason given why it should be changed. We did not go before the people of Alabama and tell them that we were going to suspend the sheriffs of this State without the right to be heard and require them to come before the Supreme Court to defend the case. It should not be done. No good reason can be given for it. I tell you the sheriffs are human beings, like we are, and this thing of singling them out and putting the whole burden upon them for what mobs may do in the State of Alabama is wrong. You want them to stand up there and die, and I dare say there is not a man here, if he had a man of that character in his custody, who would not take to the thicket rather than die under such circumstances. You would do it, and I would do it. Death is a very serious thing, and it is not our duty to die for people who are not worthy to die for.

MR. PILLANS—Are we to understand that all the lynchings that take place in Alabama are for that offense?

MR. LONG—No, sir; we are not to understand that, but why don't you fix it so in here that it will excuse in a case of rape?

MR. PILLANS—Are we to understand that the gentleman thinks the Constitutional Convention of Alabama should legalize—

MR. LONG—Yes, sir; I think they should legalize it in that shape, and I would be willing to vote for it.

MR. PILLANS—The gentleman is not even willing to have the question asked before he knows it cannot be properly answered.

MR. LONG—I beg the gentleman's pardon; I would be glad to answer the gentleman's question.

MR. PILLANS—I was going to ask if the gentleman intended to counsel the Constitutional Convention of Alabama to legalize that class of acts of sheriffs which would result in a failure to protect prisoners in their custody?

MR. LONG—No, sir; not to that extent.

MR. PILLANS—Or the delivery of prisoners in their hands up to a mob to be executed.

MR. LONG—Now, I will answer you. I said before I did not think it is the sheriff's duty to give up his life for a five-cent nigger, and I repeat it.

MR. BAREFIELD—I offer a substitute for the minority report.

The substitute was read as follows: "Amend Section 2 of the report on Impeachment by adding at the end of said section the following: 'And the sheriff shall be eligible as his own successor in office.'"

MR. BAREFIELD—I have been heartily in favor——

MR. LONG—I rise to a parliamentary inquiry. I just want to know if that amendment comes in as an amendment to the minority report.

MR. BAREFIELD—It is a substitute for the minority report, by adding that to Section 2 of the report.

MR. LONG—I make the point of order that it is not germane to the subject. Section 2 embraces a dozen other things. I have no objection to that being incorporated in either one of them, but we want to vote on Section 2 as it stands.

MR. BAREFIELD—I think the Committee on "Harmonics" can harmonize that whether it is germane or not.

THE PRESIDENT—The Chair is not disposed to rule it out on the ground of its being not germane. It may be somewhat inconsistent.

MR. LONG—Can it be offered as a substitute for this whole Article, when it only applies to the sheriffs' successor? I have no objection to the gentleman's amendment. I think the sheriff should succeed himself, and I would vote for it in the proper shape.

THE PRESIDENT—The proposition is to strike out Section 2 of the minority report and insert in lieu thereof the proposition he offers.

MR. LONG—Would it not be better to let them vote on this and then offer his amendment to Section 2 of the majority report when that amendment is voted down?

MR. BAREFIELD—I prefer it as it is. I have not been in favor of the sheriffs being impeached by a jury of twelve men of their county. I have always been opposed to the Article in the report on the Executive Department that provided for the mode of impeachment, but I have seen quite a number of sheriffs, and they say that if they are allowed to succeed themselves, they do not care one iota about the impeachment question. They say if they are allowed to succeed themselves, to vindicate themselves if they are impeached, or an effort is made to impeach them, they do not care about the present impeachment law. I have talked to a whole lot of delegates in this Convention who favor the impeachment by twelve men of the county in the Circuit Court or court of like jurisdiction, but who prefer the amendment I have offered. They say we would rather have the sheriff to succeed himself in office than to defeat the impeachment proposition. Now, as I have stated, I have been bitterly opposed to the present impeachment law as adopted by this Convention, but if the sheriffs in this State want to succeed themselves, and I say they have a perfect right to do so, why, let us adopt that and allow the present impeachment law to remain as it is. Now, the question is——

MR. WALKER (Madison)—Do you propose to strike out entirely any provision in the Constitution in reference to the impeachment of Judges of Circuit Courts and Probate Judges and Solicitors and Judges of inferior courts?

MR. BAREFIELD—No, sir; my amendment is to the latter part of Section 2, which provides the manner in which sheriffs shall be impeached.

MR. WALKER—But you offer it as a substitute for that entire section.

MR. BAREFIELD—I offer it as a substitute to the minority report. The majority report provides how a sheriff——

MR. WALKER—Hadn't you better offer to amend the majroity report by adding that?

MR. BAREFIELD—I cannot see to save my life why a Sheriff should not have the right to succeed himself. I have never seen and have never heard any man on the floor of this Convention give any valid reason why the Sheriff should not succeed himself. You take all the county officials. Your Tax Collector can default, and as a general rule, whenever they do default it is in their second term. It is the same way with your County Treasurer who handles thousands and thousands of dollars of money whenever he defaults. He acts the gentleman in his first term, in order to be

able to act a rascal in his second term. The other proposition as to the Tax Assessor and of county officials should be prohibited from succeeding themselves because he can undervalue property in order to electioneer for the office of Probate Judge or his successor in office. We allow the Probate Judge to succeed himself. He handles the State's money. He can default, and yet we say to him as sensible men, that he can succeed himself, and all other county officials can succeed themselves. Then I ask you gentlemen of the Convention why not allow the Sheriff to succeed himself, and I say to you gentlemen who are favorable to the Sheriff succeeding himself, if he can get a proposition through that will allow him to succeed himself, then let this impeachment law remain as it is, no matter how objectionable it is to us.

MR. BURNS—I thought I understood you to say a while ago that the Sheriffs would be satisfied to compromise upon this amendment.

MR. BAREFIELD—That is what several told me, that they did not care anything about impeachment if they were allowed to vindicate themselves before the people.

MR. BURNS—Do you say that any Sheriff in Montgomery, Wilcox or in the black belt agrees to that?

MR. BAREFIELD—I will say this much: They are not the only Sheriffs in Alabama.

MR. BURNS—Did as many as three say so?

MR. BAREFIELD—Yes, sir.

MR. BURNS—I just talked to the President of the Sheriffs and Clerks Association and they had not heard of it.

MR. LONG (Walker)—Is it not a fact that the President of the Sheriffs' Association told you that between the two he preferred for the impeachment to be knocked out rather than the other?

MR. BAREFIELD—Yes, sir, he did and I will say the President of the Sheriff's Association is not the only Sheriff in Alabama who would like to succeed himself in preference to the impeachment proceedings.

THE PRESIDENT—Is the gentleman through with his remarks?

MR. BAREFIELD—Yes.

THE PRESIDENT—The Chair recognizes the gentleman from Barbour.

The Chair is of the opinion that the amendment offered by the gentleman from Monroe would more properly be applicable

to the section as reported by the majority of the committee, and it seems that it would not be in order as a substitute for the minority report; so the gentleman had better withdraw his amendment and offer it after the minority report is disposed of.

MR. BAREFIELD—Yes, sir, I will ask unanimous consent to withdraw it.

The consent was given.

MR. MERRILL—The main reason why this committee included Sheriffs in this section was the fact that this Convention has virtually adjudicated that matter already in the Executive Department which has been adopted by this Convention, this matter has been virtually adjudicated, or at least the sentiment and desire of the Convention has been expressed to it, That article has been adopted and forms now a part of the Constitution that we are making, therefore your committee did not desire to bring it in its report what would conflict with what has already been done by this Convention, hence it has placed Sheriffs in the same category, or in the same position as to impeachments that the article on the Executive Department places them. We did not desire to undertake to repeal the action of this Convention as heretofore expressed. The committee have no particular desire to press the matter, but we think the Convention has expressed its will. This section is in accordance with that will, and we can see no reason why the majority report should not be adopted. Now that is about all that actuated the committee. I move to lay the minority report upon the table.

MR. SMITH, MAC A. (Autauga)—I ask the gentleman from Barbour to withdraw that a moment.

MR. MERRILL—Yes, sir, I will withdraw it if you will renew it.

MR. SMITH—Mr. President, when the article on the Executive Department was under consideration by this Convention, I voted for the section in that article providing for the removal of the Sheriff by the Supreme Court of the State, and his suspension by the Governor pending an investigation of the charge against him by the Supreme Court. I thought then that the effect of the adoption of that section would be very salutary in its character. I believe it would have a tendency to make the Sheriffs of the State more careful in the protection of the criminals that were lodged in their hands for safe custody, and it was on that account that I voted for it. I thought that perhaps a change in the tribunal by which the Sheriff was to be tried would have that effect; but since then I have reconsidered the matter and come to the conclusion that there is no sufficient reason for changing the tribunal for the trial of a Sheriff more than there was before. I believe, in other words, Mr. President, that the sheriff should be tried as it pro-

vided by the old Constitution, by a tribunal of his county. He is a county officer and should be tried in the same way that a tax collector, a tax assessor, a county treasurer, the clerk of the circuit court, or constable is tried, and so far as that is concened, I would favor an amendment to the Constitution which provided for the trial of the probate judges by the courts of the county. Why do I say that, Mr. President? It is because of the fact that it provides for a home tribunal for the trial of county officers; it is because of the fact that I believe a probate judge should be tried by his county tribunal simply for the reason that he is a county officer, and because whatever sins he may commit, neglect of duty or anything of that kind, malfeasance in office, or any offense involving moral turpitude, is most likely to occur in the county where he holds his office. Other defendants tried for criminal offenses are tried in the county where the offense is committed. Why should not the sheriff and probate judge be tried in the same way. Especially, Mr. President and gentlemen of the Convention am I opposed to that part of the section which we adopted here in the adoption of the Article on Executive Department, providing for the suspension of the sheriff pending his trial. That section provided that the governor of the State, after hearing the sheriff could suspend him. In other words, it provided for the Governor having a preliminary trial of the sheriff. After hearing the sheriff, he had the right, under that law which we adopted, to suspend him. Now the Governor is an executive officer. He is at the head of a co-ordinate department of the State government, and for him to have the authority to suspend the sheriff, the other co-ordinate department of the government, the Supreme Court would be largely persuaded to sustain the Governor in his act of suspension. Because of these facts and because I think it would work an injustice upon a class of officers who are necessarily very important in the administration of the laws of our State I have favored that part of the minority report——

MR. PILLANS—Will the gentleman allow me to ask him a question?

MR. SMITH—Yes, sir.

MR. PILLANS—Does the gentleman mean to intimate that he has a greater distrust of the fairness of the Supreme Court as a fit tribunal to try the sheriff, than of a jury of the county in which the breach of the law has taken place and a man been murdered by a mob?

MR. SMITH—Not by any means. I do not wish to intimate any such thing, and I do not see, by any fair inference, how the gentleman has seen proper to ask such a question. I am unconscious that I said anything that could be taken to indicate that I had any idea that the Supreme Court would be unjust any more

than any other tribunal in the land. On the contrary this is my proposition—

MR. PILLANS—Did not the Convention understand the gentleman to argue but a moment ago, that as the Supreme Court was a co-ordinate branch of the government of which the Governor was the executive head, as the Governor acted in the suspension after a preliminary trial, that the would bias the Supreme Court or control its action in some way?

MR. MAC A. SMITH—I did not intend it to have that meaning; but I say this: That the two co-ordinate departments of the government, the executive and the Supreme Court necessarily have a sympathy existing between them as they ought to have, and the action of one would be largely persuasive of the action of the other.

MR. PILLANS—Does the gentleman suppose that there would be less sympathy for the sheriff, and less sympathetic interference with the due course and progress of justice in the county in which public murder had been done, and the prisoner taken from the sheriff's hands, in the lower court, than would be in the Supreme Court of Alabama.

MR. MAC A. SMITH—I do not know that I exactly understand the gentleman's proposition.

MR. PILLANS—The proposition is this: The gentleman suggests that there would be a bias probably on the part of the Supreme Court affecting the Supreme Court because of its respect for the judgment of the Governor, as I understand.

MR. MAC A. SMITH—Yes, sir.

MR. PILLANS—I ask further whether the gentleman means to intimate that the course of justice, of abstract justice looking to the correct solution and correct decision of the issue in the impeachment proceedings, would be more polluted by passing through the tribunal of the Supreme Court than passing through the court in the county in which public murder had been done by a mob?

MR. MAC A. SMITH—I do not mean by any means that the action of the Governor would be conclusive upon the Supreme Court, but I can see no necessity for there being a preliminary trial of the sheriff by the Governor. It amounts to nothing more than a preliminary trial. After hearing the sheriff, it provides for the Governor to suspend the sheriff from office pending his trial by the Supreme Court. In compliance with my promise to the gentleman from Barbour, I renew his motion for the previous question.

MR. MERRILL—It was to lay on the table.

MR. MAC A. SMITH—I will allow the gentleman to make that motion himself.

MR. MERRILL—I yield to the gentleman from Greene.

MR. COLEMAN (Greene)—I have an amendment.

The amendment was read as follows: "Amend Section 2 of the majority report by striking out the word of the circuit—

THE PRESIDENT—That would not be in order until the Convention disposed of the minority report.

MR. COLEMAN—The gentleman got up to move the previous question upon the minority report and the majority report, and we did not have opportunity to offer amendments to anything.

THE PRESIDENT—The motion was to table the minority report.

MR. COLEMAN—I have no objections to it. I would like to say while I am up that the discussion here is really not proper at this time. The discussion is really impeached, and as to whether the Article reported by the Committee on Executive Department has anything to do with it or not. I cannot see yet. It is not conclusive in any way. The only question in my mind is whether it is fair and right to make a sheriff come from Mobile or the remotest part of the State to Montgomery and stand his trial for impeachment. That is really the only question we ought to consider, except one other question, and that is if you impeach a sheriff at home, he will surely have some advantage, because he has something to do with the selection of the jurors, and he has more or less influence with the judge who tries him, notwithstanding he may be an impartial judge. It is a very serious question, though, whether we ought to bring the sheriff here to Montgomery, because it is a long ways and it is expensive in these trials of impeachment, as every one knows who has had a trial before the Supreme Court on that question. It costs money to bring his witnesses here and to keep them here, but still the court can dispense with the witnesses by the appointment of a commission if it sees proper. That is what we do sometimes.

MR. FITTS—Don't you bring the Probate Judge, who is a county officer, here to Montgomery to try him?

MR. COLEMAN—The judicial officers have always occupied in this State and in the public mind a different position from ministerial or even executive officers, like the Sheriff. I do not want to be understood as opposing this at all, I simply want the question presented to the delegates of the Convention, and not to be misled by bringing up this question of sheriffs and authorizing them to be shot down, or discourse on mob violence. It is not before us and has nothing to do with them at all. The question is, shall the sheriff be impeached before the Supreme Court or before the Circuit Judge at home, as heretofore.

MR. PILLANS—Is it not important in the discussion of that, in your judgment, that we should determine where that impeachment would be fairly and properly tried and the dignity of the law sustained?

MR. COLEMAN—I think not, and I think it has no hearing on it whatever, that I can see. I think the question is shall the sheriff be impeached at home or is it necessary for justice to be done that he be brought to Montgomery. I have not even intimated how I would vote, but I did not want the minds of the delegates to run off on something that wasn't before them. This is bringing up an issue not yet reached, but which will be reached in the further progress of this argument.

MR. PILLANS—Is it the gentleman's conviction that an impeachment at home would ever be successful where you are impeaching him for submitting to mob violence.

MR. COLEMAN—I think the gentleman is expressing a great want of confidence in the virtue and integrity of the people of this country. There are a class of citizens who always favor mob law, but I have never known of any county that did not have virtue enough to uphold the laws of the State, and I am surprised at the gentleman intimating such a thing here.

MR. HOOD—As stated by the gentleman from Barbour (Mr. Merrill) the Committee was largely induced to report Section 2 as it is for the reason that this Convention has heretofore made the sheriff impeachable by the Supreme Court of the State for certain offences. In the consideration of this question, the Committee was especially impressed with the fact that the sheriff is the most important county official; that is is the official that summons jurors and brings them to court, and it is in his charge that they are while in attendance upon court. Now, Mr. President, and gentlemen of the Convention, would a sheriff who should be impeached for neglect of duty or otherwise likely be impeached by jurors whom he had summoned, and who were in his charge during the session of court? This is a practical question that should appeal to us all as members of this Convention.

MR. BURNS—Will the gentleman allow a question.

MR. HOOD—Certainly.

MR. BURNS—Would the sheriff have the selection of the jurors?

MR. HOOD—No, he does not have the selection of jurors now, but he does have charge of the jurors. Something has been said about incurring the ill will of the sheriffs of the State. Certainly the sheriffs would not object to being thus exalted in that they would be impeached by the highest tribunal of the State.

MR. SAMFORD (Pike)—I will ask the gentleman if he does not think that a sheriff in the northeastern counties of the State where the salary or the perquisites amount to a little more than $1,000 a year, would object to being impeached, or to having a trial for impeachment before the Supreme Court where his witnesses and the cost of court would amount to as much as he got in the whole year.

MR. HOOD—Yes sir, and he would object to trial for impeachment before any court. In the first place, there are few sheriffs in Northeast Alabama who got as small a salary as $1,000. In the next place, if it is good policy to impeach the Probate Judge before the Supreme Court, it is certainly good policy, it seems to me, to impeach an equally important official before the Supreme Court. The sheriff not only has charge of the juries, and not only has charge of the Court House, but he is a prominent election official as we all know.

MR. COLEMAN (Greene)—Don't you know that in all proceedings against the sheriff the coroner takes charge.

MR. HOOD—Ordinarily, yes.

MR. COLEMAN—Altogether.

MR. HOOD—Yes, sir, but the sheriff is there and his friends are there, and he has his friends there.

MR. O'NEAL (Lauderdale)—Isn't it a fact that in the last ten years about one hundred persons have been taken from the custody of sheriffs in Alabama, and isn't it a further fact that in not a single instance has a sheriff been impeached under the law as it now exists.

MR. HOOD—I do not know of any sheriff having been impeached. I do not know how many persons have been taken from the sheriffs, I know, however, a great many have, and if one has ever been impeached or that reason I have never heard of it.

MR. BEDDOW—Is it not a fact that since this Convention has been sitting here, three lives have been taken by mob violence in Alabama?

MR. HOOD—I believe the newspaper reports say so. So far as it is concerned, if there is to be any question about incurring the ill will and displeasure of the sheriffs, I will undertake to say we will have no objection to permitting the sheriff to succeed himself. It seems to me if the important officials, such as tax assessor and tax collector, are permitted to succeed themselves, and it is good policy to allow them to succeed themselves, that it is certainly not any worse policy to allow the sheriff to succeed himself, however, that question is not up now, and I move to lay the minority report on the table.

MR. LONG (Walker)—On that I call for the ayes and noes.

The call was sustained.

MR. MULKEY—I rise to a question of inquiry. What has become of the substitute offered by the gentleman from Monroe?

THE PRESIDENT—The substitute was withdrawn by unanimous consent, with the view of adding it as an amendment to the section as reported by the Committee.

Upon a call of the roll the vote resulted as follows:

AYES.

Messrs. President,	Fitts,	Murphree,
Altman,	Foshee,	Norman,
Asheraft,	Freeman,	Norwood,
Banks,	Graham, of Talladega,	Oates,
Barefield,	Greer, of Perry,	O'Neal (Lauderdale),
Beddow,	Harrison,	Palmer,
Blackwell,	Henderson,	Phillips,
Brooks,	Hood,	Pillans,
Byars,	Jones, of Montgomery,	Searcy,
Cunningham,	Jones, of Wilcox,	Spears,
Davis, of Etowah,	Lomax,	Vaughan,
Dent,	Lowe (Jefferson),	Waddell,
Duke,	Maxwell,	Watts,
Eley,	Merrill,	Wilson (Clarke),
Espy,	Miller (Marengo),	Winn,
Ferguson,	Mulkey,	

Total—47.

NOES.

Almon,	Handley,	O'Rear,
Bethune,	Heflin, of Randolph,	Parker (Elmore),
Browne,	Inge,	Pettus,
Burns,	Jackson,	Reynolds (Henry),
Cardon,	Jenkins,	Rogers (Lowndes),
Chapman,	Jones, of Bibb,	Samford,
Cobb,	Knight,	Sanford,
Coleman, of Greene,	Long (Walker),	Smith, Mac. A.,
Davis, of DeKalb,	Lowe (Lawrence),	Spragins,
Eyster,	Macdonald,	Walker,
Glover,	Martin,	Williams (Barbour),
Graham, of Montgomery,	Moody,	Williams (Elmore),
Grayson,	Opp,	Wilson (Wash'gton),

Total—39.

ABSENT OR NOT VOTING.

Bartlett,	Boone,	Burnett,
Beavers,	Bulger,	Carmichael, of Colbert,

Carmichael, of Coffee,	Kirk,	Reynolds (Chilton),
Carnathon,	Kirkland,	Robinson,
Case,	Kyle,	Rogers (Sumter),
Cofer,	Ledbetter,	Sanders,
Coleman, of Walker,	Leigh,	Selheimer,
Cornwall,	Locklin,	Sentell,
Craig,	Long (Butler),	Smith (Mobile),
deGraffenreid,	McMillan (Baldwin),	Smith, Morgan M.,
Fletcher,	McMillan (Wilcox),	Sollie,
Foster,	Malone,	Sorrell,
Gilmore,	Miller (Wilcox),	Stewart,
Grant,	Morrisette,	Studdard,.
Greer, of Calhoun,	NeSmith,	Tayloe,
Haley,	O'Neill (Jefferson),	Thompson,
Hinson,	Parker (Cullman),	Weakley,
Hodges,	Pearce,	Weatherly,
Howell,	Pitts,	White,
Howze,	Proctor,	Whiteside,
Jones, of Hale,	Reese,	Willet,
King,	Renfro,	

PAIRED.

AYES.	NOES.
Porter,	Heflin, of Chambers,
Sloan,	Williams (Marengo).

So the motion to table prevailed.

MR. BAREFIELD—I have an amendment.

The amendment was read as follows:

An amendment to Section 2: "Amend Section 2 by adding at the end thereof; provided, that sheriffs shall be eligible to succeed themselves in the office of sheriff.

MR. BAREFIELD—I yield to the gentleman from Jefferson.

MR. CUNNINGHAM—I do not intend to make any speech of any length upon this subject, but I am heartily in favor of allowing the sheriffs to succeed themselves. In the first place, I know of no substantial reason why they should not succeed themselves, if the people want them. In the second place, I think the provisions that we are adopting in regard to the impeachment of sheriffs should give them the right of an appeal to the people, where they live, for re-election. I am in favor of the impeachment of the sheriffs as ordained in the ordinance on the executive department. I voted to table the minority report, and am in favor of the majority report, which is, as I understand it, substantially the same as the Executive Department upon this question. But I believe

that the sheriffs should have an opportunity to vindicate themselves and for that reason I am heartily in favor of the sheriffs having the constitutional privilege of offering for re-election. I do not know whether this would be any compromise or not. So far as I am individually concerned, I do not believe that this Convention should condescend to ask any officer in the State of Alabama, from Governor down what he thinks about it. That is my ticket. We are here to do what is right, and it does not make any difference whether it is politics, or whether it pleases or tickles any particular officer in Alabama. That is my idea. It makes no difference whether it pleases the solicitors. Governor or courts or anybody else. I believe it is right that the sheriff should, if possible, maintain order, and maintain the law of the land, and I believe it is also right that an officer who is an arm of the executive in the county should be amenable at least to that executive to the extent of discharging his duty faithfully, and I believe the Governor has the right to suspend him pending impeachment proceedings, and I believe the Supreme Court of Alabama is the proper tribunal to try him. I subscibe fully to this doctine, but I also subscribe to the principle that the sheriff has the right to succeed himself, and that the people of any county have the right to re-elect him, not in a spirit of compromise. I have never yet, in all my life, subscribed to anything that was a compromise of what I believed to be right, and I believe that the majority report upon this question, which is the same as that contained if the Article on the Executive Department is right. I also believe in the right of the sheriff to succeed himself if the people want him.

MR. JONES (Montgomery)—I favor the amendment which has just been offered, because I see no particular detriment to the public welfare if it becomes a part of the Constitution. I have no other reason. There has been wide difference of opinion among the members of the Convention as to the wisdom of certain provisions which are now in the Constitution regarding the responsibility which sheriffs shall incur, and the manner in which the Governor may deal with them. I am not one who is opposed to the compromise of policies. While I would not compromise with the sheriffs, I am perfectly willing, in order to remove this question from further debate, and to satisfy the members of the Convention to vote for this amendment, with the understanding, as I believe it is with many of them that if it is adopted, it will end the differences in this body.

MR. LOWE (Jefferson)—Should there not be some provision, then, in case a sheriff should be a candidate for re-election, the sheriff being returning officer and also having charge of every box in the county, limiting the power of the sheriff where he himself is a candidate for re-election?

MR. JONES—My impression is, though I have not looked at the Statutes, that the laws have already provided, when the sheriff is a candidate, that some one else should be selected in his stead.

MR. ESPY—He has not been a candidate, and could not be under the law, but where he is interested, that is the law.

MR. JONES—That would be a matter of legislation, and there would be no objection to putting it in the Constitution.

MR. LOWE—That is the objection that I have to the amendment—the fact that there is no provision made by which the sheriff is disqualified. Isn't it a fact that there is an exception made now in the law by which the Probate Judge cannot act as a supervisor when he is interested, and that there is no such exception to the sheriff?

MR. JONES—That is because the sheriff, as my memory has been refreshed, cannot be a candidate to succeed himself, but the general provisions of all our laws is that when an officer is interested, some substitute is provided, but there would be no objection, certainly on my part, if necessary, to put a provision in the Constitution to cure any defect on that subject. That is my reason for favoring the amendment.

MR. BURNS—I have an amendment to amend by adding after the word "sheriff" the words "and Probate Judge."

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

MR. BAREFIELD—The Probate Judge can succeed himself. Therefore, I move to lay the amendment on the table.

MR. COLEMAN—Mr. President, I must dissent from the amendment offered and now pending before this Convention. I never thought it was a wise policy to try to remedy one wrong by doing another wrong. We have been acting under the present law for many years, and it has worked well, and the people who have been intimate with sheriffs, particularly the solicitors of this State, are universally of the opinion, I think, that if you allow a sheriff to succeed himself, you might as well give him a perpetual office in this State. There are several reasons why a sheriff should not succeed himself. One is he can entrench himself so that you can not get him out, and then where an officer handles public money, and other people's money, he ought to be brought to an account sometime or other.

MR. SANFORD (Montgomery) — I would like to ask the gentleman what right a sheriff should have to succeed himself, under an Article on Impeachment, when you are punishing them for crimes?

MR. COLEMAN—My only answer is, that is the amendment offered by the gentleman from Monroe, and that is up for discussion, and that is what I am discussing; I hope that is satisfactory. That is my understanding of it.

MR. BAREFIELD—I would like to ask the gentleman if a Probate Judge does not handle quite a lot of money.

MR. COLEMAN—It has been the rule from time immemorial, that judicial officers did not occupy the same place, and in most of the States and countries they hold office during life, or for good behavior, and Probate Judges settle up every month, for that matter, but they occupy a different position altogether, and even in case of a Probate Judge, it is almost impossible to defeat one for the second term. Still, it is not so bad. They learn more law and become better qualified, but why should we make this inroad on a custom which has existed so long in this State, and which has given perfect satisfaction so far as I know. I hope the amendment will be tabled, and I make the motion to lay it on the table.

MR. GRAHAM (Talladega)—Mr. President, I want to speak in behalf of the amendment. I hope the gentleman will withdraw that.

MR. COLEMAN—I will withdraw that.

