OFFICIAL PROCEEDINGS

OF THE

CONSTITUTIONAL CONVENTION

OF THE

STATE OF ALABAMA

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

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



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SEVENTY-FIRST DAY

MONTGOMERY, ALA.,

Wednesday, Aug. 14, 1901.

The Convention met pursuant to adjournment, and was called to order by the President.

THE PRESIDENT—The Chairman of the Convention would like to know what has become of the Committee to provide that the services of this Convention shall be opened with prayer.

MR. WATTS—A Doctor of Divinity promised to be here this morning to open with prayer, and we do not think that it is our fault, sir.

THE PRESIDENT—The Chair regrets that on several mornings we have had to open without prayer.

MR. ASHCRAFT—I move that the Colonel Blackwell be asked to open the Convention with prayer.

THE PRESIDENT—The Chair would be glad if the gentleman will serve.

MR. BLACKWELL — I suggest that Mr. Ashcraft could serve.

MR. REESE—I suggest Mr. Craig of Dallas.

The Convention was opened with prayer by Mr. Ashcraft as follows:

"Our gracious Heavenly Father, we pray Thee to teach us this morning that we are Thy temples. Our Father, we pray Thee that we may recognize the sacred trust which is committed to us this morning, and may we not give place in these temples to the

money-changers and the sellers of doves, but in these hearts of ours may we cherish the truth that they are the sacred altars on which the Shecinah must burn. Our Father, we pray Thee that we may be enlightened with Thy truth and do Thy work as patriotic citizens, recognizing our duty to the whole State. Teach us, we pray Thee, something of the lesson of "love thy neighbor as thyself," and help us so far as it is possible to guide our lives by the sacred truth. Amen.

Upon a call of the roll, 110 delegates responded to their names.

Leaves of absence were granted to the following delegates: To Mr. Reynolds (Henry) for today and tomorrow, on account of sickness; to Mr. Kyle for today; to Mr. Hodges, for yesterday, today and tomorrow.

MR. WATTS—I desire to state that Rev. Dr. Andrews was to have opened the Convention with prayer this morning, but his watch was slower than our clock, up there, which is fast, and that is the reason he was not here to open with prayer. He said he will be here during the rest of the week.

THE PRESIDENT—The Convention appreciates his kindness.

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

MR. WHITE—The Committee on Order, Consistency and Harmony requests to be permitted to sit during the session of the Convention, and if necessary, to have a quorum, could be sent for.

THE PRESIDENT—This morning, or during the morning sessions?

MR. WHITE—To sit during this morning's session.

Permission was given to the committee to sit during the morning's session.

MR. WHITE—I wish to make a statement with reference to the work of that committee. We are working very hard, trying to keep up with the work of the Convention, so that when the Convention has finished its work the committee will be practically up with its work, thereby preventing a delay and the holding of the Convention in session to wait for our final action, and I am exceedingly anxious that the articles now should be delivered to that committee as rapidly as possible. Of course, if they are kept till the end of the session it will necessarily delay us and thereby delay the Convention.

MR. LONG (Walker)—I desire to make a statement on a question of personal privilege, relative to the stenographic report,

that myself and the sheriffs of Alabama may be put in a proper light. Some weeks ago, the distinguished gentleman from Talladega made the statement on this floor that he was getting tired of threats or intimations that the people of this State would not ratify the Constitution, provided certain things were contained in it. That, like smallpox, has seemed to become epidemic upon this floor and it has got so that a man cannot express an opinion for or against a measure as to its popularity with the people, unless he is accused of trying to create opposition to the ratification of this Constitution. On yesterday the distinguished gentleman from Montgomery in his opening remarks upon the question before the House, used these words:

"We are 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 fears instead of appealing to their conscience."

All I stated was this, which is in the stenographic report, and the gentleman from Montgomery had to draw on his vivid imagination in order to put such a construction on it:

"It is a direct slap at every sheriff in this State and they are the men who, if they organize against this Constitution, will defeat it, and you know it."

Now in order to place the sheriffs of this State right and myself right, I want this correction made. It seems here we are so prone to imitate one another that if one gentleman came up here with a 5 cent harp, other delegates in this Convention would come up here the next morning blowing a 5 cent harp.

MR. JONES (Montgomery)—I do not understand the gentleman from Walker. Is it his own remarks that he wants corrected or mine?

MR. LONG—What is that?

MR. JONES—The gentleman from Montgomery wants to know if the gentleman from Walker desires to have my remarks corrected or his own.

MR. LONG—No, I do not want mine corrected. It is yours that I want corrected.

THE PRESIDENT—The gentleman from Montgomery may file his demurrer.

MR. SAMFORD (Pike)—I desire unanimous consent to make a report for the Committee on Engrossment.

The consent was given.

MR. SAMFORD (Pike)—I am instructed by the committee to report the ordinance just sent to the desk without recommendation.

It reads as follows:

Be it resolved, that the secretary of the 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.

THE PRESIDENT—What will the Convention do with the resolution?

MR. WADDELL—I move the adoption of the resolution for the reason there has been some misunderstanding about this matter. The Engrossing Clerk thought it was her duty to enroll the Constitution, and the committee made some inquiry in the matter, and found that the person whom she had in contemplation was one who had never had any experience of this kind.

MR. SAMFORD (Pike)—I shall beg the gentleman not to state anything that occurred in the committee. It is not proper on the floor of the Convention.

MR. WADDELL—I did not know that I was stating any secret; in fact, what I am stating did not occur in the committee at all. In the conversation which I had with the Engrossing Clerk I requested her to have the person whom she had in view to submit a specimen of her handwriting, and submit a bid to the committee. This she refused to do, and Mr. Julian, the secretary of this Convention, who is authorized by this resolution to contract with some suitable person, had a person to submit a specimen of his writing, together with his bid. This was before the committee, and I have in my hand the specimen submitted, which any person can see who wishes to look at it. It is by a skilled draftsman, one of the government engineers, who has had a great deal of experience in this kind of writing, and I think is the proper person to do the work. He is a resident of the State of Alabama, and of Montgomery, and he makes three different bids. I move the adoption of the resolution.

MR. SAMFORD (Pike)—I just simply desire to say on behalf of the committee that there was some question before the committee as to whether we had made sufficient investigation with regard to the matter to make a report, and knowing that the session was nearing a close, and that some action perhaps ought to be taken upon it, as an individual member of the committee, it was my idea that the Committee on Engrossment had in reality nothing to do with the question relating to incidental expenses, and

that we were not familiar with that at all, knew nothing about it, certainly did not know as much about it as members of the Convention, and hence we desire to make this report to the Convention.

MR. COLEMAN (Greene)—What has been the usual custom heretofore?

MR. SAMFORD (Pike)—I don't know. That is one of the questions I do not know about. I am not familiar with practice of bodies of this sort, and that is one of the very reasons I considered that the Committee on Engrossment ought to report it back in this manner.

MR. FITTS (Tuscaloosa)—I think it well enough for us to understand about what the relative expense of this matter is. My information is that the cost of the animal skin, as it is called, or the parchment alone, upon which to do this writing, if that resolution is carried out, will be $105.

MR. WADDELL—Will the gentleman allow me to interrupt him a moment?

MR. FITTS—Certainly.

MR. WADDELL—The parchment has already been purchased.

MR. FITTS—Did it cost $105?

MR. WADDELL—Yes, sir.

MR. FITTS—That cost $105. Now to have the writing done by extra help, by an extra person not already in our employ, will cost, I am informed, about $125. Of course, we are all fond of fine paper and fine writing, but I think that of the large number of persons in our employ, upon a per diem, certainly some of them are pretty good writers, and as this is fine stuff and has already been bought at a cost of $105, it does seem to me that somebody already in the pay of this Convention can write well enough to write it out on it. Of course, I think the Convention ought to do just as it pleases, but I think we ought to know the facts. We cannot vote intelligently upon the matter until we know the facts. The paper has cost $105, and the writing will cost $125. Now, that is what this resolution means. I have a note here from the Engrossing Clerk, and she takes the liberty of saying in this way that her office is fully competent to take charge of the writing upon that paper. I just simply wanted the facts understood, just about what the expense would be, and I made inquiry of Mr. Julian, and this is the result of my inquiry, that the paper cost $105 and the writing will cost about $125.

THE PRESIDENT—The question will be upon the motion to adopt the resolution. Is the Convention ready for the question?

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

MR. CARMICHAEL (Colbert)—I move to refer the resolution to the Committee on Engrossment.

MR. O'NEIL (Jefferson)—I move to lay it on the table.

MR. PETTUS—I rise to a point of order. Can a resolution be laid on the table without a suspension of the rules?

THE PRESIDENT—When it is referred back by the committee.

MR. PETTUS—I understood it was introduced by the gentleman.

THE PRESIDENT—It has been reported back by the committee and is before the Convention for adoption or rejection.

Upon a vote being taken, a division was called for, and the resolution was passed by a vote of 55 ayes and 26 noes.

MR. SMITH (Mobile)—I ask unanimous consent to report a resolution by the Judiciary Committee. It does not relate to sheriffs or solicitors.

The consent was given.

MR. WILLIAMS (Marengo)—I want to call for the regular order.

THE PRESIDENT—The Chair had submitted the question for unanimous consent, and failed to hear any objection from the gentleman from Marengo, and so announced that unanimous consent had been obtained.

Ordinance No. 407 by Mr. Reese and the substitute were read as follows:

Ordinance 410, by Mr. Reese:

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

ARTICLE ——.

Sec. ——. In all prosecutions for rape, adultery, fornication, sodomy or crime against nature, the court may, in its discretion, exclude from the court room all persons except such as may be necessary in the conduct of the trial.

Referred to the Committee on Judiciary.

Substitute by Committee on Judiciary for Ordinance 410 by Mr. Reese:

In all prosecutions for rape and assault with intent to rape, the court may, in its discretion, exclude from the court room all persons except such as may be necessary in the conduct of the trial.

MR. ROGERS (Lowndes)—I ask unanimous consent to introduce a resolution, to be reffered to the Committee on Printing.

Objection was made, and the regular order demanded.

MR. SMITH (Mobile)—I ask that the ordinance reported be put upon its passage.

THE PRESIDENT—The rules require that the ordinance lie on the table and be printed.

MR. WILLIAMS (Marengo)—I am willing to withdraw the call for the regular order providing I get unanimous consent to introduce a resolution. (There were expressions of dissent.)

THE PRESIDENT—The special order is consideration of a motion to reconsider Ordinance No. 404. This matter of the reconsideration of this ordinance was before the Convention, and was displaced by a special order which the Convention made. It now seems to the Chair that it is the special order for this time, being a motion to reconsider, it would come up immediately after the approval of the journal.

MR. SAMFORD (Pike)—I desire to offer a short resolution pertaining to the management of the Engrossing Clerk's office, for the expedition of business, and I desire to say that I will move a suspension of the rules in order that it be passed.

The Secretary read the resolution as follows:

Resolution 289.

Be it resolved by the Convention that the Enrolling and Engrossing Clerk be, and she is hereby instructed to employ an assistant clerk at an amount not to exceed $4 per day for such time as she may deem advisabble.

MR. SAMFORD—I desire to say to the Convention that just at this time the articles are being rushed into the office of the Engrossing Clerk and she really needs an assistant to keep up with the work.

MR. O'NEAL (Lauderdale)—Why could she not get the services of clerks of committees, several of them are not now engaged?

MR. SAMFORD—Under the rules of this Convention, when the committee gets through with them, they are to be discharged.

MR. COLEMAN—Mr. President——

THE PRESIDENT—Does the gentleman from Greene desire to propound a question?

MR. COLEMAN—I notified the clerk of the Suffrage Committee that I did not that we had need for a clerk any longer, and he gave me to understand that he was working for Mrs. Francis at this time—otherwise I would have made that report here.

MR. SAMFORD—I desire to say while this clerk was serving the Engrossing Clerk, of course there was no need of any additional assistant, but my understanding was that he was to be discharged after receiving notice that your committee was through with him.

MR. COLEMAN—I stated to him that I would make that report, and he stated to me that he was assisting Mrs. Francis and I said nothing more about it.

MR. SAMFORD—That being so, I have no objection.

MR. WADDELL—I will ask the gentleman if the Engrossing Clerk did not receive about $200 for which she did not do one day's work?

MR. SAMFORD—I don't know anything about that, her services were engaged and she was in attendance and this Convention ought to pay her. It seems to me we ought not to delay business at this stage of the game. It would cost many dollars in comparison to the few paltry dollars of cost to pay a clerk.

MR. O'NEAL—Do I understand the gentleman withdraws his motion, under the statement of the Chairman of the Suffrage Committee?

MR. SAMFORD—On the understanding that the clerk will be kept to assist her, I will. All I want is some assistance for the clerk. I have made the report to the Convention the responsibility is with the Convention and it will be for the Convention to decide. I have no interest in the matter, having no friends, relatives or kinfolks, desiring employment in the office.

MR. EYSTER—The clerk ought to be allowed to select her own clerical assistance and the resolution should be adopted. I move the adoption of the resolution.

A vote being taken, division was called for, and a further vote being taken there were ayes 35, noes 54, and the resolution was lost.

MR. WILLIAMS (Marengo)—I rise to a point of order. I understood the Chair to intimate just now that the regular order this morning to be the unfinished business of yesterday, the consideration of the sheriff matter. I call the attention of the Chair to rule 22. Of course the Chair recognizes the order of business.

We find the first call is, order, second prayer, third ascertainment of a quorum. We find the ninth paragraph is unfinished business, and the tenth special orders. I submit to the Chair under rule 27 the order for reconsideration came up yesterday morning, or should have come up at that time—that is the meaning of rule 27. The motion to reconsider was taken up, which was a motion to reconsider yesterday. What is this morning? It is unfinished business, and I submit to the Chair that it should properly come under subdivision nine as unfinished business after the call of the roll. It is in order on the morning's business that the call of the roll be made for the introduction of memorials, resolutions, petitions, and ordinances, at this time, and that the consideration of the motion to reconsider the Sheriff's matter would properly come up as unfinished business under subdivision 9 of rule 22.

THE PRESIDENT—It seems to the Chair that the Convention should take up the matter of reconsideration which is in order immediately after the approval of the Journal. That would be the regular order unless displaced by some special order.

MR. WILLIAMS (Marengo)—I will ask the Chair if we did not take it up yesterday?

THE PRESIDENT—It was taken up and was being considered, when displaced at 4 o'clock yesterday afternoon, by a special order which the Convention made. The Convention had under consideration this matter relating to sheriffs, and at 4 o'clock it was displaced by the special order relating to solicitors. That having been concluded, it seems to the Chair that the motion to reconsider would come up in its proper place.

MR. O'NEAL—I rise to a question of personal privilege. In The Advertiser yesterday it stated: "Mr. O'Neal of Lauderdale made the point of order that no report had been made on the ordinance and it was, therefore, not before the Convention. President Knox sustained the point."

I do not wish this statement to go to the country unchallenged. In fact, I made the point of order that the report of the minority committee was entitled to lie over and be printed and placed upon the calendar, and occupy the same attitude as the report of the majority. This point the Chair overruled. The statement, as published, is just contrary to what occurred.

THE PRESIDENT—The special order for this hour will be the motion to reconsider the vote whereby ordinance 401 was lost.

MR. COLEMAN (Greene)—Mr. President, and delegates of the Convention, the question under consideration at this time is whether the Governor shall have authority to suspend a sheriff when, in his opinion, it ought to be done. I had hoped in the early part of this discussion to introduce an amendment providing that

sheriffs might be tried by a court, appointed by the Governor at home so as to save the expense and delay of having him brought to Montgomery. I believe the business has progressed so far that an effort of that kind at this time would be ineffectual, and the simple question now is to state it in the language of the distinguished delegate from Montgomery: "Shall the Governor, when he thinks the Sheriffs have been derelict, suspend them from office? The argument in support of the proposition has been more by way of illustration than directly upon the point. For instance, as an illustration to say that a business man in any employment, and that it is necessary in conducting his business properly, to have the power and the authority, to suspend or dismiss any employee. Mr. President, that has no bearing upon the question. No employer would be apt to dismiss an employee, and after he had dimissed him, then examine to see if he had a right to dismiss him. There is where the argument is faulty. In this case the proposition is to dismiss him, and after he is dismissed to go and see whether he has done wrong, and that is the argument. That is the language which you will find in this report.

MR. BROWNE—Under the provisions of the measure, suppose the Governor suspends a Sheriff, pending an impeachment, and he remains suspended six months or a year. During that time, the Sheriff receives no fees, I suppose. Some other officer receives them. Is there any provision to reimburse him, if he has been suspended on an improper ground, or impeached, and not sustained?

MR. COLEMAN—Of course, those points are to be taken up. I propose at this time to call attention to the argument made in support of the proposition. The next argument was that since 1819 a Governor has been subject to suspension during impeachment. If there is any force in the argument growing out of the conditions or provisions of the statutes in 1819, the same force should be applied to that of sheriffs, inasmuch as since 1819, down to this good time, there has been no such provision in our law suspending a Sheriff. You see what kind of an argument when it is sifted and examined, has been made. It is further said that the solicitor is suspended, but has the gentleman cited you any law or can he find any, where a silicitor was suspended until after he was impeached and during trial?

MR. JONES—My argument was when a solicitor was indicted, I didn't say impeached.

MR. COLEMAN—Of course, the Governor is impeached or suspended, but the Governor is not suspended until he is impeached before the Senate.

MR. JONES—Will my friend permit another question? Under the present statutes of Alabama, has not the Governor the power

to order sheriffs impeached on an information filed by the Attorney-General under the present laws?

MR. COLEMAN—I am answering your arguments. Yes sir, but has not under the present law the Governor the power to suspend him before he is impeached.

MR. JONES—Of course not.

MR. COLEMAN—That is your argument you want to justify his suspension before impeachment.

MR. JONES—Before trial——

MR. COLEMAN—Please do not interrupt me. I have your argument and will meet it fairly even if I make a mistake in doing it. A solicitor is never suspended until after an indictment. In this instance it is proposed to suspend him even without impeachment or indictment and Mr. President and delegates of this Convention, it goes farther. With any other criminal, no matter how heinous an offense he has committed, the presumption of law all the way through is that he is an innocent man until proven guilty, but in this case the gentleman proposes to reverse the only rule which has ever received universal approbation, by declaring that the sheriff is guilty without trial or charge, and inflict punishment upon him in the first instance, it is wholly untenable; it is not right in principle, and no argument can be brought to sustain it when properly examined. The citation from Judge Manning does not bear him out or have anything to do with it whatever. Of course, when the Legislature creates an office and the office is abolished and the man is removed from it, the office goes, but whoever heard of taking an office from a man, except in the one instance where something of the kind was attempted to be done up here in Jefferson, but in law, whoever heard of an office being taken from a man without a charge or trial or anything of the kind. Now, Mr. President and delegates of this Convention, it has been said that it was impossible for the State to have a fair trial at the home of the sheriff. His influence with the jury would be so great that justice could not be done. Mr. President, you have taken him away from his home, you have brought him to Montgomery now, he has no jury, he is to be tried here. Why then go farther and inflict upon him unnecessary, unusual prohibitions or burdens in adidtion to these? You have selected one officer alone out of all the State officers of that kind and he is the only one of them that you propose to suspend upon the opinion of the Governor without even a charge being formulated. But it is said, Mr. President, that in view of the grave offenses that are being perpetrated in our land, it is necessary to hold this threat over the sheriffs of the State. I am no man to advocate mob law, and in fact will go as far as the farthest to suppress it, but you will remember it is the common law, whether the written law of this State, that when

a man trespasses upon your domestic family, and your wife or daughter is defiled or seduced, he is justified from one end of this land to the other, when he resorts to the shotgun. Those men are all justified and I doubt whether anybody in this House would rise and say that in a case of that kind, the man would not be justified in resorting to violence. You would justify such a case as that, but when such an occasion of this, in St. Clair County arises, a beautiful young lady trying to prepare herself for school, returning home is overtaken left for dead, in a pond, and when she revives and go towards home, with her clothes torn from her body, then it is the mob who with the father rises and would vindicate the wrong done his family. In one instance, the argument is right. My time is up, but I am not through.

MR. DENT—I shall have but little to say upon the motion which is to reconsider the vote by which Ordinance 404 was defeated. I believe that is the parliamentary attitude of the question.

To begin where my distinguished friend from Greene left off, the trouble about mob law, fellow delegates, is that it is not confined to the crime referred to by the distinguished gentleman. It is growing. Mobs execute vengeance upon criminals, for different offenses. The newspapers are full of them, and the people understand that this spirit is growing. Surely something ought to be done to suppress that growing spirit of mob violence, and insubordination to law. Now the sheriff is the important executive officer in a county, and the fact stands glaring to the delegates to this Convention that mobs and mob violence has not been suppressed in Alabama, and no sheriff or officer has ever been punished so far as it has come to my knowledge. Now the gentlemen argue that it is not proper for the Governor to have the right to suspend upon a mere charge.

MR. COLEMAN—Without charges.

MR. DENT—Well, without charges being preferred as the gentleman suggests. My understanding of this ordinance is that there is a complaint against the Sheriff under these circumstances. If there is no complaint and no charge against him, where is the Governor that would undertake to set him aside and relieve him from the duties of his office? It is only done upon a complaint and a charge that he has failed in his duty. Let us see. You say it is a complaint upon a mere suggestion, or mere opinion of the Governor. Let us look at the facts. Do not get away from them. The ordinance provides "and the Governor, when satisfied, after hearing the Sheriff"—he has a hearing before the Governor; he has the right to be heard in his own explanation of what took place in defence of his conduct.

MR. O'NEAL (Lauderdale)—And introduce witnesses.

MR. DENT—He can bring in any testimony he pleases, that the Governor is willing to hear, and I do not believe the people of Alabama have ever, or will in the future, elect a man for that high office who will not be impartial and who will not do justice to a fellow office holder. We are too suspicious, it seems to me in that regard. The Sheriff has a right to be heard and when heard, if upon his own showing, and after his own showing, the Governor feels that he has been derelict in his duty, he has a right to suspend him from office and let charges be preferred, and he is tried at once. These matters about this and all that kind of thing can be regulated by the Legislature. They ought not to be placed in a Constitution of a State. But I come back. Let us look at what has taken place in Alabama.

It is common history. Didn't the Governor of Alabama telegraph a Sheriff of a county in this State to know the circumstances under which a prisoner was mobbed, and what was the reply? "It is none of your business." What could the Governor do? What power had he? I am told upon authority which is to be relied upon that, in a county of this State, where the Governor was actually present, when a prisoner was in the custody of the Sheriff, and when there were threats to mob him, the Governor went to the S eriff and told him he would tender him the services of the military to protect his prisoner, and he declined to ask for them. What could the Governor do? And in that very instance the Governor took the responsibility of ordering the military to that point, and the sheriff and his friends and the friends of the mob were on their guard and were notified that the military would arrive, and the mob, led by the son of the Sheriff, went into the jail and executed the prisoner.

MR. BURNS—I understood you to say a monent ago that a certain Sheriff replied to the Governor, "It is none of your business." Is that a fact?

MR. DENT—It was so published and never denied.

MR. BURNS—I read all the papers about that time, and didn't see it.

MR. DENT—That is a matter the gentleman can examine and discuss for themselves. I say that the Governor ought to have some power in this matter when he is charged with the duty of executing the law. I do not believe this goes too far. I believe this Convention ought to express itself upon this question and check the tendency. Where is it going? What is the tendency? Parties have been executed for crimes very different from that referred to by the distinguished gentlemen who preceded me, and the tendency is that way and there ought to be some expression of opinion by this Convention that will have a tendency to repress it.

Certainly there would be no delay in the trial of a Sheriff. Where he is impeached and proceedings instituted, it is a preferred case, and it is the duty of the court to give him a speedy trial. It is a preferred case above all others. It takes precedence of all others, and under the ordinary rules, unless the man himself delays it, there should be no delay in this trial. The Convention has had this question before it twice. They have sustained this report, and I move to lay the motion for the reconsideration of this report upon the table.

MR. LONG (Walker)—And upon that I call for the ayes and noes.

The Secretary proceeded to call the roll.

MR. LONG—I rise to a point of order. The Convention has already refused to lay it on the table by a direct vote, and it seems to me that any motion of that kind would be out of order.