MR. GRAHAM—The gentleman who has just taken his seat knows very well why sheriffs could not succeed themselves in days past, and he must know that those reasons and conditions do not now exist. Every sheriff is required to give a bond for the faithful performance of his duty, and if he collects money that he does not pay over, he is just as responsible on that bond, and can be made to meet his obligations as easily, as can a Probate Judge or Tax Collector. As to the objection urged by the distinguished gentleman, you might as well continue him in office forever, or perpetually. I want to state that sheriffs have not a monopoly on the line of officeholding in this State. I have known men who were not sheriffs to stay in office almost forever. (Laughter).

MR. LOWE—Will the gentleman permit a question?

MR. GRAHAM—Just one moment. I want to say, furthermore, when you turn a sheriff out of office, he sometimes succeeds in getting the office of Tax Collector, Tax Assessor or some other office.

MR. LOWE (Jefferson)—I would like for the gentleman to explain to the Convention how it would be practicable to provide for peace officers at an election, and returning officers at an election, if the Sheriff is allowed to succeed himself, and I suggest to the gentleman, before he replies, that every other county officer can succeed himself, and in that view it will not do to impose that

duty on any other county officer, and in addition to that, that Sheriffs' forces as peace officers is already organized for every county.

MR. GRAHAM (Talladega)—I want to say in reply that the peace officers on election day have nothing to do with the management of the election. Of course there are returning officers not appointed by the Sheriff, but appointed by three county officials, and the statute already provides that in the event any member of the Canvassing Board should be interested in the returns, a third man shall be selected by those who are disinterested to sit upon the Canvassing Board on the day of returns.

MR. LOWE—Has it been the gentleman's observation that even in municipal elections the police do not interfere with elections where interested, or that in county elections, the Sheriff's posse does not sometimes interfere.

MR. GRAHAM—I have had no experience on that line. I think they have been just as fair when Probate Judges wanted to succeed themselves and Circuit Clerks wanted to succeed themselves as they have been on other occasions and I do not see why you should by implication and insinuation say that an election would not be fair because the Sheriff wanted to succeed himself as Sheriff, and not run for the office of Tax Collector instead of Sheriff. That meets the argument of the gentleman. I have had experience and observation on that line, and I believe that the elections would be just as free from intimidations and interference with the Sheriff running to succeed himself, as it would be for a Probate Judge to run to succeed himself, and the statute already provides for all such elections.

MR. COLEMAN—May I ask a question? You say that Sheriffs do not succeed. After he has gone out of office, he is elected sometimes Tax Collector or to some other office.

MR. GRAHAM—I say they usually run for Tax Collector or some other office.

MR. COLEMAN—And are not elected.

MR. GRAHAM—Some times they are elected.

MR. COLEMAN—You say some times?

MR. GRAHAM—Certainly.

MR. COLEMAN—Only some times they are elected.

MR. GRAHAM—I said some times they are elected.

MR. COLEMAN—You know the reason they run is because they are prevented by law from succeeding themselves as Sheriff, and if they had been in there one term, how can you beat them?

MR. GRAHAM—I have never seen any man who got a taste of it that did not want more and possibly there are some fine illustrations on this floor. (Laughter.) I say the Sheriff should not be singled out and let it be said of him that he is too dishonest to run to succeed himself, and that every other officer may run to succeed himself.

MR. LONG (Walker)—Is it not a fact that nearly every State in the Union except Alabama allows the Sheriff to succeed himself?

MR. GRAHAM—I do not know, and if the gentleman knows it, let him state it as a matter of fact.

MR. LONG—Can he succeed himself in Texas and nearly every other Southern State.

MR. GRAHAM — I think so, and if a man is honest enough to be a Sheriff one time, he is honest enough to succeed himself. I therefore move the previous question on the amendment.

On that I call for the ayes and noes.

MR. OPP—I call for the ayes and noes.

THE PRESIDENT—On the call for the previous question?

MR. OPP—On the main question.

The main question was ordered.

MR. MULKEY—If I am in order, I move to lay the amendment on the table.

MR. GRAHAM (Talladega)—And upon that I demand the ayes and noes.

The call was sustained and the roll call resulted as follows:

AYES.

Bethune,	Freeman,	Murphree,
Blackwell,	Glover,	Norman,
Brooks,	Harrison,	Oates,
Browne,	Henderson,	Palmer,
Byars,	Inge,	Phillips,
Chapman,	Jackson,	Reynolds (Henry),
Coleman, of Greene,	Jenkins,	Sanford,
Davis, of DeKalb,	Jones, of Bibb,	Smith, Mac A.,
Dent,	Lowe, of Jefferson,	Spears,
Espy,	Martin,	Walker,
Fitts,	Merrill,	Watts,
Foshee,	Mulkey,	Williams, of Barbour,

Total—36.

NOES.

Messrs. President,
Almon,
Altman,
Ashcraft,
Banks,
Barefield,
Beddow,
Burns,
Cardon,
Cobb,
Cunningham,
Davis, of Etowah,
Duke,
Eley,
Eyster,
Ferguson,
Graham, of Montgomery,
Graham, of Talladega,
Grayson,
Greer, of Perry,
Handley,
Heflin, of Randolph,
Hood,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Lomax,
Long, of Walker,
Lowe, of Lawrence,
Macdonald,
Maxwell,
Miller, of Marengo,
Norwood,
O'Neal, of Lauderdale,
Opp,
O'Rear,
Parker, of Elmore,
Pettus,
Pillans,
Rogers, of Lowndes,
Samford,
Searcy,
Spragins,
Vaughan,
Waddell,
Williams, of Elmore,
Wilson, of Clarke,
Wilson, of Washington,
Winn.

Total—49.

ABSENT OR NOT VOTING.

Bartlett,
Beavers,
Boone,
Bulger,
Burnett,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Case,
Cofer,
Coleman, of Walker,
Cornwall,
Craig,
deGraffenreid,
Fletcher,
Foster,
Gilmore,
Grant,
Greer, of Calhoun,
Haley,
Heflin, of Chambers,
Hinson,
Hodges,
Howell,
Howze,
Jones, of Hale,
King,
Kirk,
Kirkland,
Kyle,
Ledbetter,
Leigh,
Locklin,
Long, of Butler,
McMillan (Baldwin),
McMillan, of Wilcox,
Malone,
Miller, of Wilcox,
Moody,
Morrisette,
NeSmith,
O'Neill (Jefferson),
Parker, of Cullman,
Pearce,
Pitts,
Porter,
Proctor,
Reese,
Renfro,
Reynolds, of Chilton,
Robinson,
Rogers, of Sumter,
Sanders,
Selheimer,
Sentell,
Smith, of Mobile,
Smith, Morgan M.,
Sollie,
Sorrell,
Stewart,
Studdard,
Tayloe,
Thompson,
Weakley,
Weatherly,
White,
Whiteside,
Willet,

PAIRED.

AYES.

Sloan,

NOES.

Williams, of Marengo,

And the motion to table was lost.

MR. COLEMAN—I have an amendment.

THE PRESIDENT—The previous question having been ordered on the amendment, the amendment of the gentleman will not be in order until the amendment offered by the gentleman from Monroe has been disposed of.

Upon a vote being taken a division was called for and upon a further vote of 41 ayes and 40 noes the amendment was adopted.

The Clerk read the following amendment offered by Mr. Coleman: "Amend by adding at the end of the amendment as follows: 'Provided that sheriffs shall not hold for more than two successive terms.'"

MR. HOOD—The Committee ask unanimous consent to accept the amendment.

There being no objection consent was given.

MR. COLEMAN—I have another amendment, to strike out the words "of the circuits" in the second line of Section 2.

MR. HOOD—The Committee ask unanimous consent to accept that amendment.

Consent was given.

Upon a vote being taken, the section was adopted as amended.

MR. LONG (Walker)—I ask unanimous consent to withdraw the balance of the minority report.

There being no objection it was withdrawn.

Section 3 was read as follows:

Sec. 3. The Clerks of the Circuit or courts of like jurisdiction, of criminal courts, tax collectors, tax assessors, county superintendents of education, county solicitors, coroners, justices of the peace, notaries public, constables and other county officers, mayors, intendents and all other officers of incorporated cities and towns in this State may be removed from office for any of the causes specified in Section 1 of this Article, by the circuit or other courts of like jurisdiction, or criminal court of the county in which such officers hold their office, under such regulations as may be prescribed by law; provided, that the right of trial by jury and appeal in such cases be secured.

MR. HOOD—I have an amendment.

The amendment was read as follows: "Amend Section 3 of the report of the majority by striking out the words "County Solicitor" in the third line of the section?

MR. HOOD—This amendment becomes necessary by the adoption of the amendment offered by the gentleman from Greene. The members of the Committee ask unanimous consent to accept the amendment.

Consent was given and the amendment was ordered.

MR. HOOD—I move the adoption of Section 3.

Upon a vote being taken the section as amended was adopted.

Section 4 was read as follows:

Sec. 4. The penalties in cases arising under the three preceding sections shall not extend beyond removal from office, and disqualifications from holding office, under the authority of this State, for the term for which he was elected or appointed; but the accused shall be liable to indictment and punishment as prescribed by law.

MR. HOOD—This is identical with the old Constitution and I move its adoption.

Upon a vote being taken the section was adopted.

MR. HOOD—I move that the article be engrossed and ordered to a third reading.

MR. WADDELL—I call the gentleman's attention to the fact that Section 2 of the Article, it says "Solicitor of the Circuit."

MR. HOOD—That has been stricken out.

Upon a vote being taken the motion to engross and order to a third reading was carried.

The Clerk read the following ordinance accompanying the report of the Committee on Impeachment:

Whereas, ample provision is made by law for the impeachment, and

Whereas, it is contrary to the policy of this government that any part of the powers of one department should be exercised by an 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.

MR. JONES (Montgomery)—I understand that after a conference with a great many of the members on the vote that has just been had, that would not be insisted upon, and I therefore move to lay it on the table.

MR. COLEMAN—I do not think that that is right, and I ask that the gentleman withdraw it.

MR. JONES—What is not right?

MR. COLEMAN—To lay that on the table. I do not know who they have had a conference with.

MR. JONES—If that isn't the understanding they will vote it down.

MR. COLEMAN—It is a matter for discussion.

MR. JONES—I regret not to be able to favor the gentleman. I insist on the motion to lay it on the table.

MR. COLEMAN—Certainly the Committee has a right to be heard on its own resolution.

THE PRESIDENT—The delegates will please be in order and be seated.

The Chairman of the Committee did not ask for recognition, and the gentleman from Montgomery was recognized by the Chair, and he submits a motion to lay this ordinance on the table, which is not debatable.

MR. HOOD—I do not care to debate it, Mr. President, but I want to make a simple statement, that I had no such understanding.

THE PRESIDENT—The gentleman is out of order. The question is not debatable.

MR. SPRAGINS—I demand an aye and no vote on this question.

The call was sustained.

MR. BROWN—I call for a reading of the Section reported by the Committee.

THE PRESIDENT—The Section has been read in the hearing of the Convention. The Secretary will again read the Section.

The Secretary again read the Section.

Upon a vote being taken the vote resulted as follows:

AYES

Messrs. President,
Altman,
Ashcraft,
Banks,
Barefield,
Beddow,
Brooks,
Byars,
Cunningham,
Davis, of Etowah,
Dent,
Duke,
Eley,
Espy,
Ferguson,
Fitts,
Foshee,
Freeman,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Lomax,
Maxwell,
Miller (Marengo),
Murphree,
Norman,
Oates,
O'Neal (Lauderdale),
Palmer,
Parker (Elmore),
Phillips,
Pillans,
Porter,
Reynolds, of Henry,
Searcy,
Spears,
Vaughan,
Waddell,
Williams (Barbour),
Williams (Elmore),
Wilson (Clarke),
Winn,

TOTAL—42

NOES

Almon,
Bethune,
Blackwell,
Browne,
Burns,
Cardon,
Chapman,
Cobb,
Coleman, of Greene,
Davis, of DeKalb,
Eyster,
Glover,
Graham, of Montgomery,
Grayson,
Greer, of Perry,
Handley,
Harrison,
Heflin, of Randolph,
Henderson,
Hood,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Long, of Walker,
Lowe, of Jefferson,
Lowe, of Lawrence,
Macdonald,
Martin,
Merrill,
Moody,
Norwood,
Opp,
O'Rear,
Pettus,
Rogers (Lowndes),
Samford,
Sanford,
Smith, Mac. A.,
Spragins,
Walker,
Watts,
Wilson (Washington),

TOTAL—43

ABSENT OR NOT VOTING

Bartlett,
Beavers,
Boone,
Bulger,
Burnett,
Carmichael, of Colbert
Carmichael, of Coffee,
Carnathon,
Case,
Cofer,
Coleman, of Walker,
Cornwall,
Craig,
deGraffenreid,
Fletcher,
Foster,
Gilmore,
Graham, of Talladega,
Grant,
Greer, of Calhoun,
Haley,
Heflin, of Chambers,
Hinson,
Hodges,
Howell,
Howze,
Jones, of Hale,
King,
Kirk,
Kirkland,
Kyle,
Ledbetter,
Leigh,

Locklin,
Long, of Butler,
McMillan, of Baldwin,
McMillan (Wilcox),
Malone,
Miller (Wilcox),
Morrisette,
Mulkey,
NeSmith,
O'Neill, of Jefferson,
Parker (Cullman),
Pearce,
Pitts,
Proctor,
Reese,
Renfro,
Reynolds (Chilton),
Robinson,
Rogers (Sumter),
Sanders,
Selheimer,
Sentell,
Sloan,
Smith (Mobile),
Smith, Morgan M.,
Sollie,
Sorrell,
Stewart,
Stoddard,
Tayloe,
Thompson,
Weakley,
Weatherly,
White,
Whiteside,
Willet,
Williams (Marengo),

So the motion to table was lost.

MR. PETTUS—I move the previous question on the ordinance and the amendment.

MR. SPRAGINS—I want to move the adoption of the ordinance, and on that I move the previous question.

MR. HOOD—We would ask the gentleman to withdraw that and let the Committee be heard from.

MR. SPRAGINS—I withdraw the request.

THE PRESIDENT — The gentleman from Madison moves the adoption of the ordinance, and upon that called for the previous question. The question is shall the main question be now put.

MR. O'NEAL (Lauderdale)—And upon that I call for an aye and nay vote.

(The call was immediately withdrawn).

The previous question was ordered.

MR. PILLANS—I rise to a question of privilege.

THE PRESIDENT—The gentleman will state the question.

MR. PILLANS—There is a question contained in this report as amended, which occurs to many of us as being a vital one, and one upon which there ought to be a large vote cast. There must be in the city of Montgomery, many delegates to this Constitutional Convention who at this moment are not doing their duty, and I rise to ask the Chair if this house is powerless to bring up the recalcitrant members, in order that their votes may be taken, and that we may know where we stand. We are now acting by a bare majority and it is not just or right that this should be the case. I ask whether or not this house has the authority to bring in the absent delegates.

THE PRESIDENT—Where there is no quorum present, the Chair does not know of any rule to require us to send for the absent members.

MR. PILLANS—I move that the absent members be sent for and that no further proceedings be had until they are brought in.

MR. COLEMAN—I suggest that the gentleman is out of order.

THE PRESIDENT—The gentleman from Barbour has the floor.

MR. DAVIS (Etowah)—I move that we adjourn.

THE PRESIDENT—The motion is not in order after the previous question has been ordered.

MR. MERRILL—I thought I had the floor.

THE PRESIDENT—The gentleman has had the floor, but the gentleman from Mobile arose to a question of privilege, which the Chair discovered was not exactly a question of privilege.

MR. MERRILL—This ordinance has received most careful consideration by this Committee. On account of the previous action of the Convention we gave it more than ordinary consideration, and your Committee decided, Mr. President, that the provision which has been formally adopted by this Convention is undemocratic, and therefore think that the Convention ought to reverse its actions, and that this ordinance should be adopted.

MR. O'NEAL—May I ask the gentleman a question?

MR. MERRILL—Not at present.

MR. O'NEAL—You will not answer a question then?

MR. MERRILL—I will answer the question directly.

THE PRESIDENT—The gentleman declines to yield.

MR. MERRILL—Here we have, Mr. President, an officer, one of the executive officers of the State of Alabama elected by the people of the county and put into this office of trust and importance, and to let another arm of the government, or another officer, the head of the Executive Department, suspend or take from him, even though it be for a day, an office that the people of the county have given to him, we consider undemocratic, and it was improper to put it in this Constitution. The people of the county select and the people of the county elect, the sheriff. It is from them that he receives this office, and we think that nobody —not even the Governor, the head of the Executive Department— ought to be authorized to take the office from him for any length of time. He ought to be placed in the same category as any other

officer; that is, he should have a trial according to law, before the office is taken from him for any length of time. Suppose he is suspended by the Governor, the Governor being human, would naturally, like the balance of us, desire that his action be sustained, and he would virtually become in a measure a prosecutor for the purpose of seeing that the suspension that he had ordered was determined to be proper and right.

Then, another thing, Mr. President; how long a time is he to be suspended? What is to become of his office, and the emoluments of the office, during the time that he is suspended. It may be but a short time, or it may be on account of the law's delays a long time, and during that time, without a trial, this Constitution authorizes the taking away of the office that the people have given him.

Then another great maxim of the law is that the law throws around every man that is charged with an offense the presumption of innocence. That presumption ought to follow the sheriff as it does every other man that is charged with an offense, but if you allow the Governor, as is provided by the ordinance on the Executive Department, to suspend the sheriff, the presumption is reversed, and becomes a presumption of guilt before he is tried, and he is presumed to be guilty before the verdict of the court authorized by law to try him is rendered. Therefore, although it was a delicate matter, and although the Convention had acted upon it, otherwise, yet after due consideration, the committee thought that upon a reconsideration of this important matter, the Convention would come to the same conclusion as this committee, and agree with the committee that the ordinance ought to be passed.

THE PRESIDENT—The question is upon the passage of the ordinance.

MR. O'NEAL—I call for an aye and no vote.

MR. DUKE—I call for a reading of the ordinance.

THE PRESIDENT—It has been twice read, and the Chair will decline to have it read a third time.

Upon the call of the roll, the vote resulted as follows:

AYES

Almon,	Coleman, of Greene,	Heflin, of Randolph,
Bethune,	Davis, of DeKalb,	Hood,
Blackwell,	Eyster,	Inge,
Browne,	Glover,	Jackson,
Burns,	Graham, of Montgomery,	Lowe (Jefferson),
Cardon,	Grayson,	Lowe (Lawrence),
Chapman,	Greer, of Perry,	Macdonald,
Cobb,	Handley,	Martin,

Merrill,
Moody,
Norwood,
Opp,
O'Rear,
Pettus,
Samford,
Sanford,
Smith, Mac. A.,
Spragins,
Walker,
Watts,
Williams (Barbour),
Wilson (Washington),

TOTAL—38

NOES

Messrs. President,
Altman,
Ashcraft,
Barefield,
Beddow,
Brooks,
Byars,
Cunningham,
Davis, of Etowah,
Dent,
Duke,
Eley,
Espy,
Ferguson,
Fitts,
Foshee,
Freeman,
Graham, of Talladega,
Harrison,
Henderson,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Lomax,
Long (Walker),
Maxwell,
Miller (Marengo),
Murphree,
Norman,
Oates,
O'Neal (Lauderdale),
Palmer,
Parker (Elmore),
Phillips,
Pillans,
Porter,
Reynolds (Henry),
Rogers (Lowndes),
Searcy,
Spears,
Vaughan,
Waddell,
Williams (Elmore),
Wilson (Clarke),
Winn,

TOTAL—45

ABSENT OR NOT VOTING

Banks,
Bartlett,
Beavers,
Boone,
Bulger,
Burnett,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Case,
Cofer,
Coleman, of Walker,
Cornwall,
Craig,
deGraffenreid,
Fletcher,
Foster,
Gilmore,
Grant,
Greer, of Calhoun,
Haley,
Heflin, of Chambers,
Hinson,
Hodges,
Howell,
Howze,
Jenkins,
Jones, of Bibb,
Jones, of Hale,
King,
Kirk,
Kirkland,
Kyle,
Ledbetter,
Leigh,
Locklin,
Long (Butler),
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Miller (Wilcox),
Morrisette,
Mulkey,
NeSmith,
O'Neill (Jefferson),
Parker (Cullman),
Pearce,
Pitts,
Proctor,
Reese,
Renfro,
Reynolds (Chilton),
Robinson,
Rogers (Sumter),
Sanders,
Selheimer,
Sentell,
Sloan,
Smith (Mobile),
Smith, Morgan M.,
Sollie,
Sorrell,
Stewart,
Studdard,
Tayloe,
Thompson,

Weakley,	White,	Willet,
Weatherly,	Whiteside,	Williams (Marengo).

And the ordinance was lost.

MR. JONES (Montgomery)—I move that we adjourn.

The Convention thereupon adjourned.

CORRECTIONS

In the sixty-eighth day's proceedings in the remarks of Mr. Merrill, third column, first page, in lines 62 and 64 from the bottom of the column, the word "innovation" should be corrected to read "novation."

In the remarks of Mr. Browne, in the proceedings of the sixty-seventh day, on third page, commencing in the third column, in the twentieth line from the top of the column, the word "article" should read "amendment." In the seventy-seventh line, the word "and" should read "was."

In line one hundred and twenty-eight, commencing "Mr. Oates" down to "principal," in the 141st line, should be stricken out. In line 35 from bottom of fourth column, the second "this" should be "that." In line 26 from bottom, "then that" should read "if so," and in line 8 from bottom, "could" should read "should."

In fifth column, "that Committee is up" should read "that Committee's report is up."

In 25th line "engrossed" should be "engrossment." In 28th line erase "that" and add "I will move to take Section 5 from the table. The proposed amendment." In 36th line should read "Section 5, Article XI." In 60th line erase would be and make it read "was ordered to." In line 32 "motion" should be "amendment."

In line 94 "there" should read "which."

In line 97 strike out "if we" and make it read "to;" in the same line "words" should be "section."

In lines 100 and 101, strike out "and therefore."

Commencing in line 17, it should read:

"MR. BROWNE—That leaves Section 5 the only remaining section of the report of the Committee on Taxation. That is exactly as the section in the present Constitution, except that in this proviso, "provided, further, that to pay any debt or liability now existing," etc., after "bridges," "roads" is included; "roads" was not in the other Constitution. "Any county may collect," etc., for roads" is not in the present Constitution, as there is no pro-

vision for collecting a special tax for roads. Neither is there a limitation upon the amount of tax that can be levied for public roads and buildings. In the Code there is a statutory limit upon the amount that can be levied for public buildings at one-half of one per cent, but no limitation to the amount to be levied for roads. A county in the State of Alabama can, under the existing law, levy 10 per cent, or any per cent it wants under the Code for bridges. The committee thought it best to include roads along with bridges for which a special tax can be levied and limit the amount of taxation for public buildings, bridges and roads to one-quarter of one per cent, whereas now there is no limit for buildings and bridges. That is the only change made in that section.

THE PRESIDENT—The question is on the adoption of the section as amended.

MR. WATTS — Have you not made another change which you neglected to state in the eighth line by leaving out after "bridges" "or other ordinary purposes?"

MR. BROWNE—Yes, because, as we understood, there were no such debts created that now existed for ordinary county purposes. This is provided to pay for the construction and maintenance of public buildings or bridges. We left out "or other ordinary purposes." It was considered by the Committee that there were no debts for other county purposes for which special taxes could be levied.

SEVENTIETH DAY

MONTGOMERY, ALA.,

Tuesday, Aug. 13, 1901.

The Convention met pursuant to adjournment, and was called to order by the President.

Upon a second call of the roll ninety-seven delegates responded to their names.

Leave of absence was granted to Mr. Reese of Dallas for yesterday.

The report of the Committee on the Journal was read, stating that the journal for the sixty-ninth day had been examined and found correct, and the same was adopted.

MR. HANDLEY—I ask unanimous consent to offer a short resolution.

Unanimous consent was accorded.

The Secretary read the resolution as follows:

Resolution 297.

Resolved, That if in the future, a quorum be not present at roll call, all members absent without sufficient excuse, to be determined by the Chair, shall be fined $5 each.

MR. HANDLEY—I move a suspension of the rules, that the resolution be submitted to the Convention.

Upon a vote being taken, a division was called for, and a further vote being taken, there were thirty-two ayes and fifty-three noes, and the Convention refused to suspend the rules.

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

MR. COLEMAN (Greene)—I believe that this is the proper time, Mr. President, to take up a question of reconsideration where notice was given yesterday. Mr. deGraffenreid being called away by sickness and cannot be here, has requested me to bring up his motion to reconsider the vote by which the report of the Judiciary Committee was engrossed and ordered to a third reading yesterday. I do not know what views he would express if he were here, but as I favored his view of the section in regard to solicitors, I will proceed to discuss it and express merely my own views.

MR. GRAHAM (Talladega)—I understand that the gentleman makes a motion at this time to reconsider the vote by which the article on judiciary was read a third time, and passed and sent to the Committee on Harmony?

THE PRESIDENT—That is the understanding of the Chair.

MR. COLEMAN—Mr. deGraffenreid gave notice yesterday that he would move to reconsider, and he is not here, and requested me to do so.

MR. GRAHAM (Talladega)—I rise to a point of order.

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

MR. GRAHAM (Talladega)—That a motion was made to reconsider the Article when it was ordered engrossed as an Article and this Convention refused to reconsider the Article at that time, and under the rule, no question shall be twice reconsidered in this Convention.

MR. COLEMAN—I do not think that the gentleman is correct in his statement. There was no action taken yesterday upon his motion to reconsider.

MR. GRAHAM—I appeal to the journal. It was on last Thursday that the Article was ordered engrossed, and the journal will show that this Convention refused to reconsider the Article as an Article at that time—I appeal to the journal.

MR. COLEMAN—It was only read yesterday, reported by the Committee on Engrossment, read yesterday and adopted.

MR. GRAHAM—When it was ordered to be engrossed, is what I am talking about.

THE PRESIDENT—The gentleman from Greene possibly intends to apply his motion to the vote whereby the article was adopted, and referred to the Committee on Order, Consistency and Harmony of the whole Constitution. It had been previously ordered engrossed and to a third reading.

MR. GRAHAM—And when it was ordered engrossed, if the President please a motion was made to reconsidered the vote by which it was so ordered, on the whole article and this Convention refused to reconsider it. I submit that there has been no change in that article since that time, and that it is the same article which they refused to reconsider, and under the rules of this Convention, it cannot be reconsidered again.

MR. COLEMAN (Greene)—Mr. President there is quite a difference between that and the adoption of the article, on the vote by which it was adopted yesterday. There has been no motion made upon that. Certainly we did this in one case before, and it is before the Convention. In fact, I believe in framing of the Constitution, no rule should prevent the Convention from doing—

THE PRESIDENT—The Chair will hear from the gentleman from Greene on the point of order.

MR. GRAHAM—Rule 27 is the one I have been trying to call to the attention of the Chair.

MR. COLEMAN—There is quite a difference between a vote ordering to a third reading and the adoption of an article. It was adopted yesterday and the motion is to reconsider the vote whereby it was adopted, but independently of all that, Mr. President, if this Convention should see proper to correct any of its rulings before the final adoption and determination, it should be within its power to do so. I do not know what the Convention will do. We are frequently cut off here from discussing questions by the rules of the House. Many members would rather express their views sometimes, whether right or wrong, and I for one (And I believe I represent a great many others) would rather have the question disposed of upon its merits, than by any ruling of the Chair, which takes away from members the consideration of any question on its merits. As stated before, I am not versed in parliamentary

law and I do not expect to become so versed, but I do know what is right, and that is all we desire in this matter. I made no motion, but I was requested to represent the gentleman from Hale, and I think he is entitled to a hearing by this Convention. There can be no similarity between the vote to adopt and the vote to order to a third reading, and engrossment, and I do not think the point of order is well taken.