THE PRESIDENT—The point is made after the roll call has commenced, and is too late.

Upon a call of the roll, the vote resulted as follows:

AYES.

Ashcraft,
Banks,
Barefield,
Bartlett,
Beddow,
Boone,
Brooks,
Byars,
Cofer,
Davis, of Etowah,
Dent,
Duke,
Eley,
Espy,
Fitts,
Foshee,
Freeman,
Gilmore,
Graham, of Talladega,
Greer, of Calhoun,
Harrison,
Henderson,
Hinson,
Howze,
Jones, of Montgomery,
Kirk,
Ledbetter,
Lomax,
Malone,
Maxwell,
Miller (Marengo),
Mulkey,
Murphree,
NeSmith,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Palmer,
Parker (Elmore),
Phillips,
Pillans,
Porter,
Reynolds (Chilton),
Sanders,
Searcy,
Selheimer,
Sloan,
Spears,
Vaughan,
Waddell,
Weakley,
White,
Whiteside,
Williams (Marengo),
Winn.

Total—56.

NOES.

Altman,
Almon,
Bethune,
Blackwell,
Browne,
Burns,
Carmichael, of Colbert,
Carmichael, of Coffee,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,

Davis, of DeKalb,	Knight,	Reese,
Ferguson,	Locklin,	Rogers (Lowndes),
Glover,	Long (Walker),	Sanford,
Graham, of Montgomery,	Lowe (Jefferson),	Smith (Mobile),
Grant,	Lowe (Lawrence),	Smith, Mac. A.,
Grayson,	Martin,	Smith, Morgan M.,
Greer, of Perry,	Merrill,	Spragins,
Haley,	Miller (Wilcox),	Stewart,
Handley,	Moody,	Thompson,
Heflin, of Chambers,	Opp,	Walker,
Heflin, of Randolph,	O'Rear,	Watts,
Hood,	Parker (Cullman),	Williams (Barbour),
Inge,	Pettus,	Wilson (Clarke),
Jackson,	Pitts,	Wilson (Wash'gton).
Jones, of Bibb,	Proctor,	

Total—56.

ABSENT OR NOT VOTING.

Beavers,	Hodges,	Pearce,
Bulger,	Howell,	Renfro,
Burnett,	Jenkins,	Reynolds (Henry),
Cardon,	Jones, of Hale,	Robinson,
Carnathon,	King,	Rogers (Sumter),
Case,	Kirkland,	Samford,
Cornwall,	Kyle,	Sentell,
Craig,	Leigh,	Sollie,
Cunningham,	Long (Butler),	Sorrell,
deGraffenreid,	Macdonald,	Studdard,
Eyster,	McMillan (Wilcox),	Tayloe,
Fletcher,	Morrisette,	Williams (Elmore),
Foster,	O'Neill (Jefferson),	Willet.

PAIRS.

AYES.	NOES.
Messrs. President,	Weatherly,
Jones, of Wilcox,	McMillan (Baldwin).

So the motion to table was lost.

During the roll call — — —

MR. REESE—For the first time in this Convention, I ask leave to explain my vote.

Objection was made.

The question then recurred upon the motion to reconsider, and upon a vote being taken a division was called for, and by a vote of 55 ayes and 52 noes the motion to reconsider was carried.

MR. O'NEAL (Lauderdale)—I do not understand the position it puts us in.

THE PRESIDENT—It reconsiders the vote.

MR. O'NEAL—I move to lay the original ordinance on the table, and on that I call for the ayes and noes.

MR. LONG—I make the point of order that we had three votes to lay on the table, and the motion is too late.

THE PRESIDENT—The motion is too late to lay the original ordinance upon the table.

MR. WILSON (Clarke)—Does not the ordinance now take its place in the regular order of business?

THE PRESIDENT—In the opinion of the Chair, it would unless the Convention wishes to make it the special order for this hour.

The next order of business will be the motion to reconsider the vote whereby the sheriffs were allowed to succeed themselves.

MR. LONG (Walker)—I make the point of order that the Convention has already reconsidered that vote.

THE PRESIDENT—That question is now the special order. It is another proposition.

MR. JONES (Montgomery)—I move to postpone the motion to reconsider the vote whereby the Sheriffs were allowed to succeed themselves until after the reading of the Journal on Friday.

Upon a vote being taken, a division was called for, and by a vote of 50 ayes and 53 noes, the motion to postpone was lost.

MR. LONG (Walker)—I move that ordinance No. 404 now be read and placed upon its passage.

THE PRESIDENT—The question before the Convention is the question of the reconsideration of the section—

MR. O'NEAL (Lauderdale)—I move to postpone that until after the consideration of the ordinance in reference to the impeachment of sheriffs.

THE PRESIDENT—It is moved that the consideration of the motion to reconsider the vote whereby the sheriffs were allowed to succeed themselves be postponed until after the Convention has disposed of the ordinance relating to the impeachment of sherills.

MR. LONG (Walker)—I would like to be recognized to offer a substitute to that motion of the gentleman from Lauderdale.

THE PRESIDENT—Is it as to time?

MR. LONG (Walker)—Yes, sir. I move that ordinance No. 404 be taken up at 12 o'clock today.

THE PRESIDENT—The gentleman rose to a point of order.

MR. LONG (Walker)—The point of order is this: This is a part of the Committee's report on impeachments, and this ordinance is as much a part of the Committee's report on impeachments as any part of that article, and it was made a special order, and therefore should be disposed of. The Committee on Impeachments unanimously reported the ordinance and recommended its passage.

THE PRESIDENT—The Chair will overrule the point of order.

MR. LONG (Walker)—Now, then, I move that ordinance No. 404 be made the special order for 12 o'clock today as an amendment to the motion of the gentleman from Lauderdale.

THE PRESIDENT—The gentleman from Walker moves to amend by changing the time suggested in the motion of the gentleman from Lauderdale and to make this the special order for 12 o'clock today.

MR. O'NEAL (Lauderdale)—Doesn't that require a suspension of the rules and a majority vote to make it?

THE PRESIDENT—It does not.

MR. O'NEAL—I move then to lay that on the table.

THE PRESIDENT—The Chair did not recognize the gentleman from Lauderdale, but the gentleman from Jackson.

MR. PROCTOR—I move to lay the motion and the amendment on the table.

Upon a vote being taken a division was called for, and by a vote of ayes 46, noes 45 the motion to table prevailed.

THE PRESIDENT—The question will be upon the motion to reconsider.

MR. REESE—I move to table the motion to reconsider.

MR. O'NEAL—On that I call for a vote by ayes and noes.

THE PRESIDENT—The motion is to reconsider the section whereby the sheriff is allowed to succeed himself, thereupon it is moved to lay upon the table the motion to reconsider that section. The ayes and noes are demanded, is the call sustained?

The call was sustained.

MR. O'NEAL—I ask that the Chair restate the question.

THE PRESIDENT—There was a motion to reconsider the vote whereby the provision was adopted to allow the sheriff to succeed himself; thereupon a motion was made to lay the motion to reconsider upon the table. It is the motion to lay upon the table we are voting upon, and those in favor of tabling the motion to reconsider will say aye and those opposed no, as your names are called.

During the call of the roll:

THE PRESIDENT—The Chair will not vote on this question, being paired with the gentleman from Jefferson, Mr. Weatherly, on the impeachment Article, and this grows out of that. The Chair would vote no on this motion, and Mr. Weatherly, if present, would vote aye.

When the name of Mr. Coleman (Greene) was reached on roll call, the delegate did not vote.

MR. JONES (Montgomery)—How did the gentleman vote?

THE PRESIDENT—Delegates are required to vote unless excused from voting.

The name of Mr. Coleman was again called.

MR. COLEMAN—Am I compelled to vote?

THE PRESIDENT—The point has been made, and the rules require the gentleman to vote.

MR. HEFLIN (Chambers)—Not unless some gentleman requires that he vote.

THE PRESIDENT—The gentleman from Montgomery raised the point.

MR. COLEMAN—Then I will ask this Convention a favor that I have never asked of this Convention before—to explain my vote.

THE PRESIDENT—The gentleman asks unanimous consent to explain his vote. Is there objection?

The consent was given.

MR. COLEMAN—I am opposed to sheriffs holding two terms, but I do not know what disposition is going to be made with this other ordinance, and that is why I do not wish to vote. That is all.

THE PRESIDENT—How does the gentleman vote?

MR. COLEMAN—On that account, if this other question was disposed of I would know exactly what to do.

THE PRESIDENT—The gentleman will have to vote unless he obtains the consent of the Convention to be excused. Does the gentleman ask consent?

MR. COLEMAN—Yes.

Objection was made.

MR. COLEMAN—I vote aye.

Upon the call of the roll the vote resulted as follows:

AYES.

Altman,
Almon,
Barefield,
Boone,
Brooks,
Burns,
Carmichael, of Colbert,
Carmichael, of Coffee,
Chapman,
Cobb,
Coleman, of Greene,
Duke,
Eley,
Eyster,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grayson,
Greer, of Perry,
Haley,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Hood,
Locklin,
Long (Walker),
Miller (Marengo),
Miller (Wilcox),
Moody,
Murphree,
NeSmith,
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Pettus,
Proctor,
Reese,
Smith, Morgan M.,
Stewart,
Vaughan,
Williams (Marengo),
Wilson (Clarke),
Wilson (Wash'gton).

Total—45.

NOES.

Ashcraft,
Banks,
Bartlett,
Beddow,
Bethune,
Blackwell,
Browne,
Burnett,
Byars,
Cardon,
Cofer,
Coleman, of Walker,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Espy,
Ferguson,
Fitts,
Foshee,
Freeman,
Gilmore,
Grant,
Greer, of Calhoun,
Harrison,
Henderson,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Knight,
Ledbetter,
Lomax,
Lowe (Jefferson),
Malone,
Martin,
Maxwell,
Merrill,
Mulkey,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Parker (Elmore),
Phillips,
Pillans,
Pitts,
Porter,
Reynolds (Chilton),
Rogers (Lowndes),
Samford,
Sanders,
Sanford,
Searcy,

Selheimer,
Sloan,
Smith (Mobile),
Smith, Mac. A.,
Sollie,
Spears,
Spragins,
Thompson,
Waddell,
Walker,
Watts,
Weakley,
White,
Whiteside,
Williams (Barbour),
Winn.

Total 73.

ABSENT OR NOT VOTING.

Beavers,
Bulger,
Carnathon,
Case,
Cornwall,
Craig,
Cunningham,
deGraffenreid,
Fletcher,
Foster,
Hodges,
Howell,
Jones, of Hale,
King,
Kirkland,
Kyle,
Leigh,
Long (Butler),
Lowe (Lawrence),
Macdonald,
McMillan (Barbour),
McMillan (Wilcox),
Morrisette,
O'Neill (Jefferson),
Pearce,
Renfro,
Reynolds (Henry),
Robinson,
Rogers (Sumter),
Sentell,
Sorrell,
Studdard,
Tayloe,
Willet,
Williams (Elmore).

PAIRS.

AYES.	NOES.
Weatherly,	Messrs. President.

And the motion to table was lost.

MR. FITTS (Tuscaloosa)—I demand the previous question on the motion to reconsider.

MR. HOOD—I rise to a point of order. The Article on Impeachment has been ordered to a third reading and to be engrossed, and a single Section of that Article cannot be considered without reconsidering the order by which it was ordered engrossed and to a third reading.

MR. FITTS—That point of order should have come before the last vote. It comes too late.

MR. O'NEAL—Cannot stop this. It was a motion to table the vote to reconsider, and it comes up now on the motion to reconsider.

MR. JONES (Montgomery)—This is a separate ordinance, anyhow, it has nothing to do with that.

MR. O'NEAL—It has nothing to do with the question of impeachment.

MR. HOOD—It is not a separate ordinance, but on the contrary was an amendment added to Section 3 of the Article on Im-

peachment, and that Article has been passed and ordered to be engrossed and to a third reading.

THE PRESIDENT—The Chair recognizes the gentleman from Tuscaloosa.

MR. FITTS—I want to make the point of order, that the point of order made by the gentleman from Etowah comes too late. The Convention has voted, and I moved the previous question on reconsideration. Furthermore, the Convention voted down a motion to table, and on yesterday notice was given of the reconsideration of the measure by which sheriffs were given a right to succeed themselves; that was the notice of consideration of all legislation that accomplished that end. That was the form in which notice was given. The point of order comes too late and the notice of reconsideration covers the entire field.