MR. GRAHAM—I desire to be heard.

THE PRESIDENT—Certainly the gentleman will be heard. The Chair will ask the gentleman from Talladega to address himself to this point; ordinarily, any vote in the Convention may be reconsidered. You may reconsider a vote on final adoption of the article, or a section, or you may reconsider a vote on the adoption of any amendment. Now the vote whereby this article is ordered engrossed and to a third reading, was a separate vote from the vote whereby it was finally passed. The gentleman from Talladega is entirely correct in saying that a motion to reconsider the vote was made whereby this article was ordered engrossed and to a third reading, and the Convention voted it down, or laid it upon the table, the Chair does not recollect which. Now the article is engrossed and comes up for final passage. It has been ordered to a third reading and the right of amendment is thereby cut off. Now, when it comes up for final passage, the Convention may either accept or reject it. The vote was taken upon that question, as to whether the article should be accepted or rejected, and the article was passed. I understand the gentleman from Greene now moves to reconsider the vote whereby the article was passed. The Chair does not recollect that any motion to reconsider that vote has been made or submitted. He will hear from the gentleman from Talladega on that point.

MR. GRAHAM (Talladega) — If the motion has not been made to reconsider, then all of this discussion of the question would be out of order.

THE PRESIDENT—No motion had been made up to the time the gentleman from Greene entered it. That is the point. The Chair would like to hear from the gentleman from Talladega.

MR. GRAHAM—I beg the indulgence of the Chair that I may reply to a few remarks made, by the way, by the gentleman, in arguing his point and in his pleading ignorance of parliamentary law. I am satisfied that the Convention appreciates the modesty of the gentleman and will excuse him on that ground. Now then as to the point to which the Chair invites my remarks, I submit, in this case, is a distinction without a difference. The vote by which this article was ordered engrossed.

THE PRESIDENT—And to a third reading.

MR. GRAHAM—And to a third reading, and that motion failed. The article was engrossed, reported without change, and put upon its passage in this Convention and was overwhelmingly adopted. There were only two votes against it.

THE PRESIDENT—Now the motion is to reconsider the vote by which it was adopted.

MR. GRAHAM—The motion is to reconsider the vote by which the article was adopted, being the identical article which was ordered engrossed and which the Convention refused to reconsider before it was engrossed, and I understand the distinguished President to say that after it is engrossed, it is not open to amendment.

THE PRESIDENT—True.

MR. GRAHAM—And if after being engrossed, it is not open to amendment, I ask the Convention itself for what purpose, in reason, could it be reconsidered at this stage?

THE PRESIDENT—It could be rejected.

MR. GRAHAM—It could be reconsidered for the purpose, as I understand the intimation of the President, of rejecting the whole article, and I ask the gentleman if it is his purpose, in making the motion, to reject the article on judiciary? I pause for a reply.

THE PRESIDENT—The point the President wants to hear the gentleman on is not the propriety of doing it, or whether the Convention will or will not reconsider, but whether the motion to reconsider is in order.

MR. GRAHAM—I am not questioning the propriety of the reconsideration. I ask under the intimation of the Chair if it cannot be reconsidered for amendment, then for what purpose would a reconsideration be. As I understand, the Chair acquiesces that it is for the rejection of the whole article and not for amendment. Now I come back. When would we cease to reconsider a question?

MR. REESE—I rise to a point of order. The gentleman is not stating a point of order. He is arguing what might be the effect of a reconsideration of the vote, and arguing on the merits of the proposition to reconsider.

THE PRESIDENT—The Chair was anxious to have the benefit of the gentleman's experience, and called on him to address himself to that point. The understanding of the Chair is that it is competent for the Convention to reconsider any vote, and it may reconsider a number of votes successively, and any vote that the Convention takes is subject to a motion to reconsider. It is true a motion to reconsider a vote whereby this article was ordered engrossed and to a third reading was voted down and cannot again

be renewed, but this was a separate and subsequent vote, whereby the article was adopted. Unless the gentleman desires to be heard further upon that point, the Chair is ready to rule.

MR. GRAHAM—I desire to be heard further and I regret exceedingly that I have not the prescience and grasp in see that I am going astray when it is so readily seen by the gentleman from Dallas, and intimated by the Chair.

THE PRESIDENT — The Chair intimates nothing in the matter.

MR. GRAHAM — Then I withdraw the remarks, as to the Chairman.

MR. OATES—If the delegate from Talladega will allow me a moment on the point.

MR. GRAHAM—I would be glad to yield a portion of my time.

MR. GRAHAM—I think the Chair is entirely right as to this motion to reconsider the vote by which the article was finally passed. Now that may be done, but what is the next step? To reconsider the vote by which it was ordered engrossed and read a third time, which is precluded by the former motion to reconsider, which was voted down and laid upon the table. When they reached that point I do not see how they can go any further, but this motion that the delegate from Greene proposes I think is in order.

MR. GRAHAM—Notwithstanding the distinguished authorities (beginning with the gentleman from Dallas), against my proposition, I want to say that we lose sight of the identity of the proposition and I insist that my point is well taken, because the propositions are identical and the Chair cannot lose sight of the identity of the propositions which are attempted to be reconsidered. That is the point I rest this whole thing upon. If they were separate matters, then I would yield readily, as I may have to do anyway, but I want to say that the doctrine held by the Chair sometime ago of res adjudicata, applies to this question, because of the identity of the propositions, where the engrossed article is the article we adopted. We refused to reconsider the engrossed article, and therefore we refuse to reconsider the adopted article, and I invoke the former ruling of the Chair of res adjudicata.

MR. NeSMITH—I desire to rise to a point of order. The gentleman from Greene voted aye on the proposition, and he cannot move to reconsider.

THE PRESIDENT—The Chair asks to be allowed to rule on the point already made.

MR. COLEMAN — I stated that the gentleman from Hale made this motion and requested me to represent him in the motion. I think it is entirely proper. It is often done here.

MR. GRAHAM—Mr. deGraffenreid expressly stated on yesterday that he did not make the motion then, but would make it this morning, and he is not here to make it.

MR. COLEMAN — He gave notice he would make it this morning and he asked me to represent him.

MR. GRAHAM—And he is not here to make it.

THE PRESIDENT—The Chair will rule on one point of order at a time. If this motion was a second motion to reconsider the vote whereby this article was ordered engrossed and to a third reading, the point made by the gentleman from Talladega would be correct, and the Chair would rule it out on the point of order, because under the rules, a second motion to reconsider cannot be entertained. But this is another vote, and a different vote. The article was ordered engrossed and to a third reading, went to the Committee on Engrossment, and was reported back to this Convention. Thereupon it was submitted for final passage, and was passed. It was in order, at that time, for the Convention either to have accepted or rejected the entire article. It is in order now to move to reconsider the vote whereby it was passed, and when it comes before the Convention again, if it should be reconsidered, it would be in order for the Convention to accept or reject it, as it might see fit. That point of order is overruled.

Now, the next proposition is that a motion to reconsider can only be made by a delegate who voted in favor of the article. Did the gentleman from Greene vote for the article on its final passage?

MR. COLEMAN—That is my recollection.

MR. NeSMITH—I withdraw the point of order.

THE PRESIDENT—Then the question will be upon the question to reconsider the vote by which this article was adopted. Is the Convention ready for the question?

MR. WATTS—And upon that I call for the ayes and noes.

MR. SAMFORD (Pike)—The gentleman from Greene had the floor and was addressing the Convention.

THE PRESIDENT—The Chair submitted the question to the Convention, and asked if the Convention was ready for the question. I did not understand that the gentleman from Greene wished to argue the question.

MR. COLEMAN—I have been here trying to be heard all the morning, and I do not think it is right——

THE PRESIDENT—The Chair will recognize the gentleman from Greene. The Chair did not understand that he wished to discuss the question.

MR. COLEMAN—I began my remarks, by stating that I do not know the views of Mr. deGraffenreid upon this subject, or what argument he would make, but I wished to express my own, assuring the Convention, at the same time, that whatever it does, in its wisdom, will receive my approbation. But I think it is right and proper that all these important questions be freely discussed, because when this Convention acts and determines the question, it will be too late to remedy any defect. It is very apparent that there are three classes of voters upon this floor. Those who favor the selection of solicitors by the legislature, under the old rule; those who favor circuit solicitors, to be elected by the people; and those who favor county solicitors elected by the people. The convention is divided into those three classes. Those who prefer solicitors for circuits, to be elected by the people, indicate a preference even for county solicitors elected by the people, rather than circuit court solicitors selected by the Legislature, as heretofore.

Now, Mr. President and delegates of the Convention, in my opinion, we have very good and satisfactory prosecution attorneys throughout this State. The theory under which they act is this. That we have a man trained in the law to represent the State at the circuit court where felonies are tried, crimes of a higher character. He has a deputy solicitor in most of the counties, to keep him informed as to jurors and the facts pertaining to the case, but when the important trial comes on, he is there, a trained officer, to represent the State. It seems to me, under the circumstances which exist in this State, the best plan would be to leave it with the legislature to provide how solicitors should be selected. It is well known that in Alabama there are twelve or thirteen counties which are not Democratic, but there are many good Democrats who live in those counties, who have been faithful to the party, and, however much some people may get up here and say they are willing for the Republicans to elect a Republican candidate, if they are in the majority, or the Populites to elect a Populite in their county if they desire it, I for one, and I believe I represent the true Democratic doctrine, prefer if the qualifications are equal, that we should have a Democrat instead of a man on the opposite side. If you allow in these twelve or thirteen counties, Republicans and Populists to be elected, you will bind these Democrats hand and foot and turn those counties over to the Republicans or Populites. I do not take this position from any sense of partizanship other than I believe it is for the best interests of the State. I know very well if in my county a Democrat was

running, and they had equal qualifications, we would elect the Democrat, and I believe human nature is the same, and if in a Populite or Republican county you run a Democrat who possesses equal qualifications with the Populite or Republican candidate, the ruling majority would elect the man of their own party. That is the way we do, and that is the way they would do. I do not think, therefore, that we are treating those Democrats right, neither do I think we are promoting the best interests of the State to let so large a portion of it pass from under Democratic rule. My desire and object has been to so act that the Populists will come back to the Democratic party; to so act that there would be no reason for them to keep up a separate organization, but I think if you send the fatted calf to them, they would stay where they are, but if they live on the husks, they will come home. That is one reason, but the controlling reason is this that there are agricultural counties, sparsely settled counties, where you need a good prosecuting attorney, and there are cities in this State where the lawless element (maybe that expression is too strong) where those who keep beer saloons and gambling dens will be able to hold the balance of power, and keep from election a man who would prosecute them and enforce the law with vigor. If the Legislature has the power to determine in what counties and in what places the people shall hold an election, and where it is necessary to have a circuit court solicitor, the Legislature will always provide for those counties and those conditions. Take a city that is able to pay the prosecuting attorney a good salary; if it is desirable and for the best interest of the State, the Legislature can provide for the election of a solicitor in that county or it may provide for the election by the people of that county, in its wisdom and in its discretion.

It has been suggested to me that we could not get in an amendment. Mr. President and delegates to this Convention, I will never consent to the proposition until it has been passed by a vote of this Convention that this Convention cannot remedy a wrong if it has committed a wrong.

MR. WALKER (Madison)—The present motion is one to reconsider the vote by which the article on judiciary was finally adopted. I desire to ask the gentleman from Greene if he proposes to hold up the entire judiciary article unless a provision on the subject of solicitors is incorporated in it satisfactory to him?

MR. COLEMAN—I desire to ask the gentleman whether he prefers circuit solicitors elected by the people or county solicitors?

MR. WALKER — My original preference was for such a method of selection as would not necessitate either the one or the other absolutely, but the Convention has three times acted on the proposition, and I am ready to abide by the action of the Convention.

MR. COLEMAN—The gentleman's preference was for circuit solicitors. Of course he is willing to abide, as he says, by the action of the Convention. We will all abide by it.

MR. WALKER—I ask to correct that. My preference was for circuit solicitors, or solicitors for such territory or subdivisions as might be prescribed by the Legislature, all to be elected by the people.

MR. COLEMAN—That is exactly what I said—that we were divided into three classes here, the gentleman representing one view and other gentlemen representing another. Now, he asks me what we propose to do afterwards? If it be important that this defect be remedied, there is no doubt that there is a way to do it. It can never be said that we are not able to correct our errors if we have made any.

MR. GRAHAM (Talladega)—I desire to ask the gentleman a question?

MR. COLEMAN—I do not desire to be interrupted any more. The gentleman's arguments partake of a personal character in a way more than they bear upon the merits of the question.

MR. GRAHAM (Talladega)—I shall not ask a personal question at all.

THE PRESIDENT—Does the gentleman yield.

MR. COLEMAN—I never have refused to yield.

MR. GRAHAM—I understand the gentleman to say that he would not be satisfied until this Convention had expressed itself on this matter, or words to that effect. I want to ask the gentleman if we have not had four distinct votes relating to this proposition?

MR. COLEMAN—I do not know. I was unfortunately sick when this question first came up, and had no opportunity to hear the discussion or express myself upon it, and we have invariably been cut off since. I wish it to go out how I feel and to have my views upon this question known. I believe we are making a great mistake. I do not intend to be responsible for it, and I do not say it is a mistake, but I think the Legislature ought to be able to provide and should be intrusted with the power of providing, how solicitors shall be selected. In some places they can safely submit it to the people; in other places they can elect those themselves an element would arise which they were not willing to trust with the enforcement of the law. Those are my views about it, and surely we can right it if we have done anything wrong.

MR. HEFLIN (Chambers)—I heartily indorse what the gentleman from Greene has said upon this subject. I do not think

that I violate any rule of this Convention, or of propriety, when I say that I am a Democrat and believe in the Democratic idea of government, and that I am proud that the State of Alabama is under Democratic rule. I want to suggest to members who are in the majority upon this floor, the Democrats, that they are opening a way in a good many sections of this State to those who do not believe in the Democratic idea of government. They will turn over a good many counties in this State to the Republican party, and I want to say that, believing as I do, as a Democrat, I would not vote in this Convention for any measure that would take authority out of the hands of the party I love, and to whose principles I cling, and place it into the hands of others. I will never record my vote on that line. This radical departure, Mr. President, from the manner heretofore employed in the selection of solicitors is dangerous.

MR. GRAHAM—I rise to the point of order that the motion is to reconsider the vote by which the entire Article on the Judiciary was adopted, and that discussion on any particular section is not in order, because it is not open to amendment on any particular section. I did not raise that point on the gentleman from Greene, but I desire to raise it at this time, under the intimation of the Chair in his ruling on my first point of order.

THE PRESIDENT—It is true that no particular section is before the Convention, and the Convention can only consider and vote upon the entire Article, but some section or sections of the Article might be so objectionable as to lead a delegate to vote against the entire Article, and, therefore, it seems to the Chair that it would be proper for a delegate in discussing the general subject, to point out objections that he has to particular portions of it.

MR. GRAHAM—In reply to that point, I desire to state that there were only two votes against the adoption of this Article yesterday, and I do not believe that the gentlemen who have discussed it heretofore were those two.

THE PRESIDENT—But the object of reconsideration is to give a man a chance to change his mind. He might vote for its adoption upon the first vote and then wish to vote against it upon a reconsideration.

MR. HEFLIN—I appreciate the interest my distinguished friend is taking in wanting to shut off debate on this question. He is one of the most enthusiastic of all the delegates in this Convention to make this radical departure and to get away from the selection of solicitors by the General Assembly, and my mind goes back to the time when the distinguished gentleman himself was a candidate before that obnoxious body; when slates then were not offensive and obnoxious to the gentlemen from Talla-

dega; when he submitted his claim to a Democratic caucus in this hall, and when that caucus saw fit to select another, I submit the peer of the gentleman, and, in my judgment, a better lawyer. Now, Mr. President, I do not see why, if the gentlemen think their cause is just, they should not rise up here and be liberal, and say to this Convention, "We are willing for you to consider it again; if you can convince the delegates in this Convention that you are right and we are wrong, we are willing to open the gates and turn you into this Democratic field, and allow you to bring out the objectionable features here and convince us that you are right and that we are wrong.

The idea of electing the solicitors by the people, in my judgment, is wrong. They say, and the gentleman has argued it, that it costs the State of Alabama so many more hundreds or thousands of dollars than the solicitors make. I submit that it has never been the low and grovelling purpose of Alabama to make money-making machines out of its prosecuting officers. When the Governor of the State offers a reward for a man who shoots downs one of his fellows, he does not offer that reward to bring money into the coffers of the treasury of Alabama. He offers that reward to bring the guilty man to the bar of justice that he may be punished, to suppress crime and to strike off the fetters of our civilization and morals, that we may rise higher, and grow and become stronger and grander in this great State, and I spurn the idea of dollars and dimes coming from the prosecuting officers of the State into the treasury of Alabama.

MR. GRAHAM (Talladega)—Is it not a fact that the State of Alabama, by statute, now puts a premium on the solicitor who earns more than his salary by giving him a certain commission on the fees earned in excess of his salary?

MR. HEFLIN—There are only about four in the State that I believe make it.

MR. GRAHAM—And did not your solicitors make a premium last year by earning more fees than their salaries?

MR. HEFLIN—Possibly so; four out of thirteen, but that is a very small matter. They are now on a salary. They are elected by the General Assembly. The solicitor who stands up and does his duty prosecuting criminals before the jury does not have to go to those people and beg them to elect him to office. He goes to Montgomery and submits his claim to whom? To the members of the General Assembly. They come up here from all over the State, and if some man is in there, even from his own county, who has a knife up his sleeves, and this particular candidate will let the State at large know the circumstances, and will show them that he has discharged his duty, and that this man

wants to defeat him on that account, the State at large will nominate him.

Now, Mr. President, I did not intend to say as much as I have upon this question, but I want to see a fair, open discussion. I want to see us stand together here as Democrats. We are in the majority. Some gentlemen squirm, it is true, and tremble when you mention the name of that party that our fathers love, but, Mr. President, in every State of the Union, the party in power carries out its ideas along this line, and it is just and right. In conclusion, I will say I trust these gentlemen will not become offended because we mention the Democratic party in connection with our discussion.

MR. ASHCRAFT—We will not become offended with the distinguished gentleman from Chambers because he mentions the Democratic party in connection with this subject. I suggest that we do not think he has a monopoly on that party. We are very glad to know of the conversion of our friend from Chambers. When the question first came up, the other morning, if I mistake not, it was he, before any member of the Judiciary Committee could get recognition from the Chair, that moved the previous question upon the proposition. He has suddenly become converted, when he sees that the body of the Convention after two long debates, needs discussion. He has suddenly become converted that debate is a good thing.

MR. SAMSON (Pike)—May I ask a question?

THE PRESIDENT—Will the gentleman yield?

MR. ASHCRAFT—No, not at this moment.

MR. SAMFORD—Mr. President——

THE PRESIDENT—For what purpose does the gentleman rise?

MR. SAMFORD (Pike)—I desire to ask the gentleman a question.

THE PRESIDENT—The gentleman has declined to yield.

MR. HEFLIN—Mr. President, I desire to———

THE PRESIDENT—Will the gentleman yield to the delegate from Chambers?

MR. ASHCRAFT—I have once declined.

MR. HEFLIN—I want to make a correction.

MR. ASHCRAFT—I will yield to the gentleman to make a correction.

MR. HEFLIN—I did move the previous question, not knowing the Convention wanted to discuss it, but was liberal enough to withdraw and allow the gentleman to inflict a speech upon the Convention.

MR. ASHCRAFT—We all remember how he withdrew the motion for the previous question, the Convention remembers well. We are told, Mr. President, what a nice system it is to have these Circuit Solicitors going around, having Deputy Solicitors finding out all the facts, and when the Circuit Solicitors come how the deputy furnishes the facts and the guilty are brought to justice. I want to state we are told that the poor counties can only employ deputies because they are not well enough off to employ Solicitors, and if we do not have this great Circuit Court Solicitor system, that crime in the poor counties would go unwhipped. Well I remember one of the poorest counties in the State, and I remember they have one of these Solicitors and I asked the delegate whether or not the Solicitor came into his county, and he says he has not been there since they had the County Solicitor. Now that same Circuit, of which that poor County forms a part, last year paid into the State Treasury the immense sum of three hundred and thirty dollars. The Circuit Solicitor I know did not go into that County, and I am reliably informed that he did not go into another County in that Circuit where they have a County Solicitor. I received a letter yesterday from a true-blue Democrat, a man that is as loyal to the cause as is any man in Alabama, who resides in one of the poor counties, and he said "the men of this County want to congratulate you on a victory for the people. They are with you. The people from these two counties now conduct their criminal business at less expense than when visited by the Circuit Solicitors."

Gentlemen, we have an effete system. The Judiciary Committee has brought in a report here which will enable our people in the future to effect a complete system of judiciary, if we adopt this proposition. We have adopted it about four times, and if we hold to it, we will be able to effect that revision, but if we amend the proposition every time the legislature attempts to accomplish anything along the line of economy, there will be a lobby of Solicitors here resisting it at every step, and taking advantage of every opportunity to prevent reform. When this Convention was acting under first impressions, its virgin thought, this proposition was carried overwhelming, as you all know. Later, you know what has occurred, and you have seen the struggle carried on here.

Now what is to be accomplished by reconsidering the vote? The President tells you that the article will not be open to amendment. Then you cannot affect the Solicitors by reconsidering the vote. What are you going to do? The only thing, you can do as

the Chair tells you, is to defeat the whole Article. Then you have no Article on Judiciary, and you have to go over the whole business again. Do you want to stay here until frost, or stay here forever? Have we not considered this subject, given it as much consideration, as much time and devoted as much debate to it, as the subject is worthy of?

We have already taken up nearly as much time with this one subject as we did with many other very dignified subjects.

THE PRESIDENT—The time of the gentleman has expired.

MR. PETTUS—I have always been taught that one of the fundamental tenets, one of the fundamental principles of Democracy, is local self-government. It seems to me that the orators who are ringing the changes of the Democratic party upon the discussion of this question have neglected one of the fundamental principles in that great party to which the majority of the delegates on this floor belong. They seem to be going on the presumption, which I hope is a correct one, that the General Assembly of this State will always be in touch with the Democratic party. They seem to be going on the theory that if solicitors are elected by the General Assembly of the State, that they will always be elected by a Democratic General Assembly. I submit that we have no prophets here, and no man can look in the future for the next twenty-five or thirty years and say that a General Assembly of some other political party might not some day be in power, or that at least the political parties may not when the suffrage is relieved of its incubus be so divided that there might be some question about whether or not Democratic solicitors would be elected, fifteen or twenty years from now, by the General Assembly, for the different circuits or different counties which they would provide. It seems to me that we have had this question up, have discussed it pro and con, and the Convention has acted upon it some four or five different and successive times, and every time they have shown by their votes that they desire the solicitors to be elected in their counties by the vote of the people of those counties. Now it is claimed here, Mr. President, by some delegates, that this would not be safe, and that we cannot trust the people in the different counties to elect their solicitors. The people elect their Sheriffs and elect their Probate Judges and I submit if it is right that the General Assembly should elect their solicitors in order that the solicitors might be Democrats in all the counties, and you follow that argument out to its logical end, the General Assembly should elect the Sheriffs and Probate Judges in every county in the State and every other county officer forsooth because some counties in the State are Republican or Populist. It would destroy the whole system of Democracy and the whole system of self government. I am one of the men, Mr. President, while I am a Democrat, have always been a Democrat and expect always to be one,

am not one of those who absolutely distrusts the people. Some suggestions have been made by delegates, the gentleman from Greene for one, that he hopes to see those people welcomed back to the ranks of the Democratic party. I say to you if you want to see them come back, the policy to pursue is, to show them that you trust the people and extend to them the same right of self government, and win them back by fair methods, and show them that they shall have some voice in electing their local officers, prosecuting or otherwise. It seems to me also that this discussion is not in place at this time, because it has been stated that it is well known that no amendment will be in order if the question is reconsidered, and certainly, Mr. President——

MR. COLEMAN (Greene)—May I ask the gentleman a question?

THE PRESIDENT—Will the gentleman yield?

MR. PETTUS—Yes.

MR. COLEMAN—Would not this Convention have the right to recommit this article to the Committee on Judiciary, if it saw proper to do so?

MR. PETTUS—As I understand the parliamentary status if the question is reconsidered, the Convention will have the right to reject the whole article. It has been ordered to a third reading and engrossment, and motion to reconsider this vote has been laid upon the table, and so I do not think it would be in order for the article to be recommitted. The only thing the Convention could do would be to defeat the entire article on judiciary, because some section of that article does not please some member who favors circuit solicitors being elected by the General Assembly, and perchance they would rather vote down the entire article on judiciary, because a certain part does not please them. This question has been settled by four or five distinct test votes in this Convention, but they are not willing to abide by the action of this Convention under the rules by which you have been acting for two or three months. I am opposed to the reconsideration of the article.

MR. OPP—I do not desire, Mr. President, to make a speech, and if I were permitted to explain my vote I would remain entirely silent upon this question. Mr. President, in behalf of the Democracy of Covington county, I beg to enter my solemn protest against what I conceive to be a piece of midsummer madness. I don't believe, Mr. President, that this Convention should depart from the time honored mode of selecting solicitors who are to represent the Commonwealth of Alabama. While I esteem the Republicans and Populites upon this floor as highly as any man, I for one am unwilling to let it go abroad that they have dictated the policy of the great Democratic party upon so important a mat-

ter as this. It is matter of record, Mr. President, that reconsideration of this vital proposition failed the other day upon a vote of fifty to fifty, from the fact that the solid phalanx of opposition to the Democracy voted in favor of introducing this innovation. If, sir, it had been bruited or supposed in Covington, if the Democracy in that county had understood when they sent their delegate to the Constitutional Convention, that the Populists and Republicans who we have been fighting tooth and toe-nail for so many years—recognizing the effect that their action would have upon the future of the Democracy, would be allowed to hold and wield the balance of power in this hall, why, sir, they to a man would have registered their opposition by their votes to their assembling of this Convention. I do not believe that the Democracy of the State of Alabama should permit the Populists and Republicans, however much we might esteem them personally, to dictate to or shackle to any extent or any degree the policy of the great Democratic party of Alabama.

MR. FITTS (Tuscaloosa)—Will the gentleman permit an inquiry?

MR. OPP—Not at present—after a while, I will hear the distinguished gentleman. I want to emphasize that fact, that if there are those in this Convention in whose veins the tides of Democracy course freely and strongly, I ask them in behalf of the Democracy of Covington County not to allow Republicans and Populites to rule to any extent the Democratic party of Alabama. It is merely a question of arithmetic—fifty to fifty—a clear and decisive majority of the Democratic party of Alabama being in favor of the retention of the old mode of selecting solicitors; and yet, our wary friends, the gentlemen of the opposition, wishing to create confusion in the councils of Democracy, they well knew where to place their votes so as to explode a mine under the party, throw their united weight and power against the will and purpose of the majority of the dominant party, and the gentleman who advocate the new-fashioned mode of electing solicitors they manifest a cheerful willingness to accept the help of the enemy, the very men, Mr. President, against whom we have been lined up in battle array, for so many years. Is it to go abroad that we who favored the time honored mode of choosing those who are the interpreters or the vengeance and justice of the law, are to march tamely under the Caudine forks which the enemies of Democracy have erected for our confusion and humiliation.

Mr. President, if things like these are permitted to pass, if we go blindly ahead and practice these innovations concerning which there was no hint at the time the call for this Convention was adopted, why sir, evil times await the Democratic party. We were told and assured that the mission and purpose of this Convention was to take the white ballot from black hands, and yet the

other day we tried to place the white ballot in still whiter hands. I submit, Mr. President, that if we desire to encompass such an innovation upon the policy of the party in selecting solicitors, we should have had some notice at the time that the call for the Convention was adopted. Why should we not select them in the old way? If they are permitted to be selected by the counties, we will very probably have in the nature of things, a rather measly set of solicitors. No man is great to his valet; the people seem to regard with far more consideration and respect the Circuit Solicitor on his rounds who is not subject to the play of local influences; who is not in daily contact with malefactors, whom he will be called upon to prosecute. I suggest that from every consideration and every standpoint it would be unwise to select the solicitors by the people of the several counties but the crux of the matter which presents itself to my mind, and which I desire to present to my fellow Democrats is this: I insist, as a matter of policy, we ought not to permit the opposition to the Democratic party to dictate the course and line of policy we should pursue; and I desire to register my opposition to the new fashioned mode of selecting prosecuting attorneys, because in the past, those officers have been gallant, high-minded, chivalric capable men; and the way to test a system, the way to pass judgment upon it, is to look at the results in the past. I ask those gentlemen who favor the overturning of the present system, to consult the records and say to this Convention whether or not the solicitors we have had in the past were not capable and trustworthy men, to whom the interests of the commonwealth of Alabama could at all times be safely entrusted I shall heartily favor any parliamentary method of reconsidering the vote by which the time-honored and effective system has been decreed to be altered, and am quite unable to perceive the necessity for a change.

MR. GRAHAM (Talladega)—I regret that it is necessary for me to make a personal statement on this subject, but am glad of the opportunity since it has been thrust upon me. On the question of Democracy, I desire to say that the Populists and Republicans of the State of Alabama have felt the thrust of my blade whether it be keen or blunt, since before I was twenty-one years of age, because it was my privilege and my pleasure to make speeches in behalf of the National Democratic ticket in 1884, before I was entitled to vote under the laws of Alabama, and there has been no campaign since that time that I have not been on the stump in Alabama in behalf of organized Democracy. The gentleman from Chambers refers to the fact that I was once a candidate for solicitor. I was a candidate and I was defeated, and I went home and dictated an interview to my home paper which was sent out over the State that I was defeated by a clean, competent and an honorable man, and that I had no scars from the conflict, and I want to say furthermore, I want to say, where the

theory may come home to the other side, that I am not myself a candidate for solicitor and that there is no member of my family who is a candidate.

MR. COLEMAN (Greene) — Will the gentleman permit a question.

MR. GRAHAM—Certainly.

MR. COLEMAN—I have been trying to refrain from personalities, but since it has gone so far, I will ask the gentleman to state whether or not he went to Governor Samford and tried to get a gentleman that occupies that place appointed to a judgeship, that he might become solicitor as the gentleman's successor. Now answer that.

MR. GRAHAM—I can answer that, but I wish that the dead were here with me that it all might be known. I want to state that the first suggestion of such a thing came from a man very close to the delegate from Greene in the State of Alabama, who wanted the judgeship of a city court—if the gentleman wants me to call his name I will do it.

MR. COLEMAN—I have no objection, because your remarks have been so personal. I want to know if you did not write letters?

MR. GRAHAM—Yes, I did write a letter to the applicant for the judgeship who, himself, originated the entire matter so far as I have ever known. I have never said aught to reflect upon the solicitor of the circuit and it was he who first suggested that he would like my endorsement for a judgeship, and I promised it. It first came through a man whose name I'm not at liberty to use. The gentleman can get at the correspondence and see what it is; I am willing that it should come out since he has gone into private matters without consent. The gentleman seems to be very sore. I was replying to the gentleman from Chambers. As stated in the outset I paid a tribute to the solicitor from the Seventh Circuit. I want to say further that I presume that the gentleman's (Mr Heflin) estimate of the relative merits of gentlemen as lawyers in this State will be considered along the line of his reputation as an attorney himself, and nobody will be injured by his opinion. Now, gentlemen, you can see why personal matters have been brought in here. I want to come down to a discussion of the merits of the case. I did not intend to be personal in this matter, this morning, if the gentleman had not used my name. I want to state in reply to the gentleman from Covington that on the first vote on this question we had more than two to one, and I would like to know if the Populites were the balance of power on that vote of two to one? What has happened since that vote: I do not know whether gentlemen of the Convention have been ap-

proached or not, but I can testify that nine Circuit Solicitors have been in this Convention or in the lobby, and I can further testify to four county or city Solicitors who have been in this Convention. Thirteen of them in all. I don't know what they have been doing—

MR. OPP—May I ask the gentleman a question?

THE PRESIDENT—Will the gentleman yield?

MR. GRAHAM—The gentleman declined to yield a while ago, and they have taken up so much of my time that I must decline to yield further. They have referred to the vote where it stood 50 to 50, and the gentlemen will remember that there were about seventy to thirty on the original vote, but since that time there have been nine Circuit Solicitors here and four County or City Solicitors, almost constantly in attendance upon this Convention. Do those Solicitors represent the people, or do they represent themselves? Did the delegates represent the people when they recorded the first vote on this matter, and did they represent the people or the Solicitors when they recorded the last vote? I say that the Circuit Solicitors have proven a failure in some circuits. In the Judicial Circuit in which I live, there are four County or City Courts which have jurisdiction of the entire business and the Circuit Solicitor appears only on the felony docket in two of the small counties of the Circuit. The gentleman from Covington has seen fit to refer to County Solicitors as "measley fellows." It is possible he may not know what one of the "measley fellows" has done in a small county—that of Cleburne. The County Solicitor there convicted 107 men in the year 1900, and the Circuit Solicitor convicted 91 in the entire circuit. Where does "measley" come in? In the County of Clay, one of the poorest counties so far as taxable values go in this State, the County Solicitor convicted 61 against 91 in the Circuit Solicitor's entire circuit, and the man who convicts sixty-one did not get a cent from the State of Alabama, but depended upon fees, while the Circuit Solicitor drew his $2,400 for prosecuting in the County of Clay, where he did nothing. Is it right? That is the question. It is a question of whether my brother wants the office or your son wants it, or your brother wants it, or whether your political friend wants it. It is a question of economy and right. Now, in the County of Talladega there were over 230 convictions in the County Court under a separate solicitor, against ninety-one in the entire Seventh Circuit, and I believe almost a similar record was made by the solicitor of the City Court of Calhoun County, and I am informed that at least four of the circuits in this State are practically in the same condition, and that the State of Alabama is paying four men $2,400 each, when the four men combined do not earn in fees the salary of one. Why? Because the separate county system has been adopted, and it is much more effective in bringing men to justice.

Gentlemen of the Convention, we had four votes on this question. No other question has been resurrected or attempted to be resurrected and brought before you like this. We had discussion of it on both sides, and I appeal to the men in this Convention who believe that the people should rule to come back and have the manhood to stand by your original vote, of more than two to one upon this proposition, before the solicitors' lobby hovered over this Convention to defeat the will of the people. You talk about lobbies in the Legislature, and about this Convention being above such influences. I ask you whether or not you have yielded to influences, or whether you will stand here today and register your vote as a protest against the implied insult of the presence of these solicitors who have dared to trespass uninvited upon the floor of this Convention? In this matter, there is nothing personal. If they are willing for the people to judge them, let them go back home. Two solicitors, I am informed, have written here that they are willing to submit it to the people before whom they work, and I today, without calling their names, would mention them with honor and approval. There are four on this roll of honor, and you know them. Gentlemen of the Convention, they talk about the vote of 50 to 50, and the vote of 49 to 49. The first vote, according to my recollection, was seventy-odd to thirty odd. The Populist did not turn the scales on that vote. I want to say that Populites and Republicans are citizens, and white citizens, of Alabama, and this Convention has already voted that they shall not be disfranchised. Do you want to say that they shall not hold office, and that their votes shall not be counted for men for whom they vote in the State of Alabama?

MR. O'NEAL—May I ask the gentleman a question?

MR. GRAHAM—I decline to yield. Mr. President I demand the previous question upon the motion to reconsider.

MR. OPP—I rise to a question of personal privilege.

THE PRESIDENT—The gentleman cannot be recognized now. As soon as the vote is taken, the gentleman will be recognized.

Upon a vote being taken, the motion was carried, and the main question was ordered.

MR. OPP—I did not catch the remarks of the gentleman just now, but I understood him to say that it was in effect an insult to the Convention to make the statement that the vote stood 49 to 49, and that Populists held the balance of power.

MR. GRAHAM—I said it was an insult in connection with the fact that the original proposition was carried by seventy odd to thirty odd.

MR. OPP—I would like for the gentleman to say whether or not he meant to intimate that I intended to insult the Convention.

MR. GRAHAM—I did not at all. I would not insult the gentleman or the Convention by such an intimation.

MR. OPP—That is entirely satisfactory.

THE PRESIDENT—The question is upon the motion to reconsider.

MR. GRAHAM—And upon that I call for the ayes and noes.

The call was sustained, and the Secretary proceeded to call the roll.

MR. GREER (Calhoun), during roll call—I desire to say that Mr. Bartlett is paired with Mr. Whitesides.

MR. BARTLETT—In reply to that, I desire to say that prior to the vote coming up, I went to this gentleman. I did not see Mr. Whitesides; did not make any pair with Mr. Whitesides, but through Mr. Greer I told him as the vote had never come up, we would withdraw the pair, and, prior to the coming up of the vote, we withdrew the pair, and I declined to make a pair with him.

MR. GREER—In reply to that, I desire to say the gentleman did agree to pair with Mr. Whitesides this morning. I informed him that I was representing Mr. Whitesides; that he had asked me to get him a pair, and furthermore he came to me on the floor of the Convention and asked me——

MR. PETTUS—I rise to a point of order. I make the point that pairs are personal matters allowed by the indulgence of the Convention, and it is to be decided by the conscience of each member——

MR. GREER—I desire to rise to a question of personal privilege. The gentleman came to me and I asked him how Mr. Whiteside would vote, and he told me he would vote for a reconsideration.

MR. OATES—This is entirely out of order, to go into a controversy about a pair, or anything of that kind, during the roll call. After it is over, it may be brought up.

Upon the call of the roll the vote resulted as follows:

AYES

Messrs. President,	Burns,	Eley,
Almon,	Carmichael, of Coffee,	Eyster,
Barefield,	Cobb,	Ferguson,
Beavers,	Coleman, of Greene,	Glover,
Browne,	Duke,	Graham, of Montgomery,

Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Montgomery,
Kirk,
Knight,
Locklin,
Long (Walker),
Lowe (Jefferson),
Macdonald,
Martin,
O'Neal (Lauderdale),
O'Rear,
Parker (Cullman),
Pillans,
Proctor,
Reese,
Rogers (Lowndes),
Samford,
Sanford,
Searcy,
Smith, Morgan M.,
Sollie,
Waddell,
Williams (Marengo),
Wilson (Clarke),
Wilson (Washington),
Winn,

TOTAL—54

NOES

Altman,
Ashcraft,
Banks,
Bartlett,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Byars,
Cardon,
Cofer,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Espy,
Fitts,
Foshee,
Freeman,
Gilmore,
Graham, of Talladega,
Henderson,
Hood,
Jones, of Bibb,
Ledbetter,
Lowe (Lawrence),
Malone,
Maxwell,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Mulkey,
Murphree,
NeSmith,
Norman,
Palmer,
Parker (Elmore),
Pettus,
Phillips,
Porter,
Reynolds (Chilton),
Sanders,
Sloan,
Smith, Mac. A.,
Spears,
Spragins,
Walker,
Watts,

TOTAL—50

ABSENT OR NOT VOTING

Carmichael, of Colbert,
Case,
Coleman, of Walker,
Cornwall,
Craig,
deGraffenreid,
Fletcher,
Foster,
Howell,
Jones, of Hale,
King,
Kirkland,
Kyle,
Long (Butler),
Morrisette,
O'Neill (Jefferson),
Pearce,
Renfro,
Robinson,
Rogers (Sumter),
Selheimer,
Smith (Mobile),
Stewart,
Studdard,
Tayloe,
Whiteside,
Willet,

PAIRED

AYES	NOES
Williams (Barbour),	Bulger,
Carnathon,	Chapman,
Jones, of Wilcox,	McMillan (Baldwin),
Williams (Elmore),	McMillan (Wilcox),
Lomax,	Pitts,
Norwood,	Sorrell,
Opp,	Weakley,
Reynolds (Henry),	White,
Sentell,	Thompson,
Vaughan,	Hodges,
Oates,	Weatherly,

There were 54 ayes and 50 noes, and the motion to reconsider prevailed.

MR. SAMFORD (Pike)—I now move to recommit the Article on Judiciary to the Committee on Judiciary, and upon that I move the previous question.

MR. GRAHAM (Talladega)—I rise to a point of order, that you cannot recommit an Article after it has been engrossed and passed upon a third reading in this Convention.

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

MR. WILLIAMS (Marengo) — I offer a substitute to the whole Article——

MR. CUNNINGHAM—I rise to a point of order. This ordinance having been engrossed and read a third time, all amendments are out of order.

THE PRESIDENT—The gentleman from Marengo will be seated.

MR. WILLIAMS—I thought I was recognized.

THE PRESIDENT—The Chair recognized the gentleman from Pike to make a motion, and recognized the gentleman from Jefferson to state a point of order.

MR. CUNNINGHAM—This Article, having been engrossed and read a third time, all amendments are out of order.

MR. HEFLIN (Chambers)—I want to make a motion that the Article be rejected for the purpose of making another Article with a slight amendment on this.

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

MR. HEFLIN—I move to rescind the action of the Convention by which it was ordered to engrossment and a third reading.

THE PRESIDENT—The question before the House will be upon the final passage of the Article.

MR. ASHCRAFT—I rise to a point of order. Under the regular order of this Convention, does not the further consideration of this question take its place at the foot of the Calendar?

THE PRESIDENT—The Chair will consider the point of order made by the gentleman from Lauderdale.

MR. SAMFORD (Pike)—I desire to make a motion. The Chair desires me not to make a motion until the Chair rules on the point of order?

THE PRESIDENT—The Convention will be in order while the Chair considers the point of order made by the gentleman from Lauderdale.

The gentleman from Chambers called my attention to what rule?

MR. HEFLIN — The motion made by the gentleman from Pike that the entire Article be recommitted to the Judiciary Committee. It says ordinances and reports may be recommitted at the pleasure of the Convention, and I ask if it could not come under that head?

THE PRESIDENT—In the opinion of the Chair, all motions to amend, to recommit, to lie on the table, those motions after the Article is ordered to a third reading, or concluded and the only question is on the final passage of the ordinance.

MR. SAMFORD (Pike)—I rise to a point of inquiry, as to whether or not a motion ordering this Article to an engrossment and a third reading and a motion to reconsider the vote by which that was adopted or defeated was laid on the table.

THE PRESIDENT—It was laid upon the table.

MR. SAMFORD—Now then, a further inquiry: Would it not be in order to make a motion to take that from the table?

THE PRESIDENT—The Secretary will examine the Journal to see whether the motion to reconsider was tabled.

The Chair finds the motion was lost and not laid upon the table.

MR. HARRISON — I desire to inquire if the ruling of the Chair on the motion of the gentleman from Pike is governed by any rule of this Convention. If it is not, I submit to the Chair that this is an important question, and upon the examination of the au-

thorities, I believe the Chair would hold otherwise. I remember distinctly an incident in which this identical question was discussed between Mr. Crisp of Georgia, Mr. Dingley of Maine, and Mr. Reed in the Chair, and after a full discussion of the question, it was decided it could be recommitted. It was in one stage later than this, it was when an appropriation bill had failed to pass, and it was then moved to recommit it, and under the general parliamentary discussion between those three gentlemen, who were able men, it was decided that it would be recommitted. I believe if the Chair will examine the parliamentary law, he will come to the conclusion that this motion to recommit is in order.

THE PRESIDENT—The Chair will be glad to examine the question and will consider such authorities as the members may furnish on that point. The Chair will now rule upon the point of order raised by the gentleman from Lauderdale. The question is whether after the question is reconsidered it takes its place under the order of business and is not up for consideration. Mr. Cushing, in his work on Law and Practice of Legislative Assemblies, laid down this proposition: "When a motion to reconsider is decided in the affirmative, the question of business to which it is attached immediately takes the place to which it belongs in the general order of business in the Assembly, or goes over until the next day on which business of the same description is in order.

It seems to the Chair, therefore, that when this matter is reconsidered at this hour, it is taken up out of its order because the motion to reconsider is in order immediately after the reading of the Journal and displaces the special order for that day. The regular order for today would be the report of the Committee on Education, and this matter, being reconsidered, it seems to the Chair the point of order is well taken, even though a motion to recommit might be in order, or a motion to take from the table, it would not be privileged, and would have to abide the regular order.

MR. HEFLIN—Would I be in order to make a further motion that the further consideration of this question be postponed until tomorrow at 11 o'clock?

THE PRESIDENT—The business will go over until after the regular order is disposed of unless the Convention sees fit to make it a special order. The Convention might now displace the regular order and make it the special order for 11 o'clock tomorrow.

MR. HEFLIN—I make that motion.

MR. O'NEAL—I call the attention of the Chair to Rule 30, that you can make it the special order for any hour.

THE PRESIDENT—That is the ruling of the Chair.

MR. O'NEAL—I misunderstood the ruling of the Chair.

THE PRESIDENT—What is the motion of the gentleman from Chambers?

MR. HEFLIN—I move that the further consideration of the question be made a special order for 12 o'clock tomorrow.

MR. WALKER—I rise to a point of order, that motion before it could be placed before the House, would require a suspension of the rules.

THE PRESIDENT—It seems to the Chair, and the Chair ruled the other day when this same question was up, that it is competent for the Convention by a majority vote—Rule 30 says "Any matter may by a vote of a 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."

MR. WALKER—My point of order is that the motion itself must take its regular course on the Calendar, unless the rules are suspended so as to supersede the Calendar, and the motion at this time is not in order.

THE PRESIDENT—It seems to the Chair that when any matter——

MR. ASHCRAFT—If the question of the Judiciary Committee's report, or the Article that has just been reconsidered was before this Convention now, if it had an opportunity to be heard at all, then a motion might be made to fix the consideration for another time, but that is not a matter now before the Convention. The matter before the Convention is the report of some other Committee and you have no right to make a motion now relative to the report of the Committee on Judiciary until it is properly before the House. When that time arrives, if a postponement of reconsideration is desired, or a special hour is desired, that motion may be made with reference to it, but now it is not before the House. No gentleman has the right to displace the regular order except under the suspension of the rules, and if he makes that motion now, he displaces the regular order.

THE PRESIDENT—The Chair will not be able to hear any further discussion on this question, but the Chair is prepared to rule. The Chair would be glad to hear every delegate on the floor discuss this question, but the time of the Convention is too valuable, and while the Chair has heard gentlemen speak on both sides of it, the Chair will announce its ruling. If the point made by the gentleman from Lauderdale were correct, that this motion could only be made when this report comes up, there would be nothing accomplished by making it a special order, because it would have been reached in the regular order. It seems to the Chair, and such has been our practice from the beginning of the session, that the Convention by a majority vote may set aside any matter that it

has under consideration and take up any other matter that it sees fit. Rule 30 says that any matter may, by a vote of a 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." Now, if it would not be in order to take up the report of the Committee on Judiciary until it was regularly reached, this rule would be nullified. The practice here has been to take up the reports of the standing committees when they are brought in by the standing committees and make them the special order. Under the rule, as soon as they are brought in and filed, they would lie over and take their place in the regular order, but under this Rule 30, the chairmen of the respective committees successively moved that the consideration of their reports be made the special order. It seems to the Chair it is entirely proper under the rule. The point of order will be overruled.

MR. HEFLIN—With the consent of the Convention, I will change my motion to make it the special order for 4 o'clock this afternoon.

Objection was made.

MR. SAMFORD (Pike)—I move to amend the motion of the gentleman from Chambers by making it the special order for 4 o'clock this afternoon.

MR. REESE—I move the previous question on the motion and amendments.

The main question was ordered.

THE PRESIDENT—The question is on the adoption of the amendment offered by the gentleman from Pike.

MR. PETTUS—I call for the ayes and noes.

The call was not sustained.

MR. GRAHAM (Talladega)—I move to lay both motions on the table.

MR. PETTUS—Now, I call for the ayes and noes.

The call was sustained.

Upon the call of the roll the vote resulted as follows:

AYES

Altman,	Boone,	Davis, of DeKalb,
Ashcraft,	Brooks,	Davis, of Etowah,
Banks,	Byars,	Dent,
Bartlett,	Cardon,	Espy,
Beddow,	Cofer,	Fitts,
Blackwell,	Cunningham,	Foshee,

Freeman,
Graham, of Talladega,
Henderson,
Hood,
Jones, of Bibb,
Ledbetter,
Lowe, of Lawrence,
Malone,
Maxwell,
Merrill,
Miller, of Marengo,
Miller, of Wilcox,
Moody,
Murphree,
NeSmith,
Norman,
Palmer,
Parker, of Elmore,
Pettus,
Phillips,
Pillans,
Porter,
Reynolds, of Chilton,
Sanders,
Sloan,
Smith, Mac. A.,
Spears,
Spragins,
Waddell,
Walker,
Watts,
Winn,

TOTAL—50

NOES

Messrs. President,
Almon,
Barefield,
Bethune,
Browne,
Burns,
Carmichael, of Coffee,
Cobb,
Coleman, of Greene,
Duke,
Eley,
Ferguson,
Glover,
Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Howze,
Inge,
Jackson,
Jenkins,
Jones of Montgomery,
Kirk,
Knight,
Locklin,
Long, of Walker,
Lowe, of Jefferson,
Macdonald,
Martin,
O'Neal, of Lauderdale,
O'Rear,
Parker, of Cullman,
Proctor,
Reese,
Rogers, of Lowndes,
Samford,
Sanford,
Searcy,
Smith, Morgan M.,
Sollie,
Thompson,
Williams, of Marengo,
Wilson, of Clarke,
Wilson, of Washington,

TOTAL—51

ABSENT OR NOT VOTING

Beavers,
Burnett,
Carmichael, of Colbert,
Case,
Coleman, of Walker,
Cornwall,
Craig,
deGraffenreid,
Fletcher,
Foster,
Gilmore,
Howell,
Jones, of Hale,
King,
Kyle,
Kirkland,
Leigh,
Long, of Butler,
Morrissette,
O'Neill (Jefferson),
Pearce,
Renfro,
Robinson,
Rogers, of Sumter,
Selheimer,
Sentell,
Smith, of Mobile,
Stewart,
Studdard,
Tayloe,
Whiteside,
Willet,

PAIRED

AYES.	NOES.
Carnathon,	Chapman,
McMillan (Baldwin),	Jones, of Wilcox,
Pitts,	Lomax,
Sorrell,	Norwood,
Oates,	Weatherly,
Weakley,	Opp,
White,	Reynolds (Henry),
Hodges,	Vaughan,
Bulger,	Williams, of Barbour,
Eyster,	Mulkey,
McMillan, of Wilcox,	Williams, of Elmore.

And the motion to table was lost.

THE PRESIDENT—The question recurs upon the amendment offered by the gentleman from Pike to the motion as made by the gentleman from Chambers.

MR. ASHCRAFT—I demand a verification of the vote.

The roll was called for the purpose of verifying the vote.

MR. GILMORE—I desire to be recorded as voting aye.

MR. PETTUS—I object.

THE PRESIDENT—This was a call of the roll upon a verification of the vote. A vote was taken and the result announced and the correctness of the count was challenged and a call of the roll was made merely for a verification. The result of the vote is that the motion to table is lost. The question now recurs upon the motion of the gentleman from Pike to amend the motion of the gentleman from Chambers. The gentleman from Chambers moves that this matter be made the special order for 12 o'clock tomorrow and the gentleman from Pike moves to amend by making it the special order for 4 o'clock this afternoon.

Upon a vote being taken a division was called for.

By a vote of 55 ayes and 53 noes, the amendment was adopted.

THE PRESIDENT—The question will recur upon the original motion as amended.

MR. WATTS—I ask for the ayes and noes upon that.

MR. SAMFORD (Pike)—I rise to a point of order. The ayes and noes were demanded on that question once and the call was refused.

THE PRESIDENT—This is upon the question as amended. Is the call sustained.

The call was sustained.

THE PRESIDENT—The question is on the adoption of the original motion as amended. The motion as amended fixes the time for the consideration of this report at 4 o'clock this afternoon. As many as favor will say aye, and those opposed, no as their names are called.

Upon a call of the roll the vote resulted as follows:

AYES.

Messrs. President,
Almon,
Barefield,
Beavers,
Bethune,
Browne,
Burns,
Carmichael, of Colbert,
Carmichael, of Coffee,
Cobb,
Coleman, of Greene,
Duke,
Eley,
Eyster,
Ferguson,
Glover,
Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Montgomery,
Kirk,
Knight,
Locklin,
Long, of Walker,
Lowe, of Jefferson,
Macdonald,
Martin,
O'Neal (Lauderdale),
O'Rear,
Parker (Cullman),
Proctor,
Reese,
Rogers (Lowndes),
Samford,
Sanford,
Searcy,
Selheimer,
Smith, Morgan M.,
Sollie,
Thompson,
Waddell,
Williams (Marengo),
Wilson (Clarke),
Wilson (Wash'gton),

Total—56.

NOES.

Altman,
Ashcraft,
Banks,
Bartlett,
Beddow,
Blackwell,
Boone,
Brooks,
Byars,
Cardon,
Cofer,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Espy,
Fitts,
Dent,
Foshee,
Freeman,
Gilmore,
Graham, of Talladega,
Henderson,
Hood,
Jones, of Bibb,
Ledbetter,
Lowe, of Lawrence,
Malone,
Maxwell,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Mulkey,
Murphree,
NeSmith,
Norman,
Palmer,
Parker, Elmore),
Pettus,
Phillips,
Pillans,
Porter,
Reynolds (Chilton),
Sanders,
Sloan,

Smith (Mobile),	Spragins,	Watts,
Smith, Mac. A.,	Walker,	Winn,
Spears,		

Total—52.

ABSENT OR NOT VOTING.

Burnett,	Kirkland,	Robinson,
Case,	Kyle,	Rogers (Sumter),
Coleman, of Walker,	Leigh,	Sentell,
Cornwall,	Long, of Butler,	Sorrell,
Craig,	McMillan (Wilcox),	Stewart,
deGraffenreid,	Morrisette,	Stoddard,
Fletcher,	Norwood,	Tayloe,
Foster,	O'Neill, of Jefferson,	White,
Howell,	Pearce,	Whiteside,
Jones, of Hale,	Renfro,	Willet,
King,	Reynolds, of Henry,	Williams (Elmore),

PAIRS.

AYES.	NOES.
Carnathon,	Chapman,
Jones, of Wilcox,	McMillan, of Baldwin,
Lomax,	Pitts,
Weatherly,	Oates,
Opp,	Weakley,
Vaughan,	Hodges,
Williams (Barbour),	Bulger.

So the motion as amended was adopted.

MR. GRANT (Calhoun)—I desire to call attention to an error in the report of yesterday. The tax rate is there stated at 60-100. My recollection is that as the ordinance passed, it was 65-100, and I ask that the correction be made. It should be 65-100 instead of 60-100.

Leaves of absence were granted as follows: To Mr. Sollie for Saturday and yesterday on account of sickness; indefinite leave to Mr. deGraffenreid on account of sickness; leave of absence to Mr. Pitts for today.

MR. OATES—The call of the roll of Standing Committees for reports has not been made and has not been dispensed with this morning.