MR. HOOD—I do not think the Journal will show that.

MR. FITTS—I think it will.

MR. HOOD—As I recollect the motion was made to reconsider the Section in which the right of succession was conferred upon the Sheriff. That Section is a part of the Article on Impeachment. The amending stage of that Article of Impeachment has passed out of the jurisdiction of this Convention, under the present parliamentary status, according to the uniform ruling of the Chair heretofore.

THE PRESIDENT—The Chair will look at the Journal.

MR. O'NEAL—It is in the stenographic report.

THE PRESIDENT—The official Journal controls the Convention.

The Journal shows: "Mr. Jones (Montgomery) moved to reconsider the vote by which amendment to Section 2 of the Article on Impeachment was adopted (regard to sheriffs having two terms.)"

Now that motion would not have been in order without a motion made and adopted to reconsider the vote whereby the Article was ordered engrossed and to a third reading, which would have to be followed up by a motion to reconsider the vote whereby the Section as amended was adopted, and then it would be in order to move to reconsider the vote whereby the amendment—

MR. O'NEAL—I make the same point of order with reference to the motion of Mr. Long, with reference to Impeachments, if that be the ruling of the Chair.

MR. FITTS (Tuscaloosa)—The stenographic report has the motion to reconsider: "Mr. Jones (Montgomery)—I make a mo-

tion now to reconsider the vote by which two terms were given to the Sheriff. I voted for that."

MR. O'NEAL (reading from stenographic report): "Mr. Jones (Montgomery)—I make a motion to reconsider the vote by which two terms were given to the Sheriff. I voted for that."

MR. FITTS—That covers the third reading and all.

MR. O'NEAL—Therefore I move that the Journal be corrected, so as to state the facts.

MR. FITTS—Those are the very words.

MR. LOWE (Jefferson)—I suggest the point of order that the matter has been taken up by unanimous consent of the Convention, and the point of order therefore, that it is out of order, comes too late. There was not a dissenting voice, the matter had been taken up and laid before the Convention and a vote has been had to table the motion to reconsider.

THE PRESIDENT—The difficulty in the mind of the Chair is how the Convention without a motion is to get over those other two votes, the vote whereby this Article was ordered by a third reading, and the vote whereby this Section as amended was adopted. Two votes must be reconsidered before the motion of the gentleman from Montgomery would be in order.

MR. LOWE—I recognize the difficulty, but it does occur to me a subsequent vote taken on a different proposition could not cut off the right of a member to move to reconsider a specific matter of which he gives notice he will move to reconsider. The right to reconsider is preserved by the rule. Any member voting favorably has the right within the morning hour, to move to reconsider. Now can a subsequent action of the Convention in voting down a different proposition, cut off a vote or take away that right? I submit it a question that is difficult of solution.

THE PRESIDENT—It appears to the Chair that the Convention without objection has taken up the question. It is proper and competent where the Chair prefers not to rule, to submit the point of order to the Convention and the Chair will do so.

MR. HOOD—The only thing that I am particularly anxious about is that the record may be kept straight in reference to this Article.

Now as to the question of unanimous consent raised by the gentleman from Jefferson, the Chair did not put that proposition before the Convention, there was no unanimous consent had of the Convention.

THE PRESIDENT—There are many points in the proceedings of the Convention and in courts, where a point is waived,

when not raised, or not insisted upon, and the question is here whether the succeeding steps by unanimous consent are to be considered as having been waived by not having been made. The Convention took up this question of reconsideration, and set it down for a future day, and this morning took it up and voted upon a motion to table, and then after all those proceedings had been gone through, the point of order is made, at a time when it would be impossible for the friends of the motion to put themselves right on the record. So the Chair will submit to the Convention the question of whether the point of order will be maintained or overruled.

MR. LONG (Walker)—Will the President hear me a moment?

Mr. Sollie sought recognition.

THE PRESIDENT—There has been so much discussion on this question and so many days have been consumed, it seems to the Chair there ought to be a vote.

MR. THOMPSON—I call for the ayes and noes.

The call was not sustained.

Upon a vote being taken a division was called for.

MR. COBB—Will the Chair please explain the question?

THE PRESIDENT—The question before the Convention is upon a motion to reconsider the vote whereby an amendment offered by the gentleman from Monroe, allowing the sheriffs to have two terms was adopted. That was the question before the Convention. The Convention voted down the motion to table that motion to reconsider. The question, then, would come up before the Convention upon that motion to reconsider. The point of order is made against it that the motion could not be entered, because a preceding motion or two preceding motions, had not been made in time. The reply to that is, that the Convention, by unanimous consent, waived the other two motions. They are presumed to be waived, and the Chair feeling unwilling to rule on the point of order, submits it to the Convention.

MR. CHAPMAN—What will be the effect of a vote "aye" and a vote "no," in reference to the ordinance allowing sheriffs to have two terms?

THE PRESIDENT—The effect of the vote aye will cut off a motion to reconsider and sustain the law and permit the provision to stand in the Constitution allowing sheriffs to have two terms. A vote no will allow the Convention to retract its action on that question.

Upon a vote being taken on the division, by a vote of 36 ayes and 65 noes, the point of order was overruled.

MR. FITTS—I demand the previous question.

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

MR. LONG (Walker)—On that I make a point of order. This Article on Impeachment, which allows sheriffs two terms, passed to its third reading on last Saturday. No motion was made at the time to reconsider. A motion was made on Monday to reconsider. Now, the point of order is that this Article on Impeachment is out of the power of this Convention to amend in any way, and while we might move to reconsider it, it would be null and void on its face. It would take a separate ordinance and it would have to take its proper course before that could be done. It is exactly in the same status as the report yesterday on Judiciary, where it relates to solicitors. We might reconsider the vote on the whole Article, and bring it up here and still it would not be subject to amendment.

THE PRESIDENT—The gentleman is arguing the point of order. Now, the effect of the ruling so far, is that the vote whereby this Article was ordered to a third reading is considered as having been reconsidered by unanimous consent, and so the vote whereby this section, as amended, was adopted and the point of order will be overruled. The question will be, shall the main question be now put on the motion to reconsider?

The main question was ordered.

THE PRESIDENT—The question will be upon the motion to reconsider the vote whereby this amendment was adopted.

The motion to reconsider was carried.

MR. LONG (Walker)—I rise to a point of personal privilege.

THE PRESIDENT—The question now will be upon the amendment offered by the gentleman from Monroe.

MR. FITTS—I move to table that amendment.

MR. BAREFIELD—I rise to a point of parliamentary inquiry.

MR. LONG (Walker)—I rise to a question of personal privilege.

THE PRESIDENT—The gentleman from Tuscaloosa moves to lay upon the table the amendment offered by the gentleman from Monroe, which allows sheriffs two terms.

The Chair recognizes the gentleman from Walker on the question of personal privilege.

MR. LONG—In regard to the unanimous consent, I want to state, and I want to be recorded on the journal, that I myself objected and voted against unanimous consent for a reconsideration of any part of this Article making it the special order and all. I do not know how many more did, but some twenty, thirty or forty of them.

MR. BAREFIELD—I would like to know what comes up first before the Convention—the question of reconsideration of the impeachment question or the sheriff question?

THE PRESIDENT—The question now is upon the motion to table the amendment offered by the gentleman from Monroe. That is not debatable.

MR. BAREFIELD—I make the point of order that that does not come up until after the question of impeachment.

THE PRESIDENT—The point of order is overruled.

MR. HEFLIN (Chambers)—I demand the ayes and noes.

MR. HARRISON—I rise to a point of inquiry. My recollection is two amendments were offered to this section, one by the delegate from Monroe, and one by the delegate from Greene.

THE PRESIDENT—The one offered by the delegate from Greene was accepted by unanimous consent.

MR. FITTS—The one of the delegate from Greene was accepted, and was merged into the section.

THE PRESIDENT—The question is on the motion to table the amendment whereby the sheriff is allowed two terms.

MR. HEFLIN (Chambers)—I demand the ayes and noes.

MR. WILSON (Clarke)—Is the consideration of the Article on Impeachment now the order of business for this hour? We considered it and after be considered it, it falls back in the order of busines.

THE PRESIDENT—The gentleman made his point too late. If he had made it in time, the Chair would have considered it.

MR. HEFLIN (Chambers)—I call for the ayes and noes.

The Chair announced that the call was not sustained.

MR. HEFLIN (Chambers)—I demand a verification.

MR. WILSON (Clarke)—I rise to a point of order. The section has been reconsidered, but the amendment has not been

reconsidered. A motion is not in order to table an amendment which is a part of a section. There is no amendment pending. The section is pending.

THE PRESIDENT—The vote whereby the amendment was adopted was reconsidered. That was the question submitted. The vote upon the other question was waived by not making the point. The question is on the demand for the ayes and noes. Is the demand sustained?

The call was sustained.

Upon the call of the roll, the vote resulted as follows:

AYES.

Messrs. President,	Greer, of Calhoun,	Phillips,
Altman,	Harrison,	Pitts,
Ashcraft,	Henderson,	Porter,
Banks,	Hood,	Proctor,
Bartlett,	Howze,	Reynolds, of Chilton,
Beddow,	Jackson,	Rogers, of Lowndes,
Bethune,	Jenkins,	Sanders,
Blackwell,	Jones, of Bibb,	Sanford,
Brooks,	Jones, of Wilcox,	Selheimer,
Browne,	Kirk,	Sloan,
Burnett,	Knight,	Smith, of Mobile,
Byars,	Ledbetter,	Smith, Mac A.,
Cofer,	Lomax,	Sollie,
Coleman, of Greene,	Lowe, of Jefferson,	Spears,
Coleman, of Walker,	Malone,	Spragins,
Craig,	Martin,	Stewart,
Davis, of DeKalb,	Maxwell,	Thompson,
Davis, of Etowah,	Merrill,	Vaughan,
Dent,	Mulkey,	Waddell,
Espy,	Norman,	Walker,
Ferguson,	Norwood,	Watts,
Fitts,	Oates,	Weakley,
Foshee,	O'Neal, of Lauderdale,	White,
Freeman,	O'Neill (Jefferson),	Whiteside,
Gilmore,	Parker, of Cullman,	Williams, of Barbour,
Grant,	Parker, of Elmore,	

Total—77.

NOES.

Barefield,	Cobb,	Graham, of Talladega,
Boone,	Duke,	Grayson,
Burns,	Eley,	Greer, of Perry,
Cardon,	Eyster,	Handley,
Carmichael, of Colbert,	Glover,	Heflin, of Chambers,
Chapman,	Graham, of Montgomery,	Heflin, of Randolph,

Hinson,	Murphree,	Searcy,
Jones, of Montgomery,	NeSmith,	Smith, Morgan M.,
Long, of Walker,	Opp,	Williams, of Marengo,
Lowe, of Lawrence,	O'Rear,	Wilson, of Clarke,
Miller, of Marengo,	Palmer,	Wilson, of Washington,
Miller, of Wilcox,	Pettus,	Winn.
Moody,	Reese,	

Total—38.

ABSENT OR NOT VOTING.

Almon,	Inge,	Renfro,
Beavers,	Jones, of Hale,	Reynolds (Henry),
Bulger,	King,	Robinson,
Carmichael, of Coffee,	Kirkland,	Rogers, of Sumter,
Carnathon,	Kyle,	Samford,
Case,	Leigh,	Sentell,
Cornwall,	Locklin,	Sorrell,
Cunningham,	Long, of Butler,	Studdard,
deGraffenreid,	Macdonald,	Tayloe,
Fletcher,	McMillan (Baldwin),	Weatherly,
Foster,	McMillan, of Wilcox,	Willet,
Haley,	Morrissette,	Williams, of Elmore,
Hodges,	Pearce,	
Howell,	Pillans,	

During the call of the roll:

MR. GREER (Calhoun)—I ask unanimous consent to explain my vote.

There was objection.

MR. JONES (Montgomery)—I vote "no" simply to keep faith with the gentlemen on the other side. It is not my sentiments. I beg the Chair's pardon—

MR. O'NEAL (When his name was reached)—I desire to say that I vote aye because it appears that some of the other side—(the remainder of the statement was drowned by loud expressions of dissent.)