THE PRESIDENT—We have not been able to progress beyond the motions to reconsider, and the gentleman from Walker seems to be on the floor with a proposition of a similar kind.

MR. OATES—All I desire to do is to submit a report for the Committee on Legislative Department.

MR. LONG (Walker)—I yield to the gentleman for that purpose, if I will be in order after he is through.

MR. OATES—That is all I ask.

THE PRESIDENT—The gentleman from Montgomery asks unanimous consent to make a report of the Committee on Legislative Department.

The consent was given.

The report was read as follows:

LEGISLATIVE DEPARTMENT.

Minority Report.

The undersigned dissents from the adverse action of the Committee on Legislative Department on Ordinance No. 429, introduced by Mr. Lomax.

Because the section which said ordinance seeks to repeal and which provides for quadrennial sessions of the Legislative disregards the fundamental and cherished Anglo-Saxon policy of having frequent meeting of the people through their representatives to consider the public welfare.

Because the long intervals between legislative sessions resulting from this change of policy will, it is believed, tend to exert an insiduous influence upon the people by lulling them to a condition of apathy, which may in time dwarf their patriotic instincts, if not prove fatal to their liberties.

Because such long intervals, while depriving the people of a ready means heretofore enjoyed by them of revising, modifying, repealing or enacting laws which have an important and practical bearing on their daily affairs, will afford opportunity for the full play of sinister influences that may undermine the safeguards of popular rights.

Because the proposed change from biennial to quadrennial sessions is a sudden, uncalled for and radical departure from a policy that has been an integral element of our civil policy, State and national, since the inauguration of our federated system.

Because it will place Alabama out of harmony with the long established practice of frequent legislative sessions, to all the States of the Union.

Because every one of the forty-five States of the Union now have biennial sessions with the exception of Rhode Island and

South Carolina and the great States of New York, New Jersey, Massachusetts and Georgia, which have annual sessions.

Because if biennial and annual sessions were expedient when the country was sparsely settled, and the stage coach provided the principal means of transportation and mail communication, how much more so are they in this day of rapid progress and wonderful achievement when new questions and new interests spring out of our complex civilization, are constantly arising and demanding legislative attention—especially in Alabama whose multiform resources are rapidly developing and in which the triumphs of mining and manufacturing industries and of commercial activity may bring our farming interests under conditions necessitating prompt and effective legislative supervision.

Because are arrogance of capital backing in the sunshine of unrestrained power, will not be mitigated by the knowledge that it will have a free hand for four years in which to rivet its dominance in all that pertains to the public interests.

Because the alert self-seeking of corporate influence will not be slow to broaden the foundations of its power while the legislative authority is in a state of suspended animation.

Because the commercial classes which are today the thralls of trusts and combinations instigated by the modern doctrine of "community of interests," will be too busy making a living under the scant margin of profit vouchsafed to them to prevent their absorption under the process of benevolent assimilation while our legislative functions are held in abeyance.

One of the reasons assigned for committing us to the policy of having a legislative session only once in four years is that the business and farming interests and managers of great corporations favor it. It is not improbable that the managers of great corporations do favor it. Possibly they would be willing to have the State governed without a Legislature for at least twelve years as Charles I once did to "the deep damnation of his taking off;" but the assertion that the people of Alabama favor this sudden and radical change of policy that was not an issue or even discussed in the campaign which resulted in the holding of this Convention is not borne out by the utterances of the press which usually reflects public sentiment, and it is likely that the alleged popular desire for the proposed change is assumed by those to whom the wish is father to the thought, and that the special interests that are behind and around and about "the one who manages the great corporations in the State of Alabama" have not been backward in encouraging such a view of the popular desire.

Another reason assigned is that the Constitution now making will, if ratified, leave the Legislature so little to do in respect to

local affairs that there will be no necessity for a legislative session oftener than once in four years. In reply to this, it may be urged that similar restrictions upon local legislation exists in the Constitutions of California, Colorado, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Montana, Nebraska, Nevada, New York, New Jersey, North Dakota, Oregon, Pennsylvania, South Dakota, Texas, West Virginia, Wyoming and Utah—twenty-six States, in all of which is retained the system of biennial or of annual sessions. If these States, situated in every part of the Union, existing under such diverse conditions and representing every variety of interests, have found no reason for embarking upon an untried and doubtful policy, why should Alabama rather not wait and profit by the experience of other States that may inaugurate a change, instead of assuming a risk of a nature so serious.

Still another reason assigned for the change is that bennial sessions will give too early an opportunity for repealing laws that have not been in operation long enough to commend them to popular approval. But that would be a curious statute that would require more than two years to disclose its effect on the body politic, while, on the other hand, a four years' interval would allow a vicious statute full opportunity to do its harmful work, and the people during that time would be helpless unless the Governor should, as an act of grace, through an extraordinary session, give them an opportunity which ought of right to be theirs through the recurrence of the time-honored biennial session. What if a Republican administration should come into power and indulge in reactionary legislation of a disturbing and destructive nature—would the Republican Governor be apt to ignore his party relations and vouchsafe relief through a proclamation for an extraordinary session?

The undersigned, therefore, recommends the adoption of said ordinance, No. 429, providing for the repeal of Section 5, all "the ordinance reported by the Committee on Legislative Department fixing the sessions of the Legislature quadrennially."

If said Section 5 shall be repealed, he recommends the adoption of the following ordinance:

The Legislature shall meet biennially, 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 in 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.

Leslie E. Brooks.

During the reading of the minority report:

MR. PILLANS—I rise to move that the reading of this long-winded document cease and this house go on with its business.

THE PRESIDENT—The gentleman is not in order at this time.

MR. BROOKS—I desire to say, notwithstanding the remarks of my worthy colleague from Mobile, that this long-winded document, as he calls it, has a constitution right on this floor that he cannot take away.

THE PRESIDENT—The gentleman will please be seated.

MR. PILLANS—I will be seated, sir, but I rise to a point of inquiry. Is the house powerless to cut off the reading of papers? If so the opposition to the Constitution might bring in papers here world without end, which might take three months to read and defeat the Constitution.

THE PRESIDENT—The report was received and the reading was ordered by unanimous consent, and after the reading is entered upon the Chair cannot entertain motions to suspend the reading.

MR. OATES—I ask that the ordinance upon which the action of the Committee is predicated, be read as I desire to make a brief statement on it.

The ordinance by Mr. Lomax of Montgomery, was read as follows:

Report of Committee on Legislative Department:

The Committee on Legislative Department instructs me to report that Ordinance No. 429 was indefinitely postponed by the action of said Committee.

The accompanying minority report upon the action of said committee upon said ordinance.

Respectfully submitted,

Wm. C. Oates,

Chairman of Committee.

Ordinance 429, by Mr. Lomax:

AN ORDINANCE

To repeal Section 5 of the Article on Legislative Department as reported to and adopted by this Convention.

Be it ordained by the people of the State of Alabama in Convention assembled, that Section 5 of the ordinance reported by the

Committee on Legislative Department fixing the sessions of the Legislature quadrennially be, and the same is hereby repealed.

Referred to Committee on Legislative Department.

MR. O'NEAL (Lauderdale)—I rise to a point of order. After a report is made by a Committee, it is not open for discussion. It has to lie upon the table for one day and be printed for the consideration of the House.

THE PRESIDENT—How does the gentleman from Lauderdale know that the gentleman from Montgomery wishes to discuss the matter?

MR. O'NEAL—He said so.

MR. OATES—No, I did not say that I said I wished to make a statement in regard to it.

THE PRESIDENT—The Chair understood that he rose for the purpose of making some motion in reference to it.

MR. OATES—This report is out of the regular order and there is no rule warranting it, but I want to state how it comes here. The Committee of which I have the honor to be Chairman, considered that ordinance, and by a vote of a large majority of the Committee indefinitely postponed it. Now in such a case as that, the rules adopted do not provide for any report to be made, and I made no report, in official form, of that action, but my colleague, Mr. Lomax, who is the author of the ordinance, spoke to me about it and desired some means of getting at it; then my colleague on the Committee, Mr. Brooks, came to me with his minority report and insisted that some report be made in order that he might get the question before the Convention, and I consented in order that these gentlemen might not suppose that we intended to do them any injustice. I think it due to the Convention that I state how it is. Their only remedy is to withdraw that ordinance from the committee by a vote of a majority of all the members under the rules of this Convention. I have simply discharged my duty in making the report back here, where they can have an opportunity to get it up, but they will have to comply with that rule in order to get it up. Now the gentlemen know what I have done in reporting it back here. It is in the possession of the Convention and I do not choose to take any further action in the matter at all. The committee never instructed me to report it back, but I did it in order that there might be no just complaint of the action of the committee, and the matter is now with the Convention.

MR. BROOKS—I think I ought to be heard upon this matter, for I am the author of the report.

THE PRESIDENT—The question is not up for discussion at this time.

MR. BROOKS—I simply want to make a motion that the ordinance and the accompanying minority report, this "long-winded document," as it has been characterized, might lie over and be printed.

MR. O'NEAL (Lauderdale)—That is required by Rule 47.

THE PRESIDENT—It seems to the Chair, with reference to the statement made by the chairman of the Committee on Legislative Department, that the committee may bring in the report or not as it pleases. If the committee does not instruct the chairman of the committee to make a report, the Chair does not know any method whereby the matter could be brought before the Convention, except by a vote, under the rule, recalling the matter from the committee, but if the committee makes a report, and brings an ordinance back into the Convention, whether it be reported favorably or unfavorably, it seems to the Chair that the matter would be before the Convention for consideration.

MR. HARRISON—It appears from the statement of the chairman of this committee that the committee has not instructed him to make a report, and that there is no report properly here from this committee. I move that the report be recommitted to the committee.

MR. O'NEAL—I desire to call attention to 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, the said article 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."

Now it is argued here that this report is by the minority, but as the Chair has suggested, it makes no difference whether by a majority or a minority of the committee, it is a report, and when it is reported, it ought to lie over and be printed, for the consideration of the Convention in its regular order.

THE PRESIDENT—The point the gentleman from Lee makes is that the chairman of the committee has no authority, according to his own statement, to make the report, and in the opinion of the Chair, the chairman of the committee could not by way of indulgence, or courtesy to a member of the committee, bring in a report, unless he was authorized by the committee to do so.

MR. O'NEAL—I call for a reading of the majority report.

THE PRESIDENT—The Chair declines to have the report read any more.

MR. O'NEAL—The majority made a short report.

THE PRESIDENT—The gentleman from Montgomery states that is not a report from the committee.

MR. OATES—It is not a report of the committee. I did it as a mere courtesy to my colleague, Mr. Lomax, the author of the ordinance, and the gentleman from Mobile (Mr. Brooks) and so stated.

MR. LOMAX—The committee, through its chairman, having returned this ordinance to the Convention, another member of the committee cannot take the ordinance back from the possession of the Convention. Now, in what I shall have to say, I have no complaint to make of the action of the chairman of the committee, nor do I desire to criticise his action nor the action of the committee, but I submit to the Convention and to the Chair, that a committee of this Convention, by refusing to make any report, or by indefinitely postponing a matter before that committee, cannot cut off the right of a minority of that committee to make a report of that matter to this Convention. The minority of a committee has some rights as well as the majoriy of the committee, and if by the action of the committee itself, that matter would never come back to the possession of this Convention, then I submit that a minority, even though it consists of but one member, has a right to come before this Convention, and state these matters, or have them stated, and to make a minority report upon the proposition, and that is what has occurred here. The chairman of the committee has returned the ordinance, as I understand it, to the Convention, and when he does that, then a minority of the committee, consisting of the gentleman from Mobile, has made a minority report. Now we have the right under those circumstances, we say, to have this rule observed, and to have that ordinance lie over and be printed for the consideration of the Convention, in justice to the right of the minority of the committee which have been shut off as it were by a motion made in the committee to indefinitely postpone the proposition. It seems to me that the matter ought to take the course laid down in the rules, which is that it shall lie upon the table and be printed for the information of the Convention.

MR. OATES—I want to correct one statement. I did not return the ordinance, but a copy of it, for the purpose of making the report of the minority intelligible. I had no right in view of the action of the Committee to return the ordinance. They voted not to return it, but to indefinitely postpone it. That fact is stated in the short report I sent in.

THE PRESIDENT—The Chair will state that when the Committee on Rules had under consideration this question, the rule in the former House of Representatives in reference to an adverse calendar was considered, and the Committee decided not to report any rule for an adverse Calendar, or that when a question was adversely reported by the Committee it should go on the adverse Calendar, and should be taken up on a certain vote, but decided to adopt in lieu thereof this Rule 43:

"And ordinance or resolution may be recalled from a committee by a vote of the majority of the whole number of the delegates elected to the Convention."

That is where a committee has a matter which it refuses to report or adverses, or indefinitely postpones. Now if a minority of the Committee could, without regard to the wishes of a majority of the Committee, bring any matter before the Convention, it seems to the Chair that it would operate to abrogate this rule which provides when a matter has been considered in committee, and the majority of the committee have decided adversely to it, and have voted to indefinitely postpone it, that the matter cannot come before the Convention contrary to the wishes of a majority of that Committee, unless recalled by a vote under Rule 43, which requires a vote of the majority of the whole number of delegates elected to the Convention.

MR. SANFORD (Montgomery)—I rise to a question of information. When a Committee has reported to the Convention that they have indefinitely postponed a certain resolution or ordinance is that not itself a report?

THE PRESIDENT—The distinguished Chairman of the Committee on Legislative Department states that he makes no report for the Committee, and is not authorized to make any report, and therefore the Chair would rule, unless a motion was made to recall this matter from the Committee, that it is not properly before the Convention.

MR. BROOKS—I rise to a question of personal privilege. I want to say that if the Chairman of the Committee on Legislative Department had not, when I approached him on the subject, promised me that he would not make a report, I certainly would not have made a minority report. I never was notified of the meeting at which the action of this Committee is alleged to have taken place; although I saw the Clerk of the Committee going around here and notifying members, still I knew nothing of it. I do not know how many were present, whether there were seven, or ten or twelve. All I know is that the ordinance offered by the gentleman from Montgomery (Mr. Lomax) was adversed. When I went to see the Chairman of the Committee and told him I never had been invited to that meeting of the Committee, and I had no opportunity

to make a minority report, he said, very well, I will make a report and let me make a minority report; otherwise I should never have taken the trouble to make the minority report.

MR. LONG (Walker)—On yesterday, it is well known, while ordinance No. 404 was up for passage, I changed my vote from aye to no for the purpose, as stated then, of moving a reconsideration of that ordinance this morning. I ask your attention to Ordinance 404, because one of the most intelligent members on this floor yesterday evening voted against the ordinance and told me he did it because he thought it left the impeachment of sheriffs exactly like it was in the old Constitution.

It merely seeks to strike out of Section 28 of Article V, the report on Executive Department, these words: "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."

This ordinance repeals only these words that I have mentioned. The Committee on Impeachments, of which I have the honor to be a member, is unanimously in favor of this ordinance. Whether wisely or unwisely, the impeachment of the Sheriff is removed from the county, and is placed before the Supreme Court of our State. Now I submit, to give the Governor power to fix judgment before trial, on any case, is a most radical departure indeed from time-honored customs, and is contrary to every republican form of government in the world. It is placing the power in one individual, not only to try the case, and to render judgment, but that man can hear but one witness, or he may take a newspaper report if he wishes, and suspend that sheriff from office. This suspension carries with it the idea of guilt, or a failure to suspend carries with it the idea of innocence. I say it is a radical departure, and I speak in behalf of the Sheriffs of the State. I have seen them from every section of the State of Alabama, and I have not seen one of them in this State, who did not rebel at the idea of the Governor being allowed to suspend them from office without a trial. It is done for the express purpose, and no other purpose, of trying to prevent lynchings in the State of Alabama, as we all know. Lynchings in so many instances are to be deplored but in some cases, as I said here yesterday, they are right. It makes no difference who says they are not. If the time should ever come in the South when it is not the disposition to lynch for this unnamable crime, why sir, this crime will grow an hundred fold all over this State and all over the South. You might place in the Governor's Chair of the State of Alabama some man who would suspend every Sheriff where a lynching occurred, no matter what the circumstances might be. Some men think, and honestly think, it is the duty of a man to die in defense of a dog, if the dog is in his protection. Other men differ from them. The Governor might

say, "Well, while he was not taken from you, he was taken from your deputy, and it was your duty to be there, and therefore I suspend you from office." I submit, Mr. President, that Governors are no better than the common people of this country. If they are, why not let them try the case and settle it? Why do you want the Supreme Court to sit on it after the Governor has made up his verdict? He is forced to make up his verdict before it ever reaches the Supreme Court. As I said before, it is a most radical departure, and it should not be adopted by this Convention. The sheriffs in Alabama are good people. A man has to be a good man in order to be elected sheriff. I never was a candidate for sheriff, because I was satisfied I would be defeated, and I have never known one of my kinsmen to be a candidate for sheriff. I have no personal interest in this matter directly or indirectly, but, in the name of justice, why do you want to pick out one official, and only one, in the State of Alabama, and give the Governor the right to suspend him. You cannot justify it. It is a direct slap at every sheriff in this State, and they are the men who stand behind the guns, and they are the men who, if they organize against this Constitution, will defeat it and you know it. You have removed the impeachment proceedings from the counties. I thought that was wrong. I thought the sheriff, like everybody else, should be allowed to be tried in his own county, and before jurors of his own county, but a majority of the committee and of the Convention decided differently yesterday, and I yield to them. All that I ask is that you take away the right of the Governor, when satisfied after hearing the sheriff, that he should be impeached, to suspend him from office. It might take twelve months or two years to have his case settled, and for him to get a hearing. You bring him down here and suspend him from office, and you disgrace him. Rather than that, you better have one man rule in this State. You might as well have a King and be done with it. What right has any one man to judge of my guilt or my innocence without hearing the evidence? How can you justify it? You know it is contrary to every known principle of law. Every man is supposed to be innocent until he is proven guilty. It is a rule as old as the Bible or the law itself.

MR. SANFORD (Montgomery)—His term might expire before he is tried by the Supreme Court.

MR. LONG—Of course it might, and it would expire in many cases.

THE PRESIDENT—The time of the gentleman has expired; the gentleman from Montgomery.

MR. HEFLIN—I move that the rules be suspended and his time be extended for a few moments.

THE PRESIDENT—The gentleman from Montgomery has the floor.

MR. LONG—I think there is a motion to extend my time.

MR. JONES (Montgomery)—I move to suspend the rules and extend his time.

THE PRESIDENT—How long?

MR. JONES—Fifteen or twenty minutes.

THE PRESIDENT—Hadn't the gentleman better make it an hour? We have plenty of time.

MR. O'NEAL (Lauderdale)—I move to extend it ten minutes.

MR. PILLANS—Why not make it thirty minutes? We are doing nothing, We might as well extend it thirty minutes. (Laughter).

Upon a vote being taken, the motion to extend the gentleman's time ten minutes was carried.

MR. LONG—I am thankful to this Convention, and I am especially thankful to the distinguished gentleman from Mobile, who tries to ridicule the idea of an extension of time, because he is opposed to the cause. He is opposed to it in principle, and doesn't want to hear the members of this Convention discuss it, and ridicule it by saying thirty minutes, as we are doing nothing. I thank him for his words, but it is a blow below the belt and unjustified by any action upon my part.

This is a most serious matter. It is a departure from every principle known to a republican form of government. The Governor, as great as he is, can make errors, and can make mistakes, and they have made mistakes, and will make them in the future. The Governor has no right to suspend a man from office who is elected by the people. You must remember that he is not appointed by the Governor, and does not hold his term of office at his pleasure, but he is elected by the sovereign people, the same people that elect His Excellency, the Governor. It is an entirely new proposition. The Article on Executive Department, I contend, had no right to go into the Article on impeachments and take out the sheriff from that Article so far as relates to his impeachment.

Now, I referred to the fact that a time may come in the State of Alabama, and I repeat it, when we may have a sheriff here, and, no matter how a lynching may happen in his county, the Governor will suspend that sheriff whenever it occurs. It is well enough to sit up here in Montgomery and advocate a cause of this sort, where the electric lights shine all night, where the police and military are within a few minutes' call of the sheriff, but it is a different thing in many of the rural districts of the State. There often the office pays so little that the sheriff can have but one deputy, and a mob of 500 men might arise, and justly arise, and overpower the sheriff,

or, under pretense, as is often done, that they have a prisoner to put in jail, take a man out and lynch him, and yet you have it written in the fundamental law of the land that the Governor may suspend that sheriff at pleasure. I never thought I would see the time in Alabama when any man would rise up and advocate such a cause, or when a majority of any convention would advocate giving more power to one man than to the people themselves. That is what you do in this ordinance. A delegate upon this floor told me it amounts to nothing; let it stay in there; we would never get a Governor who would carry it out, but, gentlemen, we might, and it is making a Czar out of the Governor. Why, when you drag a sheriff down here from North Alabama to be tried before the highest court in the State, is he not then far enough removed from any influence that he might have? But you say by this that the Supreme Court of the land will not do justice in the matter. You say that when you insist on this section being retained in here, because you say to the Governor, you must make up your verdict for the Supreme Court; you brand him as guilty or innocent, before the evidence is ever submitted to any tribunal authorized by law to try him.

I hope this Convention will consider this proposition. On the question of a compromise, I want to say to the friends of the measure who voted for the sheriff to succeed himself on yesterday, that I never agreed to a compromise. I said then, and I repeat it, that I was talking to a sheriff of the State of Alabama, President of the Sheriffs' Association, and he told me he would a thousand times rather have this Article on Impeachment out of the way than be allowed to succeed himself. It is a question of principle. He said here in Montgomery, where he had the protection of the police force and military, he had no idea that there could ever be any lynching in Montgomery when he once had his hand upon the prisoner, but he said it was for others, and the principle involved is the reason the sheriffs rebel against it.

MR. MULKEY—Isn't it a fact that under the law, when solicitors are indicted for any crime, they are suspended from office, pending an investigation of that crime?

MR. LONG—He is suspended by the law, but not by an action of the Governor. If you want to suspend the sheriff, suspend him by law. If you want to hang him, hang him by law; but do not let it be by one man. Do not let it be that the sheriff may have to go to him and say, "Governor, most Excellent Governor, give me my right to be heard. Oh, please, do before suspending me from office." That is exactly what you require by this Article.

MR. O'NEAL—Unlike the gentleman from Walker, I have not consulted with the sheriffs or any other office-holder in Alabama to determine what action I shall take as a delegate in this

Convention. I deem it proper to vote upon every question presented, according to the dictates of my judgment, regardless of whether it incurs the favor or displeasure of any class of office-holders in Alabama. I think it is beneath the dignity of a delegate in this Convention to rise here and tell us what would be popular and what unpopular with the President of the Sheriffs' Association. The question for us to determine is what is right; what ought we to do to advance the interests, not of sheriffs, but the best interests of the people of Alabama. That is the question. I had always understood that this was a government by the people, but after listening to this debate, it would occur to an ordinary man that this was a government of the sheriffs, by the sheriffs and for the sheriffs. Now, I have no disposition to do injustice to the sheriffs; no disposition to deprive them of any office to which the people elected them, unless they violate the law of the land. The courts of the land say that public office is a public trust, to be administered for the good of the people and not for the interest of any class of office-holders. That is the Democratic doctrine, and that is the doctrine declared by the courts. No man has any right of property in an office. The Supreme Court has decided, in 52 Ala.: "No doubt a citizen who has been elected according to law to an office has an interest in and a right to it, on complying with the conditions prescribed by law, upon which he is authorized to take and hold it, but being an agent therein, or servant of the public, he is subject, like other employes, to the rules and regulations ordained by those who created the agency, and for whose benefit it exists." I would call the attention of the delegate from Walker to what the highest tribunal of the State says in answer to his proposition that the fact that the sheriff is elected to an office makes it his personal property. The court says: "The fact that he has been elected to it by a popular vote does not exempt him from the obligation to conform to such regulations, or, on failure to do so, from being dismissed in the methods and by the officials appointed by legislative or constitutional enactments, for the protection of the public interests." Therefore, if, by constitutional enactment, the people of Alabama, in convention assembled, should deem that the public interests require that a sheriff who is cowardly in the discharge of his duty, should be suspended from office by the Governor, it is as legal and constitutional as any other provision written in the fundamental law. Why should he not be suspended? They say it is anti-democratic. The President can suspend any executive officer, and a solicitor can be suspended under our law. The declaration of our Constitution is that the Governor is the chief executive officer of the State, and must see to it that the laws are executed. The sheriffs are the subordinate and executive officers of the State. You say to the Governor, you must see to it that the laws are executed, and yet you will not give him power to see that his subordinate agents obey the law. Now, look at it from a practical standpoint, and I appeal to you as delegates of the people of Alabama, acting

regardless of considerations of popularity, or unpopularity, to say whether the provision does not tend to prevent mob law and violence. You know, as a matter of fact, that since the close of the civil war, not a sheriff in Alabama has been impeached for permitting a prisoner to be taken by lawless force from his custody and murdered. The gentleman from Walker says that we ought to put it in the fundamental law of this State that we favor mob violence; that law is a failure; that we, the delegates of the people of Alabama, in convention assembled, must rise up here and solemnly announce to the civilized world that we are incapable of self-government, and must relegate law to a mob. That is the proposition which he coolly makes to this convention. Why, gentlemen, take the gallant little State of South Carolina, where the conditions are the same as in Alabama. What do they do? They declare when any man is taken by a mob and executed in any county of that State, that county shall pay the sum of $5,000 to the widow of the person who was mobbed. I just want to say one more word in conclusion, that we should not stop and hesitate or falter in our duty, or pander to what are supposed to be the interests of the sheriffs; that we ought to consider what will best secure law and order and the best interests of the people of Alabama. I say the only way by which you can enforce law and order; the only way by which you can prevent a sheriff from a cowardly submission to a mob, is holding over his head the power of suspension. Can any man in the sound of my voice deny that in every case where a prisoner is taken from the custody of the sheriff, when confined in jail that it is not done with his connivance? I say that, wherever the sheriff does his duty, the mob fails to get his prisoner. Now, Mr. President, I move that the motion of the gentleman be laid upon the table.

THE PRESIDENT—The motion of the gentleman from Lauderdale is that the motion be laid upon the table.

MR. REESE—I call for the ayes and noes.

The call was not sustained.

A vote being taken a division was called for and by a vote of 41 ayes and 55 noes the motion to table was lost.

MR. COBB—I have not a great deal to say, but it does seem to me that in a matter of this importance, and that it is important is conceded by everybody, some consideration should be given to the officers of Alabama that we have under consideration. The proposition which has already passed this body to allow the sheriffs to be impeached before the Supreme Court is in itself bad enough, in my judgment, but we do not seek those who are friendly to the sheriffs and their cause to disturb that matter, but the further proposition, that during that impeachment he should be suspended from office by the Governor, is in my opinion, scarcely less than

monstrous. It is wrong in principle, and it is wrong in policy. My distinguished friend from Lauderdale brings his law book and discusses the proposition. The law quoted has no more to do with the question at issue than I have to do with an eclipse of the sun. Who has ever advanced the proposition here that an office was property? How is it involved in the question under discussion here? If the gentleman had read further from the decision from which he quoted he would have found that the Supreme Court of Alabama does, with emphasis, say that in an office a man has an interest, and further, that around every officer of the State of Alabama is thrown the protection of the law. I speak without critical examination, but I venture the assertion that we have never had before in the Constitution of the State of Alabama, any provision suspending any officer pending investigation charges against him.

MR. JONES (Montgomery)—What about the Governor?

MR. COBB—I do not know about the Governor. Do you say that is true about the Governor?