And by a vote of 77 ayes and 38 noes the amendment was laid upon the table.

MR. HOOD—I move the adoption of Section 2, and upon that I call for the previous question.

MR. LONG (Walker)—I hope that the gentleman will withdraw that.

There were expressions of dissent.

MR. FITTS—You mean as reported by the Committee?

MR. HOOD—As amended by unanimous consent.

MR. LONG (Walker)—I ask the gentleman to withdraw that a moment.

MR. SOLLIE—I would be glad to hear it read.

MR. OATES—I would like to hear the section read as amended.

The Secretary read as follows: "The chancellors, judges of probate courts, solicitors and judges of inferior courts from which an appeal may be taken directed to the Supreme Court, may be removed from office for any of the causes certified in the preceding section by the Supreme Court, under such regulations as may be prescribed by law.

MR. O'NEAL—The sheriffs name is not in there.

THE PRESIDENT—Was that not stricken out by amendment? The Chair is informed. The Secretary read the minority report.

The Secretary read Section 2 as follows: "The chancellors, judges of circuit courts, judges of probate courts, sheriffs, solicitors and judges of 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 PRESIDENT—The question will be upon the adoption of the section and upon that the previous question is demanded and the question is, shall the main question be now put?

The main question was ordered.

Upon a vote being taken the section was adopted.

MR. HOOD—I move that the article be engrossed and ordered to a third reading and upon that I call for the previous question.

The main question was ordered.

THE PRESIDENT—The question is on the motion to order this article engrossed and to a third reading.

MR. WILSON (Clarke)—I rise to a point of inquiry. Is the ordinance accompanying that article which we reconsidered this morning a part of the Article?

THE PRESIDENT—It is not a part of the article, it is a separate ordinance.

MR. LONG—I rise to a point of parliamentary inquiry. Can I now offer an article on impeachment exactly like the old Constitution as a substitute?

THE PRESIDENT—The question is on ordering this article to a third reading and engrossment.

MR. JONES (Montgomery)—Under that article as it stands now, is the sheriff impeached before the Supreme Court?

MR. FITTS—Yes, sir, we have just passed it.

MR. HEFLIN—I think somebody called for the previous question but the Convention has not yet sustained it.

THE PRESIDENT—It was just submitted to the Convention and sustained by a very large vote.

The question is on ordering this article to engrossment and a third reading.

MR. HOOD—I move the adoption of the ordinance reconsidered this morning, ordinance 404.

THE PRESIDENT—Unless the Convention makes the consideration of this Article on Impeachment a special order, it would be displaced and the next order of business would come up.

MR. O'NEAL—I rise to a point of order. This ordinance reported by the Committee on Impeachments was reported as a separate ordinance. It then became a new section to the Article on Impeachments they adopted. Where does it belong? It was not a derelict. It belonged to the Article on Impeachment and I raise the point that it became an amendment to the Article on Impeachments and the Article having been ordered to a third reading and engrossment you cannot reconsider it without reconsidering the ordering to engrossment and a third reading, and that is too late.

THE PRESIDENT—The Chair will overrule the point of order. In the opinion of the Chair it is perfectly competent for this Convention to pass an independent ordinance as for instance the ordinance providing for pay of members and many other ordinances, some of which have passed, and an ordinance providing for the settlement of the State debt.

MR. O'NEAL—The rules require all ordinances to have headings and to state what articles of the Constitution it goes under. I ask the Clerk to read that and see what head it goes under. I call attention to that rule.

THE PRESIDENT—The Chair will overrule the point of order.

MR. HOOD—I want to make a motion that we take up this matter and dispose of it now.

MR. JONES—What matter?

MR. HOOD—This ordinance we have just reconsidered.

THE PRESIDENT—The gentleman from Etowah moves that we proceed to the immediate consideration of the Article providing for the impeachment of sheriffs.

MR. O'NEAL—I move to lay the motion on the table.

Upon a vote being taken, the motion to table was lost.

THE PRESIDENT—The question is now upon the motion of the gentleman from Etowah to take up for consideration the ordinance relating to impeachment of sheriffs.

Upon a vote being taken, the motion was carried.

MR. HOOD—I move the adoption of the ordinance, and upon that motion I call for the previous question.

MR. ESPY—I understand an aye and no vote is demanded.

THE PRESIDENT—The rules would require an aye and no vote.

MR. HOOD—I call for the reading of the ordinance.

The Secretary read the ordinance as follows:

Whereas, Ample provision is made by law for the impeachment of officers, and

Whereas, It is contrary to the policy of this Government that any part of the powers of 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 a 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, 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."

THE PRESIDENT—The question will be upon the passage of the ordinance.

MR. JONES— Upon that I ask for the ayes and noes.

THE PRESIDENT—The rules require a vote by ayes and noes.

MR. BROWNE—The gentleman from Etowah calls for the previous question, and an aye and no vote is not necessary on that.

THE PRESIDENT—The attention of the Chair is called to the fact that the motion for the previous question has not been put.

The main question was ordered.

THE PRESIDENT—The question is upon the adoption of the ordinance.

Upon the call of the roll the vote resulted as follows:

AYES.

Almon,
Altman,
Beavers,
Bethune,
Blackwell,
Browne,
Burnett,
Burns,
Carmichael, of Colbert,
Carmichael, of Coffee,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Davis, of DeKalb,
Eley,
Eyster,
Ferguson,
Foshee,
Foster,
Glover,
Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hood,
Inge,
Jackson,
Jones, of Bibb,
Knight,
Locklin,
Long, of Walker,
Lowe, of Jefferson,
Lowe, of Lawrence,
Martin,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Norwood,
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pettus,
Pitts,
Spragins,
Proctor,
Reese,
Rogers (Lowndes),
Samford,
Sanford,
Smith (Mobile),
Smith, Mac A.,
Smith, Morgan M.,
Sollie,
Spears,
Stewart,
Thompson,
Vaughan,
Walker,
Watts,
Williams (Barbour),
Williams (Marengo),
Wilson (Clarke),
Wilson (Wash'gton),
Winn,

Total—74.

NOES.

Ashcraft,
Banks,
Barefield,
Bartlett,
Beddow,
Boone,
Brooks,
Byars,
Cofer,
Craig,
Dent,
Duke,
Espy,
Fitts,
Freeman,
Graham, of Talladega,
Harrison,
Hinson,
Howze,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Ledbetter,
Lomax,
Malone,
Maxwell,
Mulkey,
Murphree,
NeSmith,
Norman,
Oates,
O'Neal (Lauderdale),
Phillips,
Pillans,
Porter,
Reynolds (Chilton),
Sanders,
Searcy,
Selheimer,

Sloan,	Weakley,	Whiteside,
Waddell,	White,	

Total—44.

ABSENT OR NOT VOTING.

Bulger,	Jones, of Hale,	Pearce,
Carnathon,	King,	Renfro,
Case,	Kirkland,	Reynolds, of Henry,
Davis, of Etowah,	Kyle,	Robinson,
deGraffenreid,	Leigh,	Rogers (Sumter),
Fletcher,	Long, of Butler,	Sentell,
Gilmore,	Macdonald,	Sorrell,
Haley,	McMillan, of Baldwin,	Stoddard,
Hodges,	McMillan (Wilcox),	Tayloe,
Howell,	Morrisette,	Willet,
Jenkins,	O'Neill, of Jefferson,	Williams (Elmore).

PAIRS.

AYES.	NOES.
Weatherly,	Messrs. President,
Cardon,	Cunningham.

By a vote of 74 ayes and 44 noes, the ordinance was adopted.

THE PRESIDENT—The ordinance will be printed and referred to the Committee on Order, Consistency and Harmony.

THE PRESIDENT—The next order of business will be the consideration of the report of the Committee on Education.

MR. HEFLIN (Chambers)—Would it be in order some time between now and 12 o'clock to introduce an ordinance.

Mr. Oates took the Chair.

MR. HEFLIN—I move to suspend the rules in order that I may be permitted to introduce an ordinance.

Upon a vote being taken, the Convention refused to suspend the rules.

THE PRESIDENT PRO TEM—The Chair recognizes the gentleman from Talladega.

MR. GRAHAM—I want to say, Mr. President and gentlemen of the Convention, that I have no speech prepared for the introduction of my ordinance this morning. I want to give an outline of what it proposes to do, and then if there should be any discussion, it will be upon each Section as it is considered. I beg to say, however, fellow delegates, that I trust and believe that we have before this Convention an ordinance upon which all minds may unite, and that in the consideration of this ordinance we may experience

that feeling of unity which has been beautifully expressed in Holy Writ: "Behold, how good and how pleasant it is for brethren to dwell together in unity." I believe that the delegates of this Convention are unified upon the one subject of public education for all the children of this State, and that they believe it should fall, as the dews and the gentle rain, upon all alike, without reference to their condition. It is with this view that the Committee comes before you practically harmonious. We present thirteen sections. The first Section presents a change as to the manner of distribution of the school fund. Under the present Constitution it is provided that the school fund shall be apportioned for the equal benefit of all the children. We have a statute on page 1004 of the Code of 1896, which says that the Trustees may apportion the funds as they may deem just and equitable and for the equal benefit of the children that are of a school age. Many propositions were introduced providing that the school fund should be divided according to the tax paid by the several races. The Committee unanimously concluded that that would conflict with the Constitution of the United States, and they have provided in lieu that equal benefits of the school fund of the races shall be equal as nearly as practicable, and thereby meet all the requirements of the Constitution of the United States and of justice between the races in Alabama.

Now, as to the second and third sections, they remain unchanged. Section 4 is simply a change in detail. The poll taxes are to be applied to the public schools, but we leave it to the Committee on Suffrage and Elections to provide who shall pay poll taxes, and how much shall be paid. So in effect there is no change.

Section 5 presents comparatively the greatest change. This is a summary of all the school revenues of the State. Under the present plan we have $550,000, as a State appropriation, and the one mill tax, which added to that, will make $806,000 or $807,000, which the State of Alabama is giving for public schools from general and special taxes, leaving out of consideration the Sixteenth Section fund and the poll tax. We provide that in lieu of special one mill tax, and the appropriation of $550,000, a tax of three mills, out of the six and a half mills, shall be exclusively applied to schools. That tax of three mills, based upon the present State values, would yield about $36,000 less than we are now getting, but it provides a sliding scale whereby, if tax values increase the school fund will be increased, and if tax values decrease, the schools will share in the adverse conditions that come upon the State. In the opinion of the Committee, we will lose at least $50,000 on poll taxes under the new election law. If we do, and lose $36,000 from the present estimate on the three mill tax, then we will have lost $86,000 for the schools on present conditions, but as friends of the schools, we are willing to accept that as a present basis, hoping the future of the State may be prosperous, and that the

schools will share in that prosperity when it comes, We ask the favorable consideration of this Convention in giving us the three mill tax in lieu of the $550,000 annual appropriation, and the one mill special tax, although it may not at present give us the exact amount that we are now receiving.

The Committee on Taxation demonstrated to the satisfaction of this Convention that the State would be able to meet this obligation and give this much for public schools, so much so that the Chairman of that Committee introduced an ordinance which came before our Committee, that this Convention should maintain as the minimum constitutional fund the present school fund of the State of Alabama.

As to Section 6, it remains unchanged.

Section 7 remains unchanged, except the term of office and the mode of election of the State Superintendent are left to the Executive Article which has already been adopted. Sections 8 and 9 remain unchanged. Section 10 remains unchanged except that that Institution for the Deaf, Dumb and Blind at Talladega, and the Alabama Girls' Industrial School at Montevallo have been placed among the Constitutional Institutions in Alabama. Section 11 is a new Section which provides for the taking of a school census. That has not been heretofore a constitutional requirement, and it was the unanimous opinion of the Committee that there should be a constitutional safeguard thrown around the school census of Alabama, and thereby stop the cry of false enumerations, which has not been limited to any one Section of the State. Section 12 is a new Section, and is a modification of the amendment offered on the Article of Taxation, and provides that three-fifths of the qualified voters in any county in this State may vote to levy a tax not exceeding one mill for the use of the public schools of the county in which it is levied and collected. I do not propose to enter into the merits of that at this time. There is a minority report on this Section offered by Mr. Ashcraft.

MR. FITTS—Will you permit an inquiry?

MR. GRAHAM—Certainly.

MR. FITTS—It only provides that the male tax payers shall participate in this election?

MR. GRAHAM—The "qualified electors" of the county.

MR. FITTS—And a woman who pays taxes has no voice?

MR. GRAHAM—No, sir; she is not a qualified voter.

MR. FITTS—She can be taxed though to keep these schools up if it is adopted?

MR. GRAHAM—Yes, sir, if it is adopted.

Section 13 is Section 11 in the present Constitution, and is incorporated without change. I desire to state that there is a minority report in regard to Trustees of the University of Alabama. Certain other gentlemen have reserved the privilege of offering an amendment who decided that they did not care to offer a minority report.

With this statement, I move that the Article on Education be taken up section by section for adoption.

Upon a vote being taken the motion was carried.

Section 1 was read as follows:

Section 1. The General Assembly shall establish, organize and maintain a liberal system of public schools throughout the State for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the number of school children of school age therein, and shall be so apportioned to the schools in the districts of towns in the county as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships. Separate schools shall be provided for white and colored children and no child of either race shall be permitted to attend a school of the other race.

MR. GRAHAM—I move the adoption of the section.

Upon a vote being taken the section was adopted.

Section 2 was read as follows:

Sec. 2. The principal of all funds arising from the sale or other dispositions of lands or other property, which has been or may hereafter be granted or entrusted to this State or given by the United States for educational purposes shall be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific object of the original grants or appropriations.

MR. PETTUS—There is no change in that section and I move its adoption.

Upon a vote being taken the section was adopted.

Section 3 was read as follows:

Sec. 3. All lands or other property given by individuals, or appropriated by the State for educational purposes, and all estates of deceased persons, who die without leaving a will or heir, shall be faithfully applied to the maintenance of the public schools.

MR. OPP—That section makes no change. I move its adoption.

Section 4 was read as follows:

Sec. 4. All poll taxes levied and collected in this State shall be applied to the support of the public schools in the respective counties where levied and collected.

MR. ASHCRAFT—There is no substantial change in that section and I move its adopted.

Upon a vote being taken the section was adopted.

Section 5 was read as follows:

Sec. 5. The income arising from the 16th section trust fund, the surplus revenue fund, until it is called for by the United States government, and the funds enumerated in Sections 3 and 4 of this Article, together with the special annual tax of thirty cents on each one hundred dollar of taxable property in this State shall be applied to the support and maintenance of the public schools, and it shall be the duty of the General Assembly to increase, from time to time, the public school fund as the necessity therefor and the condition of the treasury and the resources of the State may justify. Provided, that nothing herein contained shall be so construed as to authorize the General Assembly to levy in any one year a greater rate of taxation than sixty-five cents on each one hundred dollars worth of taxable property.

MR. GRAHAM (Talladega)—I move the adoption of that section.

MR. WATTS—If I understand the provisions of this section, it provides for the levying of thirty cents of the sixty-five cents of State taxes for the support of public schools. It says: "Together with the special annual tax of thirty cents on each one hundred dollars of taxable property in this State shall be applied to the support and maintenance of the public schools and it shall be the duty of the General Assembly to increase, from time to time, the public school fund as the necessity therefor and the condition of the treasury and the resources of the State may justify. Provided, that nothing herein contained shall be so construed as to authorize the General Assembly to levy in any one year a greater rate of taxation than sixty-five cents on each one hundred dollars worth of taxable property."

Now, if I understand the English language that means the State must devote thirty cents of the sixty-five cents which is collected by taxes from the people of Alabama to the maintenance of the public schools. I do not think that that provision should be in the Constitution. There may be a necessity to use more than thirty-five cents of the sixty-five cents for other purposes, and for this Convention to say to the legislature that for all time to come, you shall use thirty cents of the sixty-five cents of the taxes

that you levy, for school purposes, and that you shall not use but thirty-five cents of the sixty-five cents for other purposes, strikes me is putting in the Constitution, a very dangerous thing, and I certainly shall oppose it.

MR. COBB—I do not think this ought to be passed. I am in favor of maintaining the public schools, but this is a matter that the Legislature of the State of Alabama ought to control. They can take from time to time the amount of money that the Treasury of the State of Alabama can afford for this purpose, and it is not properly a constitutional matter. We are putting too much in this Constitution of mere legislative matter. It is dangerous. We have already reduced the limit of the tax rate to 65 cents, which is a dangerous proceeding, in my opinion, and now to put in the Constitution that a certain amount of the taxes levied shall be, by constitutional provision, applied to educational purposes, is putting the resources of the State in a dangerous conditions, and I hope that it will not be adopted.

MR. WALKER (Madison)—I simply desire to request the Convention to deliberate on this matter before it is enacted into the Constitution. The State, like an individual, should make provision for the education of its children, according to its means, and should apply to the purposes of education so much of its resources as are not needed for the other purposes of government. It would be folly in any individual to say, without regard to his circumstances in the future, that he must at all times apply nearly one-half of his income to the education of his children, and tie himself up so that no matter what were the needs of his family, that appropriation must be made. Is it not equal folly for the State to put itself in a position where, notwithstanding urgent and necessary demands for the support of its government, and the maintenance of its other institutions, that there shall be appropriated to the purposes of education, nearly one-half of its income? That is the situation that the State is proposed to be put in by this provision. Can the friends of education demand anything more of the State of Alabama at this time, or at any time, than that the Legislature shall appropriate to the purposes of Education such an amount of its income as may be left after the necessities of the Government have been provided for? You are putting yourself in a position where the State would not be able to meet the extraordinary demands upon its resources.

MR. GRAHAM (Talladega)—The gentleman speaks of devoting one-half of the income to education. I want to ask him if he is not overlooking the income of about $300,000 from license taxes, which is being increased every year by the organization of new corporations?

MR. WALKER—I recognize there are some sources of income that are not included in this provision, but this provision affects

the great source of income of the State of Alabama, and it is a final and irrepealable appropriation to one specific purpose, and I submit that it is unwise for this Convention to put the State of Alabama irretrievably in that position, and I hope that this Convention will pause, and will not lay down a rule for the State of Alabama which no prudent individual would lay down for himself and will not bind Alabama by a rule that no prudent individual would tie himself up with.

MR. SAMFORD (Pike)—As a general rule, I, for one, would like to see a fixed amount to be provided for the maintenance of the public school made as large as possible. No man is a greater friend to the common schools of Alabama than I am. No man would go further towards appropriating the money from the State treasury towards the education of the children of the State than I would, but it occurs to me that we ought to be prudent in all things and in attempting to do a good thing, not be led into the error of doing a very bad thing. As every one knows, the proper basis of ascertaining what would be the revenues of the State, is from the tax upon property. Anything in the way of licenses from new corporations or old corporations, or from other sources, is merely speculative. Those things may pass away, and the State may be thrown absolutely upon the resources of taxing property according to its taxable valuation. Now, let's see where this would leave us. In the first place, we have provided that the tax limit shall be six and one-half mills. Then this Convention provides that three mills of that six and one-half mills shall be appropriated towards the maintenance of public schools. That does not include, as I understand, the State University, the Agricultural College, the school at Montevallo, and other institutions about over the State. That law now provides that one mill of that tax shall go to the old soldiers of the State. That would be four mills of the 6 1-2 mills that we are permitted to levy. The fixed charge for the interest on our debt is about $448,000, which is about 1 1-2 mills, which makes 5 1-2 mills out of the 6 1-2 mills that we are permitted to levy. Then, out of that, we have got to pay for the running expenses of the Government; we have got to pay for the maintenance of the State University; we have got to pay for the maintenance, partially, of the Mechanical and Agricultural College. We have got to pay for the maintenance of the Girls' Industrial School. We have got to pay for the Institution for the Deaf, Dumb and Blind; we have got to pay for the maintenance of the Insane Hospital and for various other items that go to make up the expenses of a great Commonwealth and a great State, and that are absolutely necessary. Mr. President, is it wise? Is it wisdom upon the part of the members of this Convention to so limit the amount to be charged or to be collected from taxes to call the attention of this Convention to one other proposition that we ought to bear in mind as we go along, and that it that our bonded indebtedness

is nearing maturity. It behooves us to refund that debt, which we cannot pay; we haven't got a dollar with which to pay it; it has got to be refunded. We have got to borrow either the money to take up these bonds or we have got to make some arrangement by which other people will take up the bonds for us, and it behooves us to make that deal for the issuance of new bonds at as low a rate of interest as possible. I submit it to any business man in this house, if, when the Governor of this State goes to the Governor of this State goes to the great financial world and asks that the bonds of this State be floated at a tax limit of only 2 1-2 mills for all purposes outside of the public schools and old soldiers, our bonds can be floated at as low a rate of interest, as they could if we had a greater margin. Now I would like to see the fixed appropriation for the public schools, at three mills. I would favor that proposition provided we could take the back track upon the taxation proposition and raise the limit again to three fourths of one per cent., but I submit to this Convention that, as business men, with the figures as I have them and I would be glad to be corrected if I am wrong about the matter, because I would be glad to vote for this clause if it can be demonstrated that we can safely do it, but I submit that we ought not to adopt this ordinance unless we have in view a change of tax limit so as to make our credit like Ceasar's wife. "Above reproach and above suspicion."

MR. JONES (Wilcox)—Mr. President and gentlemen of the Convention——

MR. COBB—Will the gentleman yield to me a moment to amend by striking out these words——

MR. JONES—Wait till we get through with the discussion.

MR. COBB—Yes, sir.

MR. JONES—Gentlemen of the Convention, the distinguished delegate from Macon has stated that this is purely a legislative matter and ought not to be in the Constitution at all.

If you will refer to the Constitution of 1875, you will see that there was a provision made at that time, in the depressed condition of the finances of the State, fixing an amount for the school funds. It is Section 5, Article VIII.

"The income arising from the 16th section trust fund, the surplus revenue fund, until it is called for by the United States government, and the funds enumerated in Sections 3 and 4 of this article, with such other moneys, to be not less than $100,000 per annum, as the General Assembly shall provide by taxation or otherwise, shall be applied to the support and maintenance of the public schools, and it shall be the duty of the General Assembly to increase, from time to time, the public fund as the condition of the treasury and the resources of the State will admit."

You will see, gentlemen of the Convention, that it is not legislation pure and simple, but that a similar provision was made in the Constitution of 1875, and that $100,000 was appropriated at that time when the State was in a poorer condition to give that $100,000 than it is the amount that the committee suggests to be appropriated at this time.

MR. HARRISON—What proportion of the revenues of the State at that time did $100,000 amount to and what proportion do you propose to take now?

MR. JONES—I haven't it before me now and I would have to look at it.

MR. HARRISON—Is it not a fact that the income then was about $1,000,000 which would be one-tenth, and now you propose to take nearly one-half?

MR. JONES—I do not recall the amount and haven't it before me. The appropriation that is made for the school fund at this time, amounts to about $800,000. We do not propose to make it larger than that. It is in fact smaller than the amount that is appropriated at this time, and I ask if the people of Alabama, when they sent us here, believed that we would cut down the appropriations for their common school in this State and make them less than they are, thereby diminishing the opportunities of their children to be educated, would ever have allowed this Convention to be held?

MR. SAMFORD (Pike)—Will the gentleman permit a question?

MR. JONES—I have but little time and have three to answer and I dislike to refuse, but it would cut off my time too much. The gentleman from Madison says that it would be imprudent, that we do not know what we are about if we go on and make such a provision as this. The Committee on Taxation when they came in here and asked us to reduce the limit to 65 cents stated it would not interfere in any way with the amount to be given to the public schools of Alabama. It was that, as much as anything else, that caused this Convention to vote to reduce the taxation. Where is there a man in this Convention, if that committee had come in here and said: "Gentlemen, we wish to reduce the limit of taxation, but will have to reduce your public school fund, and it will prevent the education of the children of Alabama," that would have voted for a decrease of the limit of taxation in Alabama? There is not one. We have had assurance from every man who has investigated the question, that we would have the money to make this appropriation for the public schools, because it is really not as much as the State of Alabama is giving at this time for that purpose.