MR. JONES—Yes, sir.

MR. PILLANS—How about solicitors?

MR. COBB—There is nothing in the Constitution about solicitors. There is a provision by legislative enactment allowing the Circuit Judge to suspend a solicitor when he is under indictment but there is not a word in the Constitution. Why not make this a matter of legislative enactment?

MR. PILLANS—Are we to understand that the enactment would be unjust if provided for by the Constitution, and would be just if provided for by legislative enactment?

MR. COBB—I assert that proposition.

MR. PILLANS—You assert that it would be quite just to suspend pending trial if by act of the legislature, and quite unjust if it be by the act of this assembly?

MR. COBB—I say so, but the word "just" used in that connection is hardly the proper word to use. In the abstract it would not be unjust to do any thing this Convention sees proper to do, but I say it is wrenching the office of sheriff from its proper connection, putting it as an exception here by the constitutional provision in the fundamental law of the land. That is what I assert. I want to say this so that I may not be misunderstood, that I dissent in toto. I will say, in that particular, from my friend from Walker. I believe the sheriff ought to protect every prisoner to the extent of his authority. I do not believe in mob law for one offense more than another. I believe that around every jail in this State should be drawn the circuit of the law, and that that circle

should be more potent in its influence to protect than ever was Richelieu's circle of the Church. That is my position, and that no man has a right to put his unhallowed foot for violence within that charmed circle which the law draws around every jail. As I said on a former occasion, and I repeat it, that the walls of the jail, be they weak as gossamer, should be as adamant against unholy and unlawful entrance from without, but while that is my conviction, I do not believe that the officers should be held to this extraordinary responsibility. My belief is that within the State of Alabama there are no more faithful officers than the sheriffs of the various counties of the State, and I say this from a long official acquaintance with them. I know them as well as any man upon this floor, and no officer as a general rule more promptly obeys the process of the courts. I know they try to protect their prisoners in all cases—perhaps not as efficiently as they might sometimes, but that is no reason that they should be dragged before the Chief Executive on an ex parte showing, and suspended from office during the time a judicial investigation is pending against them. Let us be fair to these officers, and not be swept from our feet because now and then a sheriff has not protected as he ought to have done, perhaps, a prisoner in his custody. Let us deal fairly with them as men and officers who are true to the trusts committed to them. They have a right in their office—not a property right, it is true, but a right of which they should not be deprived except upon a fair hearing, when they can meet the charges against them. What is the effect of the Section here? It is strongly stated by my friend from Walker. It is a judgment to some extent, of guilt without a hearing. Now let this ordinance stand. Let the Supreme Court try it. I shall not complain about that part of it, but let us treat these men like every other officer of the State, and not condemn them until an investigation has been had, until he can be heard—do not let us denounce him in advance. In the case to which my friend refers, "In the case of the impeachment of the Governor, his removal from office, death, refusal to qualify, resignation, absence from the State, or other disability, the President of the Senate shall exercise all the power and authority appertaining to the office of Governor until the time appointed for the election of the Governor shall arrive, or until the Governor who is absent or impeached shall return or be acquitted or other disability be removed." Perhaps it is well that exception has been made against the highest official in the State of Alabama. There is none here with reference to a purely ministerial officer, there is nothing here with regard to those who exercise judicial functions. It has no place in the Constitution, and further the Governor would be triable before the Senate as a court of impeachment. It has been suggested, suppose he is suspended from office before a hearing, and there is perhaps a delay of one or two years, and while he is out of office, his compensation ceases. That decision of the Supreme Court says that a sheriff and every other officer has an

interest in the perquisites of his office. I do not like this idea of considering and reconsidering and all that. But I regard this as a matter of extreme importance, and I say you should not select this class of men for a peculiar denunciation.

MR. JONES (Montgomery)—I make a motion now to reconsider the vote by which two terms were given to the sheriff. I voted for that.

Mr. Eyster took the Chair.

MR. KNOX—I move that consideration of the motion be postponed until after the consideration of the present motion.

THE PRESIDENT PRO TEM—The motion is to postpone until after the consideration of the present matter.

A vote being taken, the motion to postpone was carried.

The President resumed the Chair.

MR. WILSON (Clarke)—I move that the privileges of the floor be extended to the Hon. J. D. Poole, Representative from Lowndes County.

A vote being taken, the motion was carried.

THE PRESIDENT—The gentleman from Montgomery (Mr. Jones) will be recognized at the afternoon session.

Thereupon the Convention adjourned.

AFTERNOON SESSION.

The Convention met pursuant to adjournment, there being 111 delegates present upon the call of the roll.

THE PRESIDENT—The gentleman from Montgomery was recognized this morning to discuss the question we had under consideration when the Convention adjourned .

MR. JONES (Montgomery)—Nothing but an imperative sense of duty would induce me to appear before the Convention at this time. Believing that great consequences are to follow the fate of this ordinance, I ask the Convention to pardon me for a few moments, while I discuss the principles that enter into it.

MR. WILLIAMS (Marengo)—Mr. President, I move the suspension of the rules and that the time of the gentleman from Montgomery be extended until 4 o'clock, as otherwise his remarks will be broken.

Upon a vote being taken, the motion was adopted.

MR. JONES—There are some, Mr. President, who believe that embodied in this Convention is the dignity and power and majesty of the sovereign people of Alabama, and its representatives are here to discharge the most solemn duty that could be committed to man so far as the welfare and happiness of Alabama is concerned. Engaged in that duty one of the committees submitted certain propositions to this Convention which after long debate it adopted. Afterwards the same matter came from another Committee, and has been debated and the Convention refused to depart from its first decision. Now we are asked to reconsider. What are the arguments by which this Convention, which represents the sovereignty, power and majesty of the people of Alabama—I say what are the arguments by which we are met? They are addressed not to reason, nor to our wisdom, but to our fears. We were told by the gentleman from Walker if we did not legislate according to our fears rather than our consciences, certain of our officials would pull down our work over our heads. It is the first instance I remember, Mr. President, where so august an assembly has been met by such an argument, and where the delegates of a free people have been threatened to incite their fears instead of appealing to their consciences. I know that that appeal will not affect many of my hearers. I believe so far as the adoption of the Constitution is concerned, that when our work here is done, it will be either overwhelmingly approved by 100,000 majority, or buried by an equally adverse vote. Too many great hopes, too much affecting the weal and woe of those who are to come after us, are wrapped up in our work for any set of men to pull it down, simply because they do not like its effect on them. I hope that argument will be dismissed.

It is said there is something new in this proposition—that is unheard of, Mr. President, it is singular to me that gentlemen so learned in the history of our institutions and laws should permit themselves to make such a statement. Ever since 1819 there has been a provision in our Constitution that the highest officer of this State, the man trusted with the pardoning power, the man trusted with legislative power in a large share, the man who can put every citizen of Alabama under arms, and who typifies in his person as near as one man can, the majesty and power and glory of the law, if he were impeached, should be suspended from office and another should discharge his duties until he was acquitted. That has been the law from 1819 to this hour. We have had for years upon our statute books, a law that when a solicitor was indicted, ipso facto, he was suspended until the proceedings were terminated. We had for year upon our statute books, and enforced until it was declared unconstitutional by the Supreme Court, a law authorizing the Governor to suspend Tax Collectors and Tax Assessors. One reason, and I mention it in answer to the question why this was not left to the Legislature, is that the Supreme Court declared that

under the present Constitution, it was not within legislative competency to suspend a Tax Collector or Tax Assessor, or authorize the Governor to do it. We did not wish that there should be any doubt as to that power. Now if the delegates will dismiss from their minds who it is that may be impeached, and leave it out of view the history of our institutions, in which this principle is indebted, if they will put all of that aside, and look at it purely as a matter of common sense—business sense—they will see that it is nothing extraordinary that the sovereign people who can thus administer their government to suit themselves, think it wise and proper to entrust their head servant with the power, under certain circumstances, to suspend others of their servants. It is done in every day life. There is not a man within the sound of my voice who could not go to his plantation for a year, who would put an overseer there in charge and tell him "You shall not suspend any of my employes, no matter what you think of their conduct, until they are convicted of doing something wrong." There is not a business enterprise in Alabama where the manager does not have the power absolutely to dismiss subordinate officials. It is a law of order; it is a law of necessity. You have to have such a rule, if you will ever get the best results.

Mr. President, I am no enemy of the sheriffs. It has been my fortune to be with them often in the discharge of this disagreeable duty of protecting criminals, sometimes to cooperate with them, sometimes as their subordinates, sometimes when I was chief and director. I have never found them, as a rule, averse to doing their duty except where it grew out of a false standard of duty and the idea that the Sheriff was the judge of the innocence or guilt of his prisoners and not bound to uphold the majesty of the law if the prisoner was humble or vile or guilty. My friend from Macon spoke of this proposition—and I think his words were it was outrageous—applied to the proposition that the Sheriff could be called to account before the Supreme Court of Alabama. Another gentleman has said that we mistrust the people by insisting on impeachment before the Supreme Court. So far as I am concerned, I do not hesitate to say that in some matters I do distrust the passions and prejudices and the weaknesses of localities. I am not willing as far as my vote or voice can influence to approve the doctrine that a high official, like the Sheriff, is wronged because he is not put on trial among his retainers and his friends. There is not a man in Alabama, there is not a man in this house, who does not know it would be worse than a farce to put a Sheriff on trial in a county where a mob reigned supreme and took a prisoner away from him, and arraign him before a jury in the community where that mob came from. We had an example in a neighboring county not long ago. A mob took three prisoners, not charged with rape, in broad daylight, in God's open sunlight, and carried them off to a lawless death. The Circuit Judge made one of the strongest

charges to the grand jury that was ever delivered from the bench. He said: "It is your duty to indict. You have called God to witness that you are going to discharge your duty. These citizens have been murdered. There is Tom Williams who saw it, and there is so and so who saw it. Now go out and find a bill." From that day to this there has been silence. No bill has been returned, and the majesty of the law is powerless and trampled down, because it could not find voice and expression in the locality where it was sought to be invoked.

Some years ago, when the Governor had no power to direct a Sheriff to be impeached, when a Governor of this State inquired of a Sheriff the circumstances under which a man was taken from jail and mobbed, the Sheriff answered back in defiance and contempt, that he was foolish, that it was none of the business of the Governor of Alabama whether a man was hung or not. Take this county adjoining us where, by common report, and also from what I learned from officers who were there, the Sheriff deliberately misled the armed power of the State which was sent there to see to it that justice was meted out according to law, and in the darkness of night, put them on a false trail in order that the mob might work its will upon its victims. The Governor of Alabama was powerless. In the interest of law and good government, ought not the Governor have power to suspend such a Sheriff until tried? In our sister State of Mississippi recently two women and a man, not charged with rape, not charged with active participation in any crime, were taken from the Sheriff and led out to death, with the Governor of the State telegraphing the Sheriff, "I have troops to aid you. Do your duty." Judges and officers, I saw it stated in the papers, hung on the neck of the leaders of the mob and begged them for the sake of Mississippi not to do that deed. Yet this Sheriff, who stood there with the power of Mississippi at his call, declined to call for the military for fear there might be trouble between them and the mob, and folded his hands, and Mississippi was stained by the blood of citizens taken by lawless violence. Ought not the Constitution to give the Governor power to suspend such a Sheriff?

Where is the harm in this proposition? It is said that the Governor might ruthlessly suspend all the Sheriffs. That is a mere phantom of the imagination. The Governor is not going to raise up mobs—he is not going to have people killed by mobs. The Governor is the man who by one stroke of his pen can arrest the execution of the whole criminal law. He is the Chief Magistrate of nearly two million people. Can't he be trusted? Can't he be trusted to do justice to one of his subordinates? We all know that in matters of this sort the human heart, even in the breast of an executive, is weak, and that when it comes to meeting out punishment, the chances are that he would be lenient

in exercising the power of suspension, rather than prone to exercise it even in a proper case.

As illustrating my argument, I call the attention of the Convention to some words of Justice Amos R. Manning of Mobile, a man who has long since gone to his reward, but who is venerable in our jurisprudence and who has left a cherished memory behind him. Here are his words:

"The offices themselves, if property at all, are the property of the people of the State. They are merely occupied by persons who are in the employment of the State as its officials. They may, not improperly, be considered as organs of the body politic, to which belong important functions in the political system; without the regular and proper performance of which functions there cannot be in the body politic—the State—that vigorous life and health which are necessary to constitute a prosperous and honored commonwealth. We have therefore, more than once during this term, repelled the idea that the offices of the State are property in the sense in which it has become common so to regard them.

"No doubt a citizen who has been elected according to law to an officer has an interest in and a right to it, on complying with the conditions prescribed by law, upon which he is authorized to take hold of it. But being an agent therein, or servant of the public, he is subject, like other employes, to the rules and regulation ordained by those who created the agency, and for whose benefit it exists. The fact that he has been elected to it by a popular vote," upon which my friend from Barbour dwelt, "does not exempt him from the obligation to conform to such regulation, or on failure to do so, from being dismissed in the methods and by the officials appointed by legislative or constitutional enactments, for the protection of the public interests."

Why is it wrong, why is it unwise, for the sovereign people of Alabama represented here, mindful of a great evil, to say to these peace preservers in the different counties, these deputy Governors, so to speak, in the preservation of the peace, you may be suspended if you don't do your duty. Why is it unwise or improper to say to them, "we regard this evil as so far reaching in its consequences that we intend to quicken your diligence, and we notify you now that when you take this office, which you are not bound to take, which you are not compelled to take, one of the terms upon which you take it is that in certain cases the overseer of the State, the Governor of the State, after hearing you, may, if he thinks, you have been direlict, suspend you from office, until you are tried and acquitted or condemned." We are seeking to preserve, in a large measure, our civilization, by curbing a terrible evil. We cannot afford, by word or deed, here or elsewhere, to give life and germ to the idea that all our civilization must be broken down because in some locality, here or there, there may be some vicious

criminal, whom his neighbors and those who suffered by him, desire to die by lawless methods, rather than on the altar of justice which the State of Alabama has erected. Mr. President, has it come to this, that the great fundamental law that distinguishes all civilizations, and particularly ours, that no man shall be deprived of life, liberty or property, but by due process of law, is to be broken down, because, here and there, there may be some brute who, so far as he is concerned, deserves any punishment which may be meted out to him by lawlessness, breeds a cancer on the body politic, and incites and quickens all our evil passions, and rushes us on to practices and sentiments that are fatal to good government?

THE PRESIDENT—The gentleman's time has expired.

MR. HEFLIN (Chambers)—Would it be necessary to make a motion that the further consideration of the question be postponed until tomorrow? I believe the special order comes up now.

THE PRESIDENT—It seems to the Chair that the special order would come up at this time and displace the matter under consideration, in the absence of some motion to displace the special order.

MR. COLEMAN—I would like to say that I hope the delegates will withhold any judgment on the remarks of the gentleman from Montgomery until they have heard a reply to it, at least. I believe the special order now is that of the solicitors.

THE PRESIDENT—The question would be, this Article was ordered engrossed and to a third reading, and it was read a third time and passed. A motion was made to reconsider the vote whereby it was passed, and that motion was reconsidered. The question will now be upon the final passage of the Article.

MR. COLEMAN—Mr. President, I would like to inquire as to the parliamentary ruling, whether it would be out of order to move to recommit it to the Judiciary Committee?

THE PRESIDENT—It seems to the Chair that it would not be in order to move to recommit. The Chair understands that a motion to recommit, or a motion to amend, is cut off when an Article, under our practice, is ordered engrossed and to a third reading.

MR. COLEMAN—I would make the further inquiry, then: Would it be in order to move to lay the Article upon the table?

THE PRESIDENT—The gentleman can make the motion.

MR. SAMFORD (Pike)—I would like to suggest——

THE PRESIDENT—The gentleman from Greene has the floor.

MR. SAMFORD — With the permission of the gentleman from Greene, I would like to suggest to the Chair that the work on Parliamentary Practice, which the Chair has before him, lays down the rule that whenever a question is under debate, that a motion to recommit is in order, and it further lays down the rule that whenever the question has been submitted to the house for its approval or disapproval, it is sufficiently under debate to make that motion. If the Chair desires, I could furnish that authority out of the work which is open before the Chair.

THE PRESIDENT—A motion to recommit?

MR. SAMFORD—Yes, sir.

THE PRESIDENT—Cushing?

MR. SAMFORD—Yes, sir.

MR. GRAHAM (Talladega)—Is there any motion before the house?

THE PRESIDENT—There is no motion before the house.

MR. O'NEAL—I desire to make parliamentary inquiry. What would be the situation of the pending matter if we displaced it now?

MR. HINSON—I rise to a point of parliamentary inquiry.

THE PRESIDENT—The delegates will be seated. The Chair cannot recognize so many at once.

The Chair recognized the gentleman from Greene.

MR. OATES—If the gentleman from Greene will allow me one word. I rise merely to request the Chair that when the motion gets in shape, before it is settled, I would like to be heard upon the parliamentary status of the question.

THE PRESIDENT—The Chair would be glad to hear from the gentleman from Montgomery.

MR. HOWZE—I think the matter we had under consideration ought to be determined as to its status.

THE PRESIDENT—The present status is that the question is on the final passage of the Article.

MR. HOWZE—I have reference to the matter under consideration before we reached this.

MR. O'NEAL—What is the status of it?

THE PRESIDENT—That was temporarily displayed by the special order for this hour, and it will be in order as soon as this matter is disposed of.

MR. O'NEAL—If it is displaced, wouldn't it take the regular course on the calendar?

THE PRESIDENT—In the opinion of the Chair, it would come up immediately after this matter is disposed of.

MR. SAMFORD—Mr. President——

THE PRESIDENT—Does the gentleman from Greene yield?

MR. SAMFORD—I desire to read him an authority. Section 1521 in Mr. Cushing's work says: "In many of the American legislative assemblies, it is the practice, by a special rule, to specify both what motions shall be used and the order in which they should be moved, for disposition of the business before the assembly. The rule of the House of Representatives of the United States, which has been extensively copied in other legislative bodies, is as follows: 'When a question is under debate, no motion shall be received but to adjourn, to lie on the table, for the previous question, to postpone to a day certain, to commit' (or as we undertake now to commit), 'to amend, to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged. In the particular application of this rule, the following points are to be observed.' * * * * Section 1522 says:

Sec. 1522 — "A subject is sufficiently under debate to come properly within this rule, when it has been proposed from the Chair as a question for the decision of the House."

MR. COLEMAN—In addition to that, Mr. President, I would call attention to Rule 48 of our rules, under the head of Regulations Governing the Adoption of Ordinances.

THE PRESIDENT—What rule?

MR. COLEMAN—Rule 48, page 78, "Ordinances and reports may be recommitted at the pleasure of the Convention." I do not suppose, Mr. President, that my time will be counted when we are advising with the Chair as to the question of order? I find that under Rule 48.

THE PRESIDENT—I suppose the gentleman is now speaking to a question of order?

MR. COLEMAN—A question of order simply. I want to say to the delegates to this Convention that there is some way by which the will of this Convention may be arrived at. I do not know what the ruling of the President will be, but I judge that if the motion to recommit will not lie at this time, but which I will

make if the Chair will entertain it, surely the motion to lay upon the table will be in order, and I propose to say to this Convention that a motion to lay upon the table does not defeat this Article at all. The only effect will be to have the report brought in by the Committee, or one substituted for it, and when that takes place, it is open then to amendment, and we have all the authority, then, under all the rules, under which we have been acting, to amend this section, and to adopt the whole Article without any trouble or debate, and then an amendment will lie directly to the section now under consideration. .

MR. BEDDOW—I rise to a point of order. As I understand, there is no motion now before the house.

THE PRESIDENT—The question before the house is on the final passage of the ordinance.

MR. COLEMAN—Now, I did not wish any person to be misled. Some might think that by voting to lay on the table, they would defeat the Article. That is not so. The Article will come up, and the same Article will be presented here just as it is now, or with an amendment, either, it makes no difference; but when the Article is presented, then the amendment we wish to make will be in order and pertinent. The shorter way, and the more direct way, I understand, from the rule just read from Cushing, and also from our own rule, would be to recommit at this time, but if the Chair rules that out of order, then on a motion to table. I hope the delegates will sustain the motion that it may come up regularly, and we can amend the section if a majority of the Convention desire to amend it in that way, and no difficulty or delay will occur.

MR. HEFLIN (Chambers)—Do I understand that another Article, the same as this, with exception as to the election of Solicitors, will be offered in its stead?

MR. COLEMAN—Yes, sir; there will be one offered, or you can offer the same if you wish to. It will be open to amendment then. There will be no trouble about it at all, and I do not wish the members to be misled in thinking that if they voted to lay this on the table they would be thereby defeating the Article.

MR. WALKER—I would like to ask a question.

MR. COLEMAN—Go ahead.

MR. WALKER—If the majority chooses now to lay the Article on the table, that same majority, we may presume, will decline to take it from the table until it is made entirely satisfactory to them.

MR. COLEMAN—We have a new ordinance prepared to refer at once, unless they do it with a simple amendment which

brings it up properly, and there can be no delay. It is only arriving at what a majority of this Convention desires, according to the rules, as interpreted by the President of the Convention.

MR. GRAHAM (Talladega) — I rise to a point of parliamentary inquiry.

THE PRESIDENT—The Chair does not feel authorized to take the gentleman from the floor to entertain a parliamentary inquiry. The Chair will entertain a parliamentary inquiry when the gentleman from Greene is through.

MR. GRAHAM—In view of the fact that the gentleman said he was going to move to table, I thought that it would be too late.

THE PRESIDENT—A parliamentary inquiry would not be too late.

MR. COLEMAN—If I am in order I move to re-commit.

THE PRESIDENT—The Chair will hear from delegates on that question. The Chair has made no final ruling on that point.

MR. COLEMAN—That is my motion then.

THE PRESIDENT—The Chair would be glad to be advised by delegates experienced in such matters.

MR. SAMFORD (Pike)—Mr. President, I am not especially experienced in such matters, but I have another authority handed me by the delegate from Dallas.

THE PRESIDENT—Will the gentleman read it?

MR. SAMFORD—It is the Rules and Practices of the House of Representatives. It says: "A bill on the third reading is not to be committed for the matter or body thereof, but to receive some particular clause or proviso." It seems this authority says: "A bill on the third reading is not to be committed for matter or body thereof, but to receive some particular clause or proviso. It has sometimes been suffered." Now a suggestion merely. This Article is before this Convention for its approval or disapproval. The Convention by a majority of its votes, upon a test vote, has indicated that the Convention is opposed to the Article as framed.

MR. FITTS—Didn't it four times indicate that it was in favor of it as framed.

MR. SAMFORD—The question is impertinent and has no place in a parliamentary discussion. It makes no difference if it decided it four hundred times, the last time it was submitted to the Convention it was decided otherwise, and the old adage is that wise men reserve their right to change their minds. Now, with the Article before the Convention, it seems a preposterous propo-

sition that the majority cannot manage it as it sees proper. We have precedents in the authorities I have cited, for the re-commitment of an Article when it was upon its third reading. That is done for the purpose of permitting a Committee appointed by this body to perfect the article, that it may be in a proper condition for the approval of a majority of the delegates. It is the intention of this body, as I conceive it, to get at the will of a majority, and parliamentary tactics were never intended to permit a minority of a body to finally thwart the will of the majority. It is the rule in all bodies that a majority shall frame the laws. It was the intention of the people who sent us here that a majority of this Convention should frame this Constitution, and with the precedents before us, in the shape of as high authorities as can be submitted, I see no reason why this Convention cannot order this article back to the Committee from whence it came, to be put in proper shape.

MR. CUNNINGHAM (Jefferson)—Will the gentleman permit a question?

MR. SAMFORD—I am such a poor parliamentarian that I am afraid to be interrupted by the scimitar of the gentleman from Jefferson. I merely make these suggestions so that the delegates may see that we want to proceed about this matter in the best way for our people.

MR. GILMORE—Will the gentleman yield to a question?

MR. SAMFORD—Nor to the scimitar from Clarke. (Laughter.)

THE PRESIDENT—The gentleman declines to yield.

MR. SAMFORD—We desire simply to arrive at the best conclusions. The best way to arrive at that is from the report of the Committee. The thing has gotten to where a majority is not in favor of the article, and it does seem to me that the wisest thing that we can do is——

THE PRESIDENT—The Chair would like to ask the gentleman a question?

MR. SAMFORD (Pike)—Certainly.

THE PRESIDENT—If the Article would not be open to an amendment in the Convention, would it be open to an amendment in the Committee?

MR. SAMFORD—The proposition is this' Whenever an Article is referred to the Committee, it is done under the authority that I last sent to the Chair, for the purpose of re-arranging a particular Section in the Article — for that purpose and for no other.

MR. SOLLIE—Will the gentleman yield to a friendly inquiry?

MR. SAMFORD—Yes, sir, if it is friendly.

MR. SOLLIE—Well, it is this, I am friendly to your object. Why could not this Article as it now stands be amended. Is it final—having voted upon it and passed it in open Convention.

MR. SAMFORD—I simply say, the rulings of the Chair are against it, and I am not sufficiently well versed in parliamentary law to answer that question. I am simply addressing myself to the question of recommital. Mr. President, as I understand the rule with reference to articles, after a third reading has been by reason of the construction of the Chair of parliamentary law in our actions heretofore, we have no special rule upon that subject. There is no rule of this Convention that prohibits even any kind of an amendment upon a third reading.

THE PRESIDENT—The purpose of the Chair in asking for information is the Chair desires to be informed before making a final ruling. The idea of the Chair was, if this Article could be amended in Committee, it could be amended here, because the Committee is a mere agency of this Convention, and the creature could not do what the creator could not do.

MR. SAMFORD—I admit that, and I will address myself to that now.

THE PRESIDENT—If it could be amended there, it could here.

MR. SAMFORD — Wilson's Digest of Parliamentary Law says: "On third reading clauses may be added or amendments made which have been before rejected, and clauses made left out of the bill which have been inserted at any previous stage." There is the authority.

MR. GRAHAM (Talladega)—Is that authority in that book?

MR. SAMFORD—I don't know anything about the book except what I have read. It is Wilson's Digest of Parliamentary Law, I am not familiar——

MR. GRAHAM—It is the application that I want to ask the gentleman about—not the book.

THE PRESIDENT—Please send up the authority.

MR. SAMFORD—Yes sir. Now under the authority read before, if this Convention can do nothing else it can recommit with instructions to the Committee. If it can recommit at all, as is held by Mr. Cushing, it may be recommitted without instructions.

MR. O'NEAL—We have not got to a third reading.

MR. SAMFORD—Yes——

THE PRESIDENT—The Chair cannot permit a running discussion between members. A running discussion on this point will not be in order.

MR. SAMFORD—The same authority, Wilson's Digest of Parliamentary Law, says: "After a third reading it is too late to recommit it generally, but it may take this course to rescind the particular clause or proviso, it is not to be recommitted for the matter or for the body thereof or for the purpose of being divided into two bills"—concurring with the authority sent up prior to that time. Now this article has not had a third reading as it stands. That has been reconsidered by this Convention, and before it can be finally passed again, it must be read again to this Convention. Now it seems that all the authorities which I have been able to find, or which have been handed to me, hold that a recommitment under certain circumstances can be had, to wit, with an instruction from the Convention. With those remarks I submit this authority.

THE PRESIDENT—The Chair will hear from the gentleman from Montgomery.

MR. OATES—Questions of parliamentary procedure are always interesting, though many times complicated and not easily comprehended. It is competent at certain stages of any proceeding, a bill or otherwise, to do certain things. There is a time to offer amendments, there is a time for motions to be made to recommit with or without instruction, but a period is reached after a while in which nothing of that kind is in order. Now I am not going to follow my friend from Pike in going out and discussing the merits of this matter, because I am speaking to the President upon the parliamentary question. Now, sir, in this case, it seems that the motion is for a recommital without instruction. If a measure is subject to be recommitted, it can be recommitted with or without instruction. In this case, it seems the motion is to recommit without instruction, and in connection with it the delegate from Greene discusses an alternative proposition, that if it is not recommitted that then a motion to table is the thing to do and intimates that that will be done. Then as it has been brought up, I wish to remark on that, incidentally in passing, if this entire Article be put upon the table, then sir, it cannot be considered while on the table, it must be taken therefrom by the same authority that put it there before it can be made the basis of further action. That is a well settled rule, or the Committee could, of course, originate a different thing——

MR. COLEMAN (Greene) — May I ask the gentleman a question?

THE PRESIDENT—Will the gentleman yield?

MR. OATES—Yes.

MR. COLEMAN—Would it not be entirely in order if that is done to offer an ordinance, an exact copy of this with the exception of that Section, to be referred to the Judiciary Committee?

MR. OATES—Yes, but it raises another question whether the Judiciary Committee could bring in the same thing that had been laid upon the table.

MR. COLEMAN—If it is a different thing?

MR. OATES—Well, if it is not the same thing, of course they could do that. Now, I wish to offer some authorities entirely applicable to this question. Now, sir, this from which I read is not only the rules by which Congress is governed, but it also embraces Barclay's and Jefferson's Manual of Parliamentary Law, and the most valuable part of it is the digest which gives precedence, rulings and decisions of the Speakers of the House and the President of the Senate, which have been concurred in and accepted as proper expositions of questions of parliamentary law not settled by rules. Now, sir, on the proposition to recommit it is stated: "Committal to the Committee which has reported a measure, or recommitted—recommittal is the action usually taken when numerous amendments have been adopted, or when it is found necessary to rearrange the text of a bill. The motion to commit or recommit is of the same rank with the motion to amend, and in the house is in order at any time that an amendment would be in order and none others." Then: "A motion to commit with instructions or to report a certain amendment is not in order if the proposed amendment is not in order as an amendment to the bill. The Journal, first volume, 48th Congress, page 1247-48." In this case it would be impossible for them to amend because the motion to pass this Article, to order an engrossment and third reading of it, has been passed, and a motion made to reconsider, and that voted down and table. So it is not in a condition where before that period it was open to amendment. Its condition is unlike it was then and an amendment could not be offered, so the motion to recommit without instruction to bring in a different proposition upon this particular thing, because that could not be offered as an amendment here. Now, sir, can it be done anyway? In Congress committals and recommittals are made, but listen to what is said: "It is in consequence of this rule it shall be in order pending the motion for or after the previous question shall have been ordered, on the passage, for the speaker to entertain and admit a motion to commit with or without instruction, to a standing or select Committee. This rule is construed to permit but one motion to recommit, which motion is amendable as other motions until the previous question is ordered thereon." Now, in the absence of that rule here is what is declared: "A motion to commit or to recommit would not be in order after the

order for the engrossment and third reading of a bill had been passed, but for the express provisions of Rule 17." Now you have no Rule 17 here, and this is an enunciation of well recognized settled parliamentary law. After the engrossment and third reading of the bill it is then too late, and it cannot be done in the absence of an express rule. That is held without dissent.

MR. HARRISON—I will ask you if Rule 48 of this Convention which reads as follows: "Ordinances and reports may be recommitted at the pleasure of the Convention, is not fully as broad as Rule 17 of the House of Representatives, under which they hold it could be recommitted.

MR. OATES—The trouble about it is that it is not applicable all along the line. They may be recommitted at any time so long as they are amendable, but when they pass beyond that state, the motion then under that rule is not allowable.

MR. SAMFORD (Pike)—Will the gentleman permit an interruption just there?

MR. OATES—Yes.

MR. SAMFORD—I desire to ask the gentleman if Rule 48 says anything about amendments—is it not absolute?

MR. OATES — I have just read the general parliamentary rule, and it is only when the measure is subject to amendment.

MR. COLEMAN—There is Rule 48 which governs.

MR. OATES — I have read it before, but that is not broad enough. The proper construction of it is that it is applicable so long as the measure is amendable, and no farther than that. It has frequently been decided that "it is not in order to move to recommit a bill with instructions to bring in a report which would not be in order if offered in the House." The House having voted to strike out what it is proposed to instruct the committee to report, though they have not offered any instruction here it is exactly what they are trying to reach. It is not in order to move to recommit with instructions to report the original matter as a substitute for or amendment to the bill in its present status." So ruled by Speaker Carlisle, reported in The Congressional Record in Volume 1, 49th Congress.

THE PRESIDENT—What was the ruling of Speaker Carlisle?

MR. OATES—That it had been frequently decided that it is not in order to move to recommit a bill with instructions to bring in a report which would not be in order if ordered in the house. It is very similar to the question propounded to the delegate from Pike a while ago. "The house having voted to strike out what

it is proposed to instruct the Committee to report," or desire them to report is the same thing. "It is not in order to move to recommit with instruction to report the original matter as a substitute for, or amendment to the bill in its present status." That is in harmony with other decisions made by Speaker Carlisle, a Speaker who was the finest parliamentarian that ever sat in Congress, probably never had an equal in the United States, and probably few if any in any country, who was three times Speaker of the House, never was reversed, and but one single appeal taken from his decision in which he was overwhelmingly sustained, and he was so impartial as well as able, that at the conclusion of his third term he was presented with a fifteen hundred dollar silver service by the Republican side of the House. I think that these authorities settle this question, unless the Chair holds that the little rule they have read here applies all along the line and in every case even after a bill has been engrossed and sent to a third reading and is on its final passage, that it may be then recommitted and to reach a question which has already been adjudicated and passed upon fully by the Convention.

MR. CUNNINGHAM—It appears to me that the ruling of the Chair is eminently correct and not only in accord with parliamentary law, but with the rules of this Convention. In support of that position let us consider for a moment what is the purpose of ordering an ordinance engrossed. It is that it may be correctly written and having incorporated in it in the proper place all the amendments that have been proposed by the parliamentary body. Now then we remember that this engrossment can only be ordered by a majority of the Convention on a motion to engross, it appears therefore that none but a majority of the Convention can pass upon the engrossment and when the majority orders it engrossed it is proof that the Convention is satisfied with its work. Now we sometimes change our minds, and therefore our rules wisely provide for reconsideration. A motion was made to reconsider the section about which there is contention here, and that was defeated. A motion was then made to order the article engrossed and read a third time, and the motion was made to reconsider the vote by which the article was engrossed and read a third time, and that also was defeated, and therefore, there was nothing for the Convention to do under our rules which prohibit a motion to reconsider twice after it has been defeated once than to go ahead and read the article and pass upon it, and which the Chair held this morning that a motion to reconsider the vote by which the ordinance was passed was in order he was eminently correct but it simply opens the outer door, but the inner door is locked by the special rule of this Convention after you move to reconsider the order by which it was read the third time. The gentleman from Greene has raised the question that the majority ought to do what it pleases. A majority cannot suspend the rules, else it would not

require two-thirds of those voting to suspend the rules. The presumption is that there is no ordinance passed by this Convention that is not an expression of the majority, and that subsequent to the time when such action has been taken the matter has been adjudicated. I agree with the gentleman from Greene that there should be a remedy. He can introduce an ordinance on the whole judiciary article amending it, substituting it; he can introduce an ordinance amending any particular section by striking out or inserting——

MR. COLEMAN—You say it would be in order now to offer a substitute?

MR. CUNNINGHAM—No, sir, not at all, that would have to take the regular course. It would be in the form of a substitute, which would be an amendment, but in effect it would repeal certain sections or ordinances. I undertake to say that a motion to recommit—a question that the Chair asked the gentleman from Pike—was a correct question, and the opinion of the Chair upon that question is correct, that if this Convention cannot amend under its rules it would be impossible to delegate that authority to a committee. Now we have a remedy, we can pass this ordinance and it can be amended, and I understand there is an ordinance somewhere that has been introduced for the purpose of amending this article. It can be defeated straight out. That is a question upon which gentlemen who are opposing this particular section can take the responsibility.

MR. HEFLIN (Chambers)—May I ask the gentleman a question? Does the gentleman remember an ordinance on this same line was introduced and referred to the Judiciary Committee?

MR. CUNNINGHAM—Yes, I remember that.

MR. HEFLIN—Does the gentleman know that they indefinitely postponed that ordinance.

MR. CUNNINGHAM—I have no personal knowledge of that, but I presume it is true.

MR. HEFLIN—Then does the gentleman hold if the Judiciary Committee refuses to refer back an ordinance that the Convention has reached the position where it is bound——

MR. CUNNINGHAM—That proposition I deny because the rules of this Convention provide that any gentleman upon the floor can move that a committee be discharged from any further consideration of an ordinance, which brings it before the Convention, and therefore there is a remedy with regard to that ordinance or any other ordinance, but we cannot go on forever and forever, reconsidering an article which has been settled, because they might have two or three each day and we would not know when the work

was done. I simply rose to say that the position taken by the Chair in my judgment is impregnable, eminently fair, just and proper, and that the opponents of this question under discussion have a remedy, but it seems that they will not move to suspend the rules by which this could be amended, or that they are afraid of a committee or afraid that the Convention will not discharge the committee from further consideration. If they will not adopt the the parliamentary rules that we are all governed by, I cannot see why we should at this time undertake to set aside the consistent, fair and just parliamentary rulings of this body that have governed this body ever since we met. In regard to the status of a measure that has been ordered by the Convention engrossed and read a third time.

MR. HINSON—I understood the gentleman to say that the Convention refused to reconsider the vote whereby it ordered this article to a third reading and engrossment?

MR. CUNNINGHAM—Yes, sir.

MR. HINSON—I want to inquire if it would not be in order to rescind the action of this Convention? Move to rescind the action of the Convention whereby it refused to reconsider the vote whereby it ordered this article to a third reading——

THE PRESIDENT—That would be merely a second motion to reconsider, which the rules seem to prohibit.

MR. HARRISON—I desire to address myself briefly to the parliamentary question——

THE PRESIDENT—The Chair will be unable to hear unlimited discussion on this point. The Chair will hear from the gentleman from Lee, and will then announce his ruling.

MR. HARRISON—I would ask the Chair to send to me by the page the authority sent up by the gentleman from Montgomery, as I desire to compare the ruling of Congress therein referred to with our own rules. Admitting, Mr. President, for the sake argument, that the general parliamentary law is, as has been insisted by gentlemen on the other side, I submit to the Chair that the very authority submitted by the delegate from Montgomery with reference to the ruling of Speaker Carlisle, and Rule 17 of Congress, clearly show that under that rule the rights to recommit was entertained. That rule reads as follows: "It shall be in order pending a motion for, or after the previous question shall have been ordered on its passage, for the Speaker, to entertain and submit a motion to commit with or without instructions to a standing or select committee." Our Rule No. 48 reads thus: "Ordinances and reports may be recommitted at the pleasure of the Convention." I submit that our rule is broader. This rule of Congress specifies, nominating certain kinds. Our rule reads "at

the pleasure of the Convention," which would be read between the lines at any time at the pleasure of the Convention. It occurs to me, Mr. President, that the very authority which I will return to the Chair, handed by my friend, the delegate from Montgomery, is no broader than Rule 48, which can have but one meaning, "at any time at the pleasure of the Convention," and therefore, whatever may be the final result of it, that the motion of the delegate from Greene to recommit this matter to a Committee is under our rules clearly in order.

THE PRESIDENT—The Chair is not without difficulty in reaching a conclusion on this question, especially in view of the number of authorities which have been presented, but it seems to the Chair, speaking first to the point made by the gentleman from Lee, which seems to be vital in the case, that our Rule 48 is not as broad as the rule referred to in the authority cited by the gentleman from Montgomery, for the reason that in the case cited by the gentleman from Montgomery, the rule provided for a recommitment even after the previous question had been ordered. After a bill had been ordered to a third reading it specifically so provides. The rule reads as follows: "Pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select Committee." Now that our rule is not so broad, or intended to be so broad, seems to be made sufficiently clear by the fact that under Rule 25 a motion to commit is of inferior rank to a motion for the previous question, Rule 25 reads:

"When a question is before the Convention, motions may be received in the following order, to wit:

"'First—To fix a time to which the Convention shall adjourn.

"'Second—To adjourn.

"'Third—To lay on the table.

"'Fourth—For the previous question.

"'Fifth—To postpone to a certain day, not beyond the probable duration of the session.

"'Sixth—To commit.'"

And all the authorities hold that a motion to commit and a motion to recommit are of the same rank.

MR. HARRISON—Pardon me—our own Rule 48 is entitled "to recommit?"

THE PRESIDENT—Yes, says to recommit.

MR. COLEMAN—Allow me to make a suggestion. Would the President hold, as a judge of law, that a statute which said that a question may be recommitted at the pleasure of the Convention, meant the same thing as if it had said "may recommit at the pleasure of the Convention," except upon the previous question. Now construe this as you would construe a statute of law, and it is as clear as any question can be.

THE PRESIDENT — The Chair understands a motion to commit, and a motion to recommit are of the rank. When the Convention commits a question to a Committee and it comes back from the Committee, it may be recommitted, and it seems that a motion to recommit is of the same rank as a motion to commit. All the authorities hold to this view. This authority of Congress says: "A motion to commit with instructions to report a certain amendment is not in order, if the proposed amendment is not in order." This same authority says: "The motion to commit or recommit is of the same rank with the motion to amend, and in the House, is in order at any time that an amendment would be in order." But when the Convention has considered an Article, Section by Section, it is then before the Convention for amendment or for recommittal. A number of these sections of several of these articles, while they were being considered, were recommitted to the Committee, and it was in order to do so, but after the Convention passes from the state of amendment, and the entire article is ordered to be engrossed and to a third reading, (the object of engrossment is to incorporate the different amendments into the Article), and when it comes back from the Committee on Engrossment, it does not seem to the Chair that it is then open to amendment. Some authorities hold that when a question has been reconsidered, it comes before the Convention just as it stood before it was passed. That is true where there has been only one step taken in the passage of the Article, but where there have been sundry successive votes, as, for instance, votes on amendments, or votes whereby the bill was ordered engrossed, or to a third reading, a reconsideration of the final vote will not be effective beyond the reconsideration of that vote, as stated by Mr. Cushing in Section 1273 in his work on legislative practice: "The effect of this principle is that when one motion to reconsider has been made and decided, either in the affirmative or negative, or is still pending, no other motion to reconsider the same question is admissible." And in Section 1275, the same author says: "It is a general principle with regard to reconsideration that at a subsequent stage there can be no reconsideration of a preceding vote in relation to the same subject, without first voting to reconsider such subsequent votes; thus, after a bill has been read a third time and passed, it is then too late for a motion to reconsider the vote ordering it to a second reading, or rejecting an amendment proposed at that stage, unless the second reading of the bill is first reached by a reconsideration of the preceding vote."

This other authority, "Reed's Parliamentary Rules," says that "whenever the main question has been decided in the affirmative, the motion to reconsider an amendment previously adopted, would not be in order. It would be necessary first to reconsider the vote by which the main question was passed, and if the reconsideration prevailed, then the motion to reconsider the amendment would be in order.

"In general, it may be said that if the assembly desires to reconsider an act, it must retract in regular order all subsequent action which affects the act to be reconsidered."

When each section of this Article was up before the Convention, it was open to amendment, and it was amended in various particulars. After each section had been taken up in regular order, it was open to amendment by adding additional sections, but it has always been understood in this Convention that after an Article was ordered to be engrossed and to a third reading, that this order cut off further amendments, and it seems to the Chair that if it could not be amended in the Committee, and the authorities hold that a motion to commit or recommit is of the same rank as a motion to amend, and if a motion to amend is cut off, a motion to recommit is cut off. The special rule which has been referred to, Rule 48, does not seem to the Chair to authorize a recommitment of this Article at any stage; otherwise, after the final passage of the Article which we have just reconsidered, it could be recommitted. The Chair understands this Rule 48 simply to declare the general parliamentary law on that subject. The rule in Congress is more specific, and states specifically that it may be recommitted even after the previous question has been ordered; therefore, it seems to the Chair that a motion to recommit would not be in order at this time. If it were in order to recommit with authority to amend, then three separate votes of this Convention would be rescinded or abrogated without being reconsidered. The previous question was ordered, then the Article was ordered to be engrossed and to a third reading, and then again the vote to reconsider this vote was defeated. I do not think our rules contemplate anything of this kind. The Chair does not think the motion to recommit is in order at this stage of the proceedings.

MR. HEFLIN (Chambers)—I desire to renew the motion of the gentleman from Greene for the purpose stated here——

MR. REESE—I ask that the gentleman yield to me to make a parliamentary inquiry.

MR. HEFLIN—I suppose that the Chair had once ruled that a parliamentary inquiry could be made after a motion to table is made.

THE PRESIDENT—Does the gentleman yield?

MR. HEFLIN—I would be glad to yield, but I fear I would lose my place to make the motion to table. Will the gentleman make a motion to table the whole Article?

MR. REESE—I will make any motion you suggest.

MR. HEFLIN—I will yield to you, then.

MR. REESE—I desire to read one section and ask the opinion of the Chair on another question. As I understand the Convention has reconsidered the vote——

MR. GRAHAM (Talladega)—We object to tentative parliamentary inquiries put to the Chair when the question is not before the house.

THE PRESIDENT—If the gentleman will send up his authority, the Chair will examine it.

MR. REESE—I desire to ask if it is not in the power of this Convention now, by a vote, to rescind its action ordering the previous question on the adoption of this engrossed Article, and to rescind its action ordering it to a third reading, although it may be now too late to reconsider the vote. The point is this——

THE PRESIDENT—The Chair ruled on that point the other day. It is perfectly competent for the Convention to repeal any article that it has passed, but as the rules require that a proposition of that sort should pass through three readings, it should go through the same formula that the original article passed through, just as a bill in the Legislature to repeal an act formerly passed would have to go through the same formula.

MR. REESE—According to my agreement with the gentleman from Chambers, I now move——

MR. HEFLIN—The gentleman yields to me to make that motion. I now move, Mr. President, and the Convention understands the purpose of this motion, that the Article be laid upon the table.

MR. PETTUS—And upon that I call for the ayes and noes.

The call was sustained.

THE PRESIDENT—The motion is to table the Article as reported by the Committee on Judiciary. As many as favor the motion to table will say aye, and those opposed no, as their names are called.

Upon a call of the roll, the vote resulted as follows:

AYES

Messrs. President,	Barefield,	Browne,
Almon,	Beavers,	Burns,

Carmichael, of Colbert,
Carmichael, of Coffee,
Coleman, of Greene,
Coleman, of Walker
Duke,
Eley,
Eyster,
Ferguson,
Glover,
Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Montgomery,
Kirk,
Knight,
Locklin,
Long (Walker),
Lowe (Jefferson),
Macdonald,
Martin,
O'Neal (Lauderdale),
Opp,
O'Rear,
Parker (Cullman),
Proctor,
Reese,
Rogers (Lowndes),
Samford,
Sanford,
Searcy,
Selheimer,
Smith, Morgan M.,
Sollie,
Waddell,
William (Marengo),
Wilson (Clarke),
Wilson (Washington),

TOTAL—55

NOES

Altman,
Ashcraft,
Banks,
Bartlett,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Byars,
Cardon,
Cofer,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Espy,
Foshee,
Freeman,
Gilmore,
Graham, of Talladega,
Henderson,
Hood,
Jones, of Bibb,
Ledbetter,
Lowe (Lawrence),
Malone,
Maxwell,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Mulkey,
Murphree,
NeSmith,
Norman,
Norwood,
Palmer,
Parker (Elmore),
Pettus,
Phillips,
Pillans,
Porter,
Reynolds (Chilton),
Sanders,
Sloan,
Smith (Malone),
Smith, Mac. A.,
Spragins,
Spears,
Walker,
Watts,
Williams (Barbour),
Winn,

TOTAL—54

ABSENT OR NOT VOTING

Bulger,
Burnett,
Case,
Cornwall,
Craig,
Fletcher,
Howell,
Jones, of Hale,
King,
Kirkland,
Kyle,
Long (Butler),
McMillan (Wilcox),
Morrisette,
O'Neill (Jefferson),
Pearce,
Renfro,
Reynolds (Henry),
Robinson,
Rogers (Sumter),
Sorrell,

Stewart,	White,	Willet,
Studdard,	Whiteside,	Williams (Elmore).
Tayloe.		

PAIRS

AYES	NOES
Carnathon,	Chapman,
Cobb,	Leigh,
deGraffenreid,	Fitts,
Jones, of Wilcox,	McMillan (Baldwin),
Lomax,	Pitts,
Weatherly,	Oates,
Sentell,	Thompson,
Vaughan,	Hodges,
Foster.	Weakley,

THE PRESIDENT—On casting up the vote it appears that there are fifty-five ayes and fifty-four noes, so the motion to table prevails.

MR. BLACKWELL—I call for a verification of the vote.

MR. SANDERS (Just as the verification was completed and before the vote, according to the verification, was announced.)—Perhaps this is not a parliamentary expression, but I counted the vote as fifty-five and fifty-five and therefore the motion to table fails.

THE PRESIDENT—Will the gentleman come up and assist the Secretary.

MR. REESE—I object.

MR. PROCTOR—I make the point of order that no delegate is allowed at the desk of the Secretary while the roll is being called.

MR. LOWE (Jefferson)—I move a suspension of the rules in order that the gentleman from Limestone may assist the Secretary.

MR. OATES—I do not think it is necessary. While the rule excludes delegates from the Clerk's desk, the presiding officer has a right to invite any delegate on this floor to go there and assist the Secretary.

THE PRESIDENT—The Chair hears no objection, and the gentleman will check over the list.

MR. LONG (Walker)—Before the vote is announced, in order to give better satisfaction to all the delegates here, while I do not question anybody's veracity, I make a motion that the Clerk be required to again verify the vote.

MR. HEFLIN (Chambers)—I object. It has been verified to the satisfaction of everybody.

MR. COLEMAN (Greene) — I object. Two have verified it, and a gentleman has been called up there to assist the Clerk in counting it.

MR. LONG (Walker)—I withdraw the motion.

THE PRESIDENT — Upon casting up the vote it appear that there are fifty-five ayes and fifty-four noes, and the motion to table prevails.

MR. WILLIAMS (Marengo)—I ask unanimous consent to introduce a short ordinance.

Objection was made.

MR. REESE—I move that the rules be suspended and that he be allowed to introduce the ordinance.

Upon a vote being taken, a division was called for, and the Convention, by a vote of fifty-one ayes and fifty noes refused to suspend the rules.

MR. LOWE (Jefferson)—I desire to make a parliamentary inquiry as to the status of Ordinance No. 429, the ordinance that the Chairman of the Judiciary Committee returned to the house this morning. As I understand, that was not the report of the Committee and the Chair so held. I desire to know in that view of the case, if that ordinance is not still pending before the Committee, and if such be the case I desire to offer a resolution instructing the Committee to report it.

THE PRESIDENT — Yes, sir; it is before the Legislative Committee.

MR. LOWE—I ask leave to introduce a resolution instructing that Committee to report it.

MR. WATTS—What ordinance does the gentleman refer to?

THE PRESIDENT—That providing for a quadrennial session of the legislature. The gentleman asks leave to introduce a resolution. Is there objection?

MR. LOWE—I was misinformed as to the number. If I can move verbally, I move that the Committee on Judiciary be instructed to report the ordinance before them to amend the section on the Judiciary report relative to sheriffs.

MR. GRAHAM—I make the point of order that the motion is now in order because the Article on Judiciary has just been tabled, and therefore is not before this Convention.

MR. LOWE—If there is objection, I shall not insist upon it. My only purpose was to assist the action of the convention upon the Judiciary report.

MR. WILSON (Clarke)—Before this matter is gone into, I have a privileged motion pending, which is the order now, and I want to call it up. On Friday, I moved to reconsider the vote by which the Article on Municipal Corporations was ordered to a third reading and engrossment, and by consent the motion was set down for today. I have been waiting all day to call it up, and I make the motion now.

MR. LONG (Walker)—I make the point of order that the motion goes over to the head of unfinished business. I do not care to displace the gentleman, but it was displaced by the special order set for a certain hour and therefore it goes over.

MR. WILSON—This, Mr. President, had precedence to that.

THE PRESIDENT—The Chair has been in some difficulty in reaching a conclusion on the motion made by the gentleman from Clarke, but the Chair has reached the conclusion that when the gentleman obtains the floor and makes his motion, it would be in order to move to make it a special order. That was the motion that was made by the gentleman and the Chair is inclined to make the same ruling with reference to this motion made by the gentleman from Jefferson. As the question is up, I might as well decide on it. Rule 43 says: "Any ordinance or resolution may be recalled from the Committee by a vote of the majority of the whole number of delegates elected to the Convention."

That motion might be made the special order by a vote of the Convention; otherwise, the Chair is unable to see how any delegate would get the benefit of this rule recalling any matter from the Committee. A motion, however, of that kind would not displace the regular order, unless it was displaced by a majority vote of the Convention, but it seems to the Chair that any delegate who gets recognition may enter his motion, and then if he pleases move to make it a special order.

MR. ASHCRAFT—I desire to call the attention of the Chair to the rule which provides that every morning the roll of the Convention shall be called to allow delegates to introduce any resolution they may see fit. Now, how can the gentleman——

THE PRESIDENT—The Chair heard the gentleman from Lauderdale and the gentleman from Clarke very patiently on this motion, and took the matter under advisement, and the opinion the Chair reached is that the motion may be entered, and it would go over as unfinished business, unless the Convention directs otherwise.

MR. WILSON—I do not think it would be necessary to reach it by a motion to set this matter as a special order. I think if the Convention will listen to me a moment, we can dispose of this matter in the time it would take for setting a special order. I first move that the reconsideration of the Section which has just been placed on the table be made the special order immediately after the reconsideration of this article. Then I make the motion to reconsider the vote by which this Article was ordered to a third reading. That motion is now up. If that motion is carried, then to accomplish what I want, I would ask to make the motion to reconsider Section 6 a special order, but the Chairman of the Committee which acted on this matter, and the gentlemen who introduced the ordinance originally and who pressed its adoption on this floor has agreed with me and those who think as I do, on a substitute to this section, and I do not think there will be any objection whatever to the substitute upon which we have agreed, and therefore I shall ask after briefly stating the reasons, that this substitute be accepted by unanimous consent in lieu of Section 6 as it now is in the report of the Committee on Municipal Corporations.

THE PRESIDENT—The Chair is unable to understand how the gentleman is going to displace the special order which is the pending question, the motion to reconsider, unless he does so by a vote of the House, or by unanimous consent.

MR. WILSON—This matter was made a special order for today. The reconsideration was the first order of business after the reading of the Journal on Saturday, but by consent, it went over until today. It is a reconsideration, and that gives it preference to other business.

THE PRESIDENT—Does the gentleman recollect if there was any vote of the Convention of the kind? The Chair does not recollect that it was submitted to the Convention.

MR. WILSON—It does not require a vote to make that the special order. I entered the motion and under the rules it goes over until the next morning.

THE PRESIDENT—Then the gentleman gave notice that he would move, or did make a motion to make it the special order.

MR. WILSON—Not that, but the Section, a motion to reconsider, which had been laid upon the table. I wanted, in the first place, to reconsider the vote whereby the Article was ordered to a third reading. That would have been unless I could have reconsidered the vote whereby the Section I was after was adopted. The motion to reconsider that Section has been laid on the table. In order to get at that, I moved that be made a special order immediately after we considered this other. That was a matter of right.