The gentleman who last spoke stated that we could not float our bonds. That if the Governor were to go and tell prospective purchasers of our bonds, that we were giving three mills for the purposes of education in Alabama, that we were taking one mill for the old soldiers and that left only two and a half mills, that the bonds could not be floated. What is the history of floating bonds? Don't you know that the longer time they have to run, the better they will sell? Alabama has always maintained her credit, and the Governor could assure those who wanted to purchase these bonds, that the credit of Alabama was safe now, that it would be good in future, that the interest on these bonds would be paid annually or semi-annually, and nobody would object at all. In fact all they would want to know would be that the interest on these bonds would be paid promptly.

Those are the arguments that have been offered by the other side in opposition to this appropriation, and I say we can safely do it. I think it is a better plan than we have now. It has a sliding scale. It is a provision, if Alabama should prosper beyond what we believe now, but which it may be possible in future, that the Legislature can even increase; and if the money is in the Treasury and it could be increased, the people would demand that their school system be made better than it is now. I know that at first blush, without investigation, it would seem that was a large amount, but if you would take the trouble to make the calculation for yourself, you will see that the three mills the Committee on Education asks is not really what is given by the State of Alabama now.

We cannot afford to say to the people of Alabama that we have come here, and have fixed it so that they cannot have what they have had in the past.

MR. DENT—I send up an amendment.

MR. COBB—I withdraw mine.

The amendment by Mr. Dent was read as follows:

"Moved to amend Section 5 of the Article on Education by striking out the following words: 'Together with the special annual tax of 30 cents on each $100 of taxable property in this State,' in lines three and four of said Section, and insert in lieu thereof the following: 'Together with such sum as the Legislature may decide.'"

MR. DENT—Mr. President and gentlemen of the Convention, I think the reasons that have been given already by the gentlemen who have preceded me in opposition, are strong and unanswerable why we should not put an inelastic provision in the Constitution in reference to this matter. I think further, notwithstanding the criticisms that have been made upon the Legislature of Ala-

bama, that their past course in regard to education shows they can be trusted to come up fully to the ability of Alabama in reference to the amount which will be raised by taxation for the support of the public schools, and I am satisfied that they will in every case raise such an amount and appropriate it for education, as the State can safely permit to be done.

The gentlemen admit that this sum would be smaller than the amount which the Legislature appropriated for education at its last session, and the statement has been made that there should be no efforts to reduce the appropriation for the public schools. While that is true, and I do not suppose there is any gentleman in this Convention who wishes to do that, it seems to me that this is a matter purely for legislative discretion. Circumstances might arise in which if an absolute and fixed sum was taken from the State of Alabama, it might cripple the State in reference to matters which are really important and perhaps more necessary than the matter of education, matters of necessity which could not be left undone.

Now I am not wedded to the words which I ask to add there. I do not insist that those words should be stricken out, and I will read them again in order that the delegates may understand. Beginning in line 3, my amendment proposes to strike from lines three and four these words: "Together with the special annual tax of 30 cents on each $100 of taxable property in this State."

MR. GRAHAM (Talladega)—You strike out the guarantee of $100,000 in the old Constitution in your amendment, do you not, and leave the people without any guarantee at all as a constitutional school fund?

MR. DENT—I will reply to that. As I started to say, when I was interrupted by the gentleman from Talladega, I am not wedded to the words which I propose to insert in lieu thereof and it is an easy matter to divide this question, and take a vote first upon the motion to strike out, and then upon the motion to insert, and I would not object to placing it at $100,000 or perhaps more, but I do not think that is necessary in view of the history of legislation in Alabama upon the subject of education in past years. It seems to me the Legislature can be safely trusted to appropriate every dollar that can be spared from the income of the State of Alabama to educate the children of this State, and while I would not object to any sum in reason, I believe it is a matter that can be safely left to the Legislature, but, if the majority of the Convention think otherwise, it is an easy matter to divide the question, and take a vote, and strike out separately, and then take a vote upon the motion to insert, and if they want to amend that it can be done.

MR. FITTS—I agree with the idea that has been expressed here, that upon this subject nothing should be done except what is safe and conservative, and the question comes back at last to whether or not this provision, as reported by the Committee on Education, in view of the past history of the State, and in view of its future certain prospects, and in view of the system that has already grown up, is safe and conservative. The mere fact that the Constitution of 1875 gave only a guarantee of $100,000 from the general fund for the public school fund is no safe light to guide our feet upon this occasion, because, since that time, the income of the State from all sources has steadily increased, and with that steady increase, there has been a steadily disposition on the part of the government of the State to devote just about one-half of its gross income from all sources to the support of the public schools. And it so happens that in late years the income of the State has ranged at about $1,800,000 and there has been appropriated for the public schools of the State just about one-half of that total income, or about $900,000, and that has gone on successively and easily, and it has been found that the State has not suffered by the experience of giving about one-half of its total income to the support of the public schools. Now the unsatisfactory part about that method is that there is nothing steady and certain in the growth and progress of these public schools under that system. The Department of Education feels a constant restraint, not knowing what the next legislature will do in that regard. The proposition here, so far from being non-elastic, as the distinguished gentleman from Barbour has urged, is steady, certain, and at the same time, elastic, and it is doing no more for the public schools than has been done in the past. The public schools are not asking by this section anything additional. The Committee is not giving them anything in addition to what they have enjoyed for more than a decade in the past, for they have been getting relatively more than half of the income of the State, but this is the good feature in this section as reported and a beneficial feature. While for the present, it sets the public schools back something like $40,000 or $50,000, it puts the public school system upon a solid, constitutional and growing foundation. It says to the public school system, to the people of the State and to the children of the State, and those of succeeding generations, that your position is fixed, that for the time being there has been a decrease, but in exchange for that, the public school system is put upon a permanent constitutional basis whereby its proportionate part of the public income is fixed, and as stated if the revenues increase, as it will increase, for the State is full of promise of future progress, this fund will increase steadily and with elasticity, to meet the growing conditions of each succeeding generation. So far from the idea being well taken that it is hidebound and non-elastic and does not give in its action, it is the very thing that meets the needs of the situation, because of the fact that

there has already grown up an unwritten precedent that the legislature is going to appropriate and the public drafts for revenue are fixed upon the theory that the legislature is going to appropriate one-half of the income of the State to the schools. This just fixes the three mills permanently and forever so that progress can be made, so that school houses can be built, teachers employed and new fields opened up, and progress made, with a certainty of the foothold upon which we stand. It is not radical it is not different, it is not any harder upon the income of the State than what has been done for the past ten years. It is simple, steady, certain, and fixes a constitutional standard of what the public schools are to get out of the total income of the State, leaving room for the growth of the public schools, the certainty of their progress as the State progresses, and relieving the public school system of the necessity of coming before each legislature as they successively convene and asking for a distribution of the income of the State at their hands, which is troublesome to the legislature, embarrassing to the best interest of education and is a hindrance to true progress along that line. Now the question occurs, and is suggested to me by this note handed me by some delegate, as to whether or not if this is done, the thirty-five cents that remains, or the three mills and one-half that remain, will afford a sufficient income for the State, and for taking care of the bonded indebtedness of the State.

By an ordinance already passed here by constitutional enactment, already made, the present bonded indebtedness of the State, or the $8,000,000 of it, which matures in 1906, is to be refunded, and it will become a fifty-year obligation. There is every prospect that it will be refunded at 3 1-2 or at most 4 per cent interest, reducing the fixed charges of the State in that particular to a considerable extent. There is no reason to expect that the assessed value of property will decrease, but there is every reason to believe and expect that it will increase. There is no reason to expect that the fixed income of the State from licenses and other sources, which aggregate a considerable amount, will decrease, but we have every reason to believe and expect that it will increase. Furthermore, as an answer to the whole proposition there is no reason to expect that there will be any backward step taken in this State in regard to the public schools. This Convention was called with the distinct understanding that there would not be. The history of the past ten years shows that there will not be and the certain expectation of the future points to the fact that, even if you do not fix this rate in the Constitution, after a sharp controversy, it may be, but nevertheless, certainly there will be a distribution substantially along this line, at the hands of the legislature. If that is the case, if that is what the policy of this State is, if that is what is to be expected in the future, then what is the objection to writing this distribution down in the Constitution,

allowing the State to adjust its charges to 3 1-2 mills and allowing the public school system to adjust its growth and progress to three mills? It settles the whole question. It removes the whole question from disturbing politics. It fixes the income of the public schools. Its part of what is wrung from the people and every man that pays his taxes from this time on will know what he is paying it for, that he is paying three mills of it for the public schools and three and one-half mills for the other expenses of the government. He will have a more watchful and more discriminative understanding of the government of his State and it will accomplish in a more satisfactory way what is the fixed policy of the State.

MR. SAMFORD (Pike)—I have an amendment.

The Secretary read the amendment as follows: "Amendment to the amendment by Mr. Samford: Amend by adding at the end of the section the following, 'and all revenue arising from the sale of fertilizer tag tax in excess of the cost of analysis, shall be made into part of the public school fund.

MR. GRAHAM (Talladega)—I ask the gentleman to with draw that in order that we may discuss the main question. The gentleman from Randolph desires to discuss it on the basis of the report.

THE PRESIDENT PRO TEM—The Chair will state that while the question is on the amendment to the amendment, the Chair is not restricting the delegate.

MR. HANDLEY—I see from what has been said by some of the distinguished speakers that preceded me, that there seems to be some apprehension in the minds of many of the delegates as to whether the State, at the reduced rate of taxation of 6 1-2 mills, can meet the obligations of the State, including the school tax. Now, I want to state, sir, that I was on the Committee on Taxation, and I went to the Treasurer and to the Auditor's office. I got the Auditor's report; and then we summoned one of the best financial men connected with that office and brought him before the committee and took his evidence, and he stated that we could, with propriety, reduce the taxes from 7 1-2 mills to 6 1-2 mills. That is not all. I found that the increased valuation of property in the State of Alabama for taxation for the last five or six years has greatly increased, and the amount in 1900 amounted to two hundred and sixty-six millions of dollars. Our distinguished chairman of the Taxation Committee applied to all the Judges of Probate in Alabama to know what the increase would be for 1901, and they reported from twelve millions to fifteen millions of dollars of increase for 1901. That is not all. A gradual increase will come from year to year, and by the time we commence collecting the tax of 6 1-2 mills, we will collect more money at that rate than we collected last year at 7 1-2 mills. Why? Because the last

Legislature passed an act that the tax rate of 7 1-2 mills would be for the next two years, and hence it will be three years before we collect the tax at 6 1-2 mills. Now, Mr. President, before we commence collecting that tax at 6 1-2 mills, the increased valuation of property in the State of Alabama, for taxation will amount to more than three hundred millions of dollars, and, in my opinion, before this new Constitution is displaced by another one in the State of Alabama, that it will amount to five hundred millions of dollars. I am not one of those that get out of heart so quick. What is the condition of affairs today? The last Legislature appropriated over $500,000, and the State Treasurer has virtually paid that debt and paid the July interest on the bonded debt, and second quarter school fund, and today there is in the treasury between $800,000 and $900,000. That is the condition of affairs, and with a tax collected at 6 1-2 mills, after two years, there will be a large surplus in the treasury, unless we should have a Legislature that would give it away, and I do not apprehend that we will ever see such another Legislature, but I believe that the people will send men here who will guard the treasury instead of distributing its funds.

MR. GRAHAM (Talladega)—Will the gentleman permit a question? I want to know, if the gentleman does not think it should not be appropriated?

MR. HANDLEY—I do. It is the grandest thing, in my mind, that has happened here. I am in favor of 3 mills for school purposes. It will be a grand thing to increase the popularity of the Constitution and secure its ratification all over Alabama; the white people everywhere will endorse it, especially in the hill counties in Alabama. Now, we have been told that in 1901—and we have very good authority, the Judges of Probate in the counties—that we will have an increased valuation this year of from twelve millions to fifteen millions of dollars over last year. That is not all. We estimate that these cotton mills that have been built; we estimate the cost of forty millions of dollars, and they will gradually come in for taxation by degrees. That is not all. Here we are about to refund the debt of the State, eight or nine millions of dollars, and, gentlemen of the Convention, I give it as my opinion that we can refund the debt at fifty years at three per cent; I give that as my opinion. I know something about the condition of affairs in the financial world, and I give it as my opinion that we can refund that debt at three per cent, or at three and one-half per cent, any how. Now, if this be so, there will be a saving there on interest of from one to two hundred thousand dollars a year for the State of Alabama. Then we have a saving of a half million dollars from appropriations by the Legislature; then we have a saving of a great deal from increased valuation. This will give us a big margin, a grand margin, to perform with, and I regard it as being a certainty that the State of Alabama will be able to

meet all her obligations, every one of them, and meet this obligation, too. Now, think about the cotton mills, forty millions of dollars will soon come in. Now, up here in Walker County the other day a Pittsburg syndicate came forward and bought $3,000,000 worth of coal lands, and that will bring in taxes and there will be a grand increase throughout the whole country, in my opinion.

MR. SAMFORD (Pike)—Permit me to ask a question. Was not that $3,000,000 worth of land here all the time before the Pittsburg syndicate bought it?

MR. HANDLEY—Its valuation was not there before, and now they have a valuation on it that amounts to a good deal. There is another thing, if we are only going to have legislative sessions once in four years, that will be a saving to the State of Alabama of from $50,000 to $100,000, and many other things that I could mention. Why, I tell you that the time will come when Birmingham, and that mineral district surrounding it, will pay almost half of the taxes of the State of Alabama. When I first went to Birmingham, I got me a turnout and went and looked at Red Mountain, and I saw a crop that never could be gathered, that was matured and inexhaustible; I saw a crop that all the men that Generals Lee and Grant commanded in the war could not gather in a thousand years: I saw the lime, ore, and then the lime and the sand, and the coal—all that surrounding country there. The truth is in going up this grand Red Mountain, which is said to be seventy miles long, and half a mile high, in going up this grand mountain the veins of iron ore protruded out twenty-two feet to the front, and went in the direction of China at about an angle of forty-five degrees, and then went up, the mountain at about forty-five degrees, and it was 200 or 300 feet to the top of the mountain, it was just simply immense. Dr. Caldwell, President of the Elyton Land Company, bored a well about a mile beyond that mountain, and bored it about 2,000 feet deep, and on the route he went through that vein of ore, 100 feet. How can you estimate the value of such property as exists there? It is just wonderful. I lived in a cotton country, I thought to myself if I had 35,000 square miles here in cotton, and it was about six feet high and open to the top and had 25,000 hands to pick it and another lot doing the ginning, and another lot doing the selling, that that would be something in comparison to the mineral district about Birmingham.

MR. SAMFORD (Pike)—Will the gentleman permit a question? I would like him to tell the Convention how he will ever get that property assessed for taxation at its true value?

MR. HANDLEY—It never has been and never will be in my opinion. It is simply grand to think about it, the value of that property, and that surrounding district. No one can imagine its value. Men that have been living on it and about it do not know

anything about its value, they just guess at it and do the best they can, but when they come to value it for taxation they do about like other people in the State fully as well.

THE PRESIDENT PRO TEM—The gentleman's time has expired.

MR. O'NEAL—I move that the gentleman's time be extended. He does not often trouble us.

MR. SAMFORD (Pike)—After consultation I desire to ask unanimous consent to withdraw the amendment that I just sent up.

Unanimous consent was accorded, and the amendment withdrawn.

MR. O'NEAL—I move that the gentleman's time be extended ten minutes.

The motion was adopted.

MR. HANDLEY—Mr. President, I want to state that I feel a great interest in the public schools of Alabama, and I will state the Committee on Education has done its duty, and I shall vote for Section 5. I shall vote for it, heartily knowing that the State is well provided for and can pay it and every other debt she may owe at the time, and I hope that the members of this Convention will favor the report of this Committee.

MR. SAMFORD—I just want to ask one question. I have great respect for the gentleman's financial ability, and I want to ask him if he has made personal examination in this State, and if he states it to this Convention that the State can safely do this after an investigation of its finances?

MR. HANDLEY—Certainly, it was the business of our Committee to look into the matter thoroughly.

MR. SAMFORD—Did you do it?

MR. HANDLEY—Most emphatically, we did—of course we did not do anything with our eyes closed. (Applause.)

MR. O'NEAL—Was not your estimate based on the assumption that the prosperity which now exists would continue? Did you take into consideration financial panics, financial crisis and things of that character?

MR. HANDLEY—I will state if it were not to increase a particle that the State is in a condition today to meet this thing just like it is. I know what I am talking about, because I tell you I went to the Treasurer's office and ascertained the amount of money on hand and if the interest on the bonds had been met, and the school fund distributed. They told me yes, and on the first

of July there was $900,000 and upwards on hand. And the 1st of August there was upwards of $800,000 on hand, and we are to collect taxes at three-quarters of 1 per cent. for two years. We will have a grand surplus at the end of two years. If it is not distributed by the Legislature; we will have a grand surplus and pay all debts, and pay the interest on the bonds, and we have several items of savings to the State of Alabama that will be a grand increase to the State, and there will continue to be an increase in my opinion, and above everything, if everything else were to fail, it is the duty of this Convention to take care of the educational interests of the State of Alabama at all hazards.

MR. HOOD—May I ask the gentleman a question? They are about to strike oil near Birmingham, are they not?

MR. HANDLEY—There are some preparations being made in North Alabama and it is not at all unreasonable to believe that they may strike it, but I make no brag on that, we might bore a well for oil and miss it four hundred miles and then again we might strike it. I just want to say that I hope this Convention will vote for the report of the Committee on this Section 5. The State will be in no danger whatever. I understand our finances, and I understand our condition, and she can meet every obligation that she owes, and also make this appropriation of three mills for all future time to come for the education of the people in the State of Alabama.

MR. BURNS—Is it not a fact that in the city of Birmingham real estate is not taxed for more than one-half of its real value?

MR. HANDLEY—How is it in your county? (Cheers and laughter.)

MR. GREER (Calhoun)—Mr. President, I am in favor of the common people of Alabama. I rise to support the report of the Committee and to oppose the amendment offered by the delegate from Barbour. Now, Mr. President, in the first place it is the duty of the State of Alabama to educate its citizens. If the amendment offered by the delegate from Barbour should pass, and the expectation of my distinguished friend from Randolph, should not be realized, with ten mills reduction in the tax rate in Alabama it would mean in my honest judgment two hundred and fifty thousand dollars taken out of the common schools of Alabama. Now, Mr. President, of the present amount appropriated about forty thousand dollars of that fund goes to the normal schools of Alabama, and then with the tax rate reduced and for the schools to get only the amount which is left, it would mean in round numbers three hundred thousand dollars taken from the common schools of Alabama. In all seriousness and in all earnestness. I ask the gentlemen of this Convention can they afford to deprive the people in the country districts of means of an education. You

have placed and I have voted to place upon the people after a few years an educational qualification for suffrage, and it is our duty to provide the means for that education, for the boys and girls who live in the country districts of Alabama. They expect it—they demand nothing more—nothing less. You who live in the towns and have your magnificent school system won't feel this as we do in the country, you who live in the favored districts where you have special schools, will not feel it, but, gentlemen, we who live in the country have no other source, no other means by which we can educate our boys and girls than the common schools, and I beg you in behalf of those boys and those girls to fix in the Constitution this three mill tax. It is not an increase of the present amount that we receive, on the contrary, it is a reduction of thirty thousand dollars, and yet we are willing to stand that, but we beg you not to say that the reduction of two hundred and fifty thousand dollars shall come out of us—if it is to come from anywhere, if it is necessary—and gentlemen, who have studied that question say we will have ample funds to meet all obligations, but if we should not I beg you not to take it from the common schools in Alabama. I voted I want to say, against this reduction because I feared at the time that it would have to come from the common schools of Alabama, that it would be the means of depriving the boys and girls in the country districts of an education, or else it would have to come from the amount you are giving to the old maimed and disabled Confederate soldier. We can never, never consent to that. But of the two propositions there is the lame and disabled Confederate soldier to be provided for, it is true they are old and decrepit and are unable to earn a living but they gave the best years of their lives for their country. These young boys coming up are the hope of our country, they must be educated, that they may make useful men, and if you take from them the opportunities of an education you need not expect them to be educated. I want to say to you gentlemen, when you go before the people in the country districts you cannot meet the argument that you did not fix the amount of the school fund, that you have fixed an educational qualification for suffrage and yet you refused—

MR. COBB—I wish to ask the gentleman a question. I simply want to know who it is upon this floor that is proposing to take anything from the common schools?

MR. GREER—I will answer the question, Mr. President. The amendment of the gentleman from Barbour says in words or substance, that only such amount shall be appropriated for common schools as is left after all other appropriations have been made. I would like to ask the gentleman if he has any objection to stating to the people just what he proposes to do. If you are not going to take anything from the common school, then you should not

refuse to state to the people of Alabama in Convention assembled that you do not propose to do so.

MR. COBB—I say I do not propose to do so. The difference between us is. I think this is a legislative matter and I do not believe that any Legislature which would assemble in Alabama would refuse.

MR. GREER—I will ask the gentleman if he has not been supporting some matters pertaining to legislation in this Convention?

MR. COBB—I have seen legislative matters passed here, but I think that the Legislature of Alabama is amply competent to take care of the public schools.

MR. GREER—I yielded to a question, not for a debate. I am sure that it touched the gentleman in a tender spot. I am not surprised that he arose to a question and then endeavored to debate. I want to say to you gentlemen when you touch the common school fund, the public schools of Alabama, you touch me, and touch every other friend to the common school in Alabama, because you touch the boys and girls who live in the rural district of Alabama, who will be unable to obtain an education unless you provide the means here. I believe the fertilizer tag tax amendment has been withdrawn—well, that is all right, we hope to get that in at the proper time. I will not discuss that. Now, sir, there were pledges, I do not say publicly made, but pledges were made to members in this Convention that the public schools would be taken care of when the tax rate was reduced—because it was feared that the reduction of ten mills would come from the public schools. I want to say if you go to the people in the country with that reduction, without making the provision that we ask, you cannot meet the argument, they will not endorse your action. I want to tell the other gentlemen on the floor of this Convention that I appreciate more than words can express the speech given on the floor of this Convention by the distinguished delegate from Tuscaloosa. I appreciate it, and the people in the rural districts will appreciate it, and will reward with full appreciation all efforts made by the delegates of this Convention to maintain the present public school systems in Alabama. Now as to the contention that it is legislative. Mr. President, if it be legislative I want to say that it is legislation of the highest class and we ought to consider well and to consider fully before we refuse to adopt it. I again appeal to you in behalf of the boys in the rural districts, who will be disfranchised by this Convention unless you give them means of an education. I appeal to you in their behalf to provide means to educate the boys and girls and all will be well.

MR. O'NEAL—I have an amendment which I think the gentleman from Barbour will agree to accept. It is an amendment for his.

MR. DENT—I wish to hear it read.

The Secretary read the amendment as follows: "By striking out the words 'together with the special annual tax of thirty cents on each one hundred dollars of taxable property in this State,' insert in lieu thereof: 'such other moneys to be not less than one hundred thousand dollars per annum as the General Assembly shall provide by taxation or otherwise.'"

The President resumed the chair.

MR. O'NEAL—The amendment is just the same as the old Constitution.

MR. DENT—I am perfectly willing to accept that.

THE PRESIDENT—The gentleman asks unanimous consent.

MR. GRAHAM (Talladega)—I object.

THE PRESIDENT—Does the gentleman offer his amendment as an amendment to the amendment?

MR. O'NEAL—Yes, sir.

THE PRESIDENT—The question will be on the amendment to the amendment to the report of the committee.

The hour of one o'clock having arrived the Convention adjourned.

AFTERNOON SESSION.

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

MR. SAMFORD (Pike)—I desire to ask unanimous consent to make a report from the Committee on Engrossment, and call up the ordinances and have them passed.

THE PRESIDENT—The Chairman of the Committee asks unanimous consent to make report from the Committee on Engrossment.

Consent was given.

The Secretary read as follows:

Mr. President: We, your Committee on Engrossment, beg leave to report that we have examined and compared the following ordinances, articles and resolutions, to wit:

On Amending the Constitution.

Relating to the Bonded Indebtedness of the State.

On Miscellaneous Provisions.

Ordinance 409.

Representation.

Exemptions.

Municipal Corporations.

Resolution No. 188.

And find the same to be correct.

Wm. H. Samford,

Chairman on Committee on Engrossment.

AN ORDINANCE

To Prescribe