THE PRESIDENT—Does the gentleman say that, upon his motion, this Convention did, by a vote, make it a special order?

MR. WILSON—No sir, some gentleman interposed a point of order that I could not make a motion to make Section 6 the special order. The Chair said he would hold the matter under advisement, and that matter is still under advisement.

THE PRESIDENT—The Chair now rules that the gentleman can make the motion to make it the special order.

MR. WILSON—Then the Chair overrules the point of order interposed by the gentleman from Bibb?

THE PRESIDENT—Yes sir. The Chair has heard no motion which would authorize the gentleman to occupy the time of the Convention.

MR. WILSON—The motion has heretofore been made, Mr. President, and the gentleman interposed a point of order against it.

THE PRESIDENT—The motion was to make this the special order, but the Convention did not make it so.

MR. WILSON—Well, I will make it right now, to make a long matter short.

MR. LONG (Walker)—I rise to a point of order.

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

MR. LONG—It is this: This unfinished business cannot be displaced by a point of order to make anything a special order, after we have gone into the consideration of it. Now then it was displaced at 4 o'clock by the special order, that was voted for by this House on yesterday. That was right and proper, but if it can be displaced now by a motion to make a special order then it would be impossible to ever reach it unless by unanimous consent of the delegates here, and we could never reach a vote.

THE PRESIDENT—The gentleman from Clarke made his motion; it was in order before the Convention, and the Chair merely held up the ruling on it, and it seems to the Chair the motion would have precedence, and that the Chair ought not by merely withholding a ruling make him lose its place. The Chair will entertain the motion, and then take up the point of the gentleman from Walker.

MR. WILSON—I moved immediately after the disposition of the motion to reconsider the vote whereby this Article was ordered to a third reading, and engrossment, that the reconsideration of Section 6 be made the special order.

THE PRESIDENT — It is moved to reconsider the vote whereby Section 6 was adopted, or laid on the table?

MR. WILSON—I move that it be made the special order for reconsideration immediately after the determination of this matter, of a motion to reconsider the vote whereby the Article was ordered to a third reading.

THE PRESIDENT—In the opinion of the Chair it is not in order to reconsider a vote whereby a Section was laid upon the table.

MR. WILSON—I did not intend to reconsider the vote whereby it was laid on the table, but to reconsider the vote whereby it was adopted. In other words, to take from the table, and to make it the special order for consideration as soon as this other question is disposed of.

THE PRESIDENT—The gentleman from Clarke moves to take from the table a Section. Do I understand that to be the motion?

MR. WILSON—I move to make that matter a special order.

MR. O'NEAL—What matter?

MR. WILSON—The motion for reconsideration of Section 6.

THE PRESIDENT—Was the Section adopted or laid on the table?

MR. O'NEAL—It was laid on the table.

MR. WILSON—It was adopted.

THE PRESIDENT—It was adopted.

MR. WILSON—I move that the special order immediately after the determination of the motion to reconsider the vote whereby the Article was ordered to a third reading and engrossment.

THE PRESIDENT — It is moved by the gentleman from Clarke, that the motion to reconsider the vote whereby Section 6 of the Article on Municipal Corporations was made a special order, be consider immediately after the consideration of the motion to reconsider the vote whereby the Article was ordered engrossed and to a third reading.

MR. O'NEAL — I rise to a point of order. Section 6 was adopted. The gentleman made a motion to reconsider. That motion was laid on the table. Now I insist it is out of order to make a special order to reconsider a vote by which a motion was laid on the table. The motion to reconsider has been made and laid on the table.

THE PRESIDENT—It is not in order for the gentleman now again to make a motion to reconsider the vote whereby Section 6 was adopted.

MR. WILSON—I am not doing that, Mr. President. That is the very point which the Chair has had under advisement three days, and has held that I can do——

THE PRESIDENT—It seems to the Chair that the gentleman from Clarke confuses a motion to reconsider the vote whereby the section was adopted, with a motion to take from the table, a motion by him to reconsider the vote whereby the section was adopted. The Chair recollects that he entered his motion to reconsider, and it was laid upon the table.

MR. WILSON, Yes, sir.

THE PRESIDENT—Then the proper parliamentary motion would be to take from the table the motion to reconsider. Now if the gentleman enters that motion and moves to make it the special order, after the consideration of the motion to reconsider the vote whereby this article was ordered engrossed and to the third reading——

MR. WILSON—That is exactly the motion.

THE PRESIDENT—The gentleman dropped the first part of the motion.

MR. WILSON—That is what I was trying to say.

THE PRESIDENT—Now, then, is the Convention ready for the question?

The question was called for.

THE PRESIDENT—As many as favor the motion to make this motion of the gentleman from Clarke to take the motion to reconsider the vote whereby Section 6 was adopted from the table the special order to be considered immediately after the consideration of his motion to reconsider the vote whereby the article on municipal corporations was ordered to a third reading, will say aye and those opposed no.

Upon a vote being taken a division was called for, and by a vote of 31 ayes and 40 noes the motion was lost.

MR. WILSON—Then I desire to be heard briefly on the motion to reconsider the vote whereby the article was ordered engrossed and to a third reading.

MR. LONG (Walker)—I make the point of order that the gentleman cannot do that until after the matters before the Convention have been disposed of.

MR. WILSON—This was a privilege motion. It was entered on the very day that the order was granted, and went over until the next day, and its regular order would have been immediately after the reading of the Journal on the next day.

THE PRESIDENT—The Chair will overrule the point of order. It seems to the Chair that this motion to reconsider, which was entered first would have precedence to a motion insisted on by the gentleman from Walker.

MR. WILSON—My purpose in moving to reconsider this article is in order to offer an amendment to the article which in my judgment will take from Section 6 the objectionable feature of it. Section 6 of the article as adopted reads as follows.

"Sec. 6. The General Assembly shall not enact any laws which will permit any person, firm, corporation or association of any character to pay a privileged license or other tax to the State of Alabama and relieve him or it from the payment of any other privileges and license tax in this State."

Now, Mr. President, it has been the policy of the Legislature of Alabama in three classes of cases to fix a privilege tax for doing business in this State, which should be paid in one lump sum. One class of business was express companies, one sleeping car companies and the other class of business was building and loan associations. Now the Legislature has said that persons doing either one of those three kinds of business shall pay a privilege tax to the State of Alabama in a gross sum, and shall not be liable for any other privilege tax. The express company pays four thousand dollars. I do not remember what the other companies pay. It does not exempt those persons doing business in either one of those lines from paying tax on their property. Whatever property they have in a city, they pay city tax on it, county tax on it and State tax on it. It is simply license that the cities cannot impose and the reason for that is this: a sleeping car company runs all through the State from one end to the other and runs through many towns and villages. Express companies do business over the lines of railroads running through many cities and villages. Certainly the only just and equitable way to get at how much license tax either one of those concerns shall pay would be for the State to say they should pay one gross license tax, otherwise you would have one town fixing one amount of privilege tax, another town another amount of privilege tax, and another town another amount, and you would fix it so that any little town could prohibit a sleeping car company from running a dining car over the lines of a railroad company in this State, owing to the degree of madness of particular Councilmen or town authorities of that town. It is impossible to say whether enough tax has been levied or whether too much tax has been levied under this plan because it is scattered all over the State and there is no way to get at it.

The only just way to levy such a license tax as that is for the State to levy it in one lump sum, and if it is not enough they can levy more, but what I insist is that it is absolutely impossible (if you leave it to these towns to fix it according to their own pleasure) it is absolutely impossible to tell whether these concerns pay enough tax or too much tax, and by leaving it with the Legislature it is with the authorities of the State, just as in the case of the assessment of railroad property, the Board of Appraisers would put it where a just sum can be demanded, and you will know exactly what they pay. Now, under this provision of the code with reference to these two kinds of companies, or persons either, express companies and sleeping car companies, a gross privilege tax has been levied and is collected by the State. Now the Committee on Municipal Corporations, the Committee on Towns, looking out for the interests of towns, has put a provision in this article so that the State shall not fix a gross amount of privilege tax, and prohibit the town from also levying privilege tax. I have no doubt that that section was put there to meet two cases which have been agreed on by the Legislature. I think myself that the tax ought to go to the State. I think the system proposed by the Legislature is right. They do business through the State, and in the State, and in my judgment the tax should go to the State, but the committee thought it should go to the cities and put this provision here for that purpose. But if you concede the idea that it should go to the cities and not to the State, then the State should still fix the amount of privilege tax, and let it be distributed among the cities in just proportions to which they are entitled. The amendment that I have drawn for the section, and the chairman of the Committee on Municipal Corporations, Mr. Weakley, has agreed with me that this is a proper section. In fact he said that it carried out his idea of it better than as the committee's report fixed it.

MR. WEAKLEY—No. I beg your pardon.

(Mr. Pettus took the chair.)

MR. WILSON—The chairman of the committee did not undertake to accept it for the committee, but he said that it met his own views. The gentleman from Montgomery, Mr. Graham, told me that he agreed to the amendment also, and he was the author of the proposition and urged its adoption before the house, and I doubt not but for his argument it never would have been adopted. I moved on time to reconsider the vote but I was out of order at that time. I had a majority vote, but as it was necessary to suspend the rules, I could not get the two-thirds vote which was necessary to suspend the rules. I could not get it adjusted though a majority vote. My amendment is this. The section I proposed is this: Section 6. If the Legislature enacts any laws 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 privileges and license taxes in this State, it shall provide for a just proportion of such tax to be distributed among the several municipalities in which such person, firm, corporation or association does business.

It seems that that is better than the other way. In the first place the State ought never to take from itself the right to say what privilege tax should be paid. A privilege tax is a hard tax at best, and it is only by virtue of the power from the State that these towns can levy a privilege tax at all, and now here the proposition is that the State shall not have the power of preventing its subordinate branches of government from charging an excessive privilege tax. Now that is the objection I have to the proposition.

MR. O'NEAL—Is it not a fact that the sleeping car companies only pay about three hundred dollars a year in Alabama?

MR. WILSON—Well, I do not know what the sleeping car companies pay. I have looked up express companies. They pay $4,000. But I say if they do not pay enough let the State fix it enough.

MR. O'NEAL—But the State doesn't do it.

MR. WILSON—I doubt not that the State will do it if it is just and fair. My experience has been if you come to the legislature with a proposition for taxation they will put enough tax on it.

MR. WALKER—Have not there been frequent attempts to change the express company tax, and they have always been unsuccessful in the legislature?

MR. WILSON—You mean to let towns fix it instead of the State?

MR. WALKER—I mean to make any change in it at all?

MR. WILSON—It has been unsuccessful in that particular, because it is wrong. They ought not to be turned loose on all these towns. The legislature should fix it. Why you cannot make them take out a privilege license except for business done wholly in the State. You cannot make them take out a privilege tax on business out of Georgia into Alabama. It is only where it is business within the lines of the State and it is the people all over the State who pay the privilege tax. On goods shipped to me from Montgomery to Clarke County I pay the freight. The fellow that pays the freight is the one that pays the privilege tax. I say that the State should not only fix the amount of tax, but it should go to the State.

MR. HARRISON—If this proposition is allowed wouldn't it have the effect over both express and Pullman companies to deprive many small towns of either of those privileges?

MR. WILSON—It might. It might put it in the hands of some town council to deprive other towns of sleeping car and express service. The State should not take from itself the power of fixing that tax. I think that the tax should go to the State as the legislature provided, but my amendment is that the State may still fix the tax as it does now, but if it does, shall distribute it to the cities and towns justly. I believe that is certainly as far as it ought to go. My purpose in moving to reconsider the vote whereby this matter was ordered to a third reading was in order that I might offer this amendment, and I hope the Convention will reconsider the vote whereby the article was ordered to a third reading in order that I might offer the amendment. I was cut off from offering it by the previous question. I tried to, but was prevented.

MR. WEAKLEY — In view of what the gentleman from Clarke has said I deem it proper for me to make a statement of my position in the matter. The section of the report of the committee on Municipal Corporations which he is discussing was introduced by the gentleman from Montgomery, who argued in favor of this report. The Convention will understand the object of this provision. I believe it is to divest the legislature from depriving the cities and towns of this State from their proportion of the revenue derived from the license tax from these various companies that operate in more than one town in the State. As far as I am personally concerned my object in supporting the measure was to obtain from these companies for the cities their proportion of the revenue. The section now proposed by the gentleman from Clarke to be inserted in lieu of that is that the State shall collect its revenues, and then proportion it among the cities and towns of the State, such part as it may decide to proportion. Now, I undertake to say that that law will be very difficult of execution. Who is going to determine how much of this revenue shall be paid to the city of Montgomery, and how much to the city of Birmingham and how much to the city of Mobile.

MR. WILSON—The legislature?

MR. WEAKLEY—I understand the legislature is to determine that proposition, but how is it to be determined? Is it to be determined by the population or by the number of trains or railroads that run into a town, and what machinery is to be devised for carrying this into effect. There is one objection that I have to the section.

MR. REESE—For information. Under the provision in your report is it not in the power of the legislature to pass a law prohibiting any city in the State from charging any license at all on express companies.

MR. WEAKLEY—Yes, sir; I think that is undoubtedly true. The provision in my report says that the State shall not come in and take all the license, but as I understand, it does not prohibit the legislature from saying that no city in the State shall exact a license tax from these express companies, or from sleeping car companies or building and loan associations. It seems to me, gentlemen of the Convention, we ought not to throw anything in the way of towns and cities from getting their proper share of the revenue, and it seems to me that this is the entering wedge, if the State takes aways from cities the right from this source of revenue, why not go still farther and take away other sources of revenue which a city has? I think, gentlemen, the question of uniformity of license tax is something to be desired and to that extent I concur with the gentleman from Clarke, but I think that towns of similar size and similarly situated in the State where the volume of business done by these corporations is about the same, ought to charge about the same license tax. I think the cities of Anniston, Huntsville and Selma, for instance, which are about the same size and similarly situated ought to charge about the same license tax. I do not think one ought to charge two hundred dollars, another one hundred dollars and another fifty dollars, but still, at the same time I do not see that the section as already adopted would interfere with that.

MR. REESE—Cannot the legislature prescribe for those particular cities, that they shall charge no more license than that?

MR. WEAKLEY—I think it is competent for the legislature to prescribe exactly what license shall be charged in cities of certain population. I think they have the right. They have full control of the powers of municipalities to levy license tax.

MR. BAREFIELD—I rise to a point of personal privilege. Yesterday's stenographic report has me as saying: "I have not been in favor of sheriffs being impeached by twelve men of their county." I said: "I have always been in favor of sheriffs being impeached by twelve men of their county."

THE PRESIDENT PRO TEM. — The stenographer will make note of the correction.

MR. MALONE—I hope this motion to reconsider will not prevail. As I understand the provision as it remains in the article, it is one of the highest necessity to the entire State, especially in towns. Under the operation of the law, these concerns are turned loose upon the entire State of Alabama for a certain license, in some instances stated on the floor here, to be nominal, while others are quite large. The result of that is that they can go into any community that they please and do business without paying one single dollar of tax or license in that community. I believe it is agreed that practically all of them have no property on

which they pay an advalorem tax. Some of them do a business the income from which is largely in excess possibly, from any other enterprise or ordinary business enterprise.

MR. PILLANS—Is it not a fact in one of the recent cases involving the right of the State to tax the property of foreign corporations, the State of Ohio found it necessary, as the facts in the case show, to tax the capital of the Adams Express Company, which was involved in business in Ohio, because the few wagons and horses that they had amounted to nothing in the cities of the State?

MR. MALONE—That is my understanding. The working of it is the main thing that I am interested in. I do not care much about the detail work. When you get down to the every-day affairs, it is how much tax they pay and who gets it? Not only the express companies and others, but take building and loan associations. Every one of those can go into the cities in Alabama, get the benefits of the business, and so far as that community is concerned, they pay not one nickle. There are some communities in which it is absolutely necessary to have larger license than it is in others. There is no doubt some good comes from this privilege to do business in a community, and yet they do not pay their fair proportion. The same principle could be stated in connection with insurance companies. Every one might state that an insurance company should pay a certain amount into the State treasury and relieve them from municipal license.

MR. O'NEAL—I agree with you fully in your views, but I want to make this suggestion: Under the law as it now exists, or would exist under that section, would it not be in the power of any city or any town in the State to make an arbitrary license varying in every town, for instance, Huntsville, $100; Florence, $200, and Tuscumbia, $150; and won't it be but just to these corporations to amend that section so as to provide that the Legislature should regulate the amount of tax to be imposed by the different municipalities of the State? As it now stands, each municipality exercises its own discretion, which produces no uniformity in the amount of taxes imposed.

MR. REESE—Will the gentleman yield to a question? I would like to ask the gentleman from Lauderdale.

THE PRESIDENT — The gentleman from Henry has the floor.

MR. REESE—Under the provisions of this Article——

MR. WADDELL—I rise to a point of order. The gentleman from Lauderdale has not the floor. The gentleman from Henry has the floor.

MR. REESE—I desire to ask the distinguished gentleman if, under the provisions of this section of this Article as reported by this Committee, would not the Legislature have the right to say that a city of a certain class could not prescribe a higher license on these particular concerns than a certain amount and fix it at a reasonable amount.

MR. O'NEAL — Certainly, unless there is something in the section to prohibit it.

MR. MALONE—There is nothing in this section, as I understand it, that would prohibit the Legislature from passing equitable laws for the protection of these companies, if there was any disposition to charge them more than what is fair? Besides, as a matter of law, it cannot be done. Then, again, the suggestion of the gentleman from Lee in regard to driving out these companies from certain places, suggests the remedy. If the smaller places are charged an unreasonable price, why we all know they don't do a thing but move out. They have the power to protect themselves, and, besides, the law protects them. I think it is justice to communities where they get an income from should be allowed to make them pay a license, and the matter has been discussed a great deal, and I move that we indefinitely postpone it. But I have no desire to cut off anybody and will withdraw the motion.

MR. PILLANS—This matter comes as a surprise at this time, and gives little opportunity for that preparation which I would like to have given to it in order to discuss it before such a body as ours; but it is a matter so serious that I am impelled to call attention to some of the objections, and meet some of the objections to the law that you have adopted, that have been made by my distinguished friend.

MR. WILSON — The gentleman must not have been here during the last few days, or he would not have been surprised, because I have been trying to get it up for three days, and was ruled out on points of order.

MR. PILLANS—I was not here for a time on account of illness in my family when this was under consideration, and did not know of the gentleman's persistency in trying to get it up. I will take the matter up here. This section, as written, merely declares that the General Assembly shall not emasculate the taxing power in the matter of privileges, or license taxes of the municipalities of the State. I take it that no gentleman on this floor wants to see the power of cities to tax privileges destroyed. This, I take it, was put in here because it was found that one great corporation at least, which monopolizes the express-carrying trade of the entire State, so far as I know, (it certainly does in the city of Mobile), and I do not believe that any other express company does

business in any other part of the State, the Southern Express Company had succeeded in getting the Legislature to adopt this law, by persuading them that it was a wise thing to do. It passed the extraordinary law in 1893 that is found in the Code, which entitled that company to pay a tax, I believe of $4,000 to the State of Alabama, and disentitles every city in the State of Alabama to take one cent from them for the privilege of doing their extremely valuable, wealth-producing business, in the cities and towns of the State, in every one of which they are afforded fire and police protection at the expense of the taxpayers and business men, and the streets of which are kept up and paved, and are used by this company, and we are told by the gentleman who now asks to reconsider this that we should have left to us, and we have got left to us, the miserable privilege of taxing half a dozen horses and three or four wagons, and perhaps $100 worth of fixtures found in the Southern Express Company's offices. I desire to call attention of this assembly to the question which I put to my friend who first spoke on this subject. It has been found by the taxing powers of great and enlightened States of the North that these great corporations doing business through the country, have got so small a proportion of their capital in the State in visible, taxable property, as specie, it is necessary to devise some method by which they can tax that proportion of the capital of the company which is in business in the State. I do not recall the names of the cases, (I have not the faculty of my colleague for calling the names of cases), but perhaps one of the latest cases, passed upon in the Supreme Court of the United States, is the case wherein the State of Ohio levied a tax upon, I think it was, the Adams Express Company, and the tax was levied under the laws of the State, upon the proportion of capital stock of that New England corporation, which justly was to be considered in the State of Ohio. Now, then, besides a privilege tax in the State of Ohio, that State taxes the capital which belongs to a New England corporation and to the stockholders in other States, and the Supreme Court of the United States sustained it. Now that corporation has been able to come to the Legislature of Alabama and seduce them into putting a moderate tax upon them, payable into the State treasury, and it has the sole privilege of doing business in fifty or a hundred cities incorporated in the State of Alabama, thereby escaping the payment of one dime to the maintenance of police protection, to the paving of the streets, and the other things which are incidental to their business, as they are to my business and to your business, and that of every town dweller in the State. It is improper. It is in the power of the State of Alabama and I am perfectly content to see them do it, to let that corporation, since it wants to pay four thousand dollars to the Treasurer of the State to pay that and in addition to pay into the treasuries of the various towns that protect their offices and aid in getting business a reasonable license tax. It will not do for my friends to say that the effect of his

amendment would be to protect these people against excessive taxation. The clause as written, does not have anything to do with the rate of license tax which may be imposed. The clause as written, does not deprive the State of Alabama of the power to levy a license tax on any business in Alabama. As it is written it simply declares that the legislature shall not enact any laws which will permit a person, firm, corporation or association of any character to pay a privilege license or tax to the State of Alabama, and relieve him thereby from the payment of other tax and license. It is a provision which will protect the legislature itself, and the cities and towns of the State, from the legislature erroneously being persuaded upon selfish appeals from corporations to take away the taxing powers from the cities and take in return a pittance payable into the State Treasury. Now let this stand as it is today, and where and what is the power of the State of Alabama? I say in the case of the sleeping car companies, or express companies it is precisely what it was in 1893. The State of Alabama can and will doubtless make those companies which are doing business here pay a reasonable charge, for the protection this State gives to them, and if the State of Alabama finds these municipalities are acting oppressively upon business, they can control their action by general laws in place of local ones. These general laws can fix the rates beyond which the cities cannot go. So that the cities can levy a license tax that is just. Is that not what we want? Do you want to encourage corporations to come here and induce the legislature to relieve them from taxes under the pretense that they are helping the State our of the hole, which they will undoubtedly do as they have already done? It has been suggested that this legislation might be extended and I doubt not that it will be. Such things occur. One great corporation has found how to save money, and another will follow in its footsteps.

MR. WALKER—Is it not a fact from your reading of the substitute proposed to be offered by the gentleman from Clarke that it is left entirely with the legislature as to what proportion they should allow to the cities, and they might make it one-tenth or so that the cities would get a dollar a piece.

MR. PILLANS—I feel greatly obliged to the gentleman for mentioning that. It had occurred to me somewhat in that way, but I had forgotten it. If you take the amendment offered it is very ingeniously and astutely framed to destroy any hope of the city getting a dime. "If the legislature enacts any law which will permit a person, corporation to pay a privilege license or other tax to the State of Alabama it shall provide for a just proportion of such tax to be distributed among the several municipalities," etc. "A just proportion to be determined by the legislature," which as my distinguished friend has said, may be one per cent or one-tenth of one per cent, to each of the cities of the State.

MR. WALKER — Probably suggested by the express companies.

MR. PILLANS — I thank you for the suggestion, it would probably be suggested by the corporation that had come and obtained the favorable legislation from the State.

Before closing I would call the attention of the Convention that it must not be forgotten in the existing state of the law, as we have already adopted it, there is no embarrassment in the State depriving any city of the power to tax occupations out of existence, because the legislature has almost plenary power to control the creatures of its creation the Municipal corporation.

MR. HARRISON—If the city of Mobile were to pay to the State all of the liquor licenses, wouldn't it lose money even if it got this. Don't your city get more by retaining the liquor licenses than it would from this.

MR. PILLANS—Our city does not get one dime from the liquor licenses. There is not one cent of the liquor license that passes into the treasury of the city of Mobile. There is a State liquor license which passes into the school organization of Mobile County, not the treasury of the city. The city does not receive one dollar of it, and I will say right here that the county outside of the city, which is very sparsely settled, gets more than one-third of that money, although the city and its immediate suburbs pay about nine-tenths of the money.

MR. FITTS—Mr. President and gentlemen of the Convention, I hope very much that the Convention will not reconsider one Section as reported by the Committee on Municipal Corporations. The Section to which this motion is directed has hidden in it the protection which one special corporation has obtained in this State, by an act long since passed by the Legislature, and which has given trouble and dissatisfaction. I have had some experience with that act, and it has given great dissatisfaction to other corporations doing business in the State. We ought to either have one system or the other, applicable to all corporations alike, and the Southern Express Company ought not to stand on a different footing in this State from other corporations. It is not right, and there is no just reason why it should stand in one attitude with respect to license taxes, and all the other corporations in the State stand in another attitude. Many years ago it came to pass that the Southern Express Company came here and by some influence or other upon the Legislature got a special act passed, putting them upon an entirely different footing from the other corporations doing business in this State. I take it the object of this amendment which is proposed is to leave that class of legislation now in existence which is in favor of that corporation. That ought not to be. If corporations doing business in this State are to pay a li-

cense tax into the State Treasury, then all ought to pay it, and if they are to pay licenses to municipal corporation, who afford them police protection, whose streets they wear out, and where they obtain and solicit the business, they all ought to pay it to the cities and municipal corporations, and there ought not to be one favored corporation in this State doing business under a special piece of class legislation, as that corporation has been doing for years. The purpose now is to put that class legislation into the fundamental law of the State. There never was a piece of legislation in this State that caused more dissatisfaction to other corporations doing business in this State than that special act of the Southern Express Company, and I see upon the floor of this Convention two or three gentlemen who can bear me out from the school of experience. Other corporations when they have to pay city taxes, constantly come up and say how is that there is one corporation that does not have to pay any city tax whatever, while we have to pay it. This has caused dissatisfaction, and has caused lack of harmony in the administration of the law. I hope that the motion to reconsider will not prevail, and I move to lay it upon the table.

MR. WILSON (Clarke)—I ask for the ayes and noes.

The call was not sustained.

MR. REESE—I desire to make a parliamentary inquiry. My information was that the gentleman formerly made a motion to reconsider, and that motion was laid upon the table, and he was now making a motion to take from the table.

MR. WILSON (Clarke)—The gentleman from Dallas is mistaken.

THE PRESIDENT—The recollection of the present occupant of the Chair is that the gentleman from Dallas is mistaken. The question is upon the motion of the gentleman from Tuscaloosa to lay upon the table the motion of the gentleman from Clarke to reconsider the vote by which the Article on Municipal Corporations was ordered to a third reading.

Upon a vote being taken a division was called for, and by a vote of 60 ayes to 13 noes the motion to table prevailed.

MR. BAREFIELD—I move that we do adjourn.

MR. WILSON (Clarke)—I make the point of no quorum.

MR. O'NEAL—The point of order comes too late.

MR. WILSON (Clarke)—I was on my feet endeavoring to make the point of order from the very moment the Chair announced the vote.

MR. LONG (Walker)—I make the point of order that the point of no quorum cannot be made after a division is called for, but must be made upon the main vote.

MR. O'NEAL—I make the point of order that there is a quorum in the house.

MR. WILSON (Clarke)—Whenever the vote shows that a quorum has not voted, the presumption is that there is not a quorum in the house. Of course if it is found on a count that a quorum is revealed to be in the house, then the point is not well taken.

MR. LONG (Walker)—The point raised by the gentleman comes too late.

THE PRESIDENT PRO TEM.—It is the opinion of the Chair that a quorum is present.

MR. PROCTOR—I move that this Convention do now adjourn.

Upon a vote being taken the motion was carried and the Convention adjourned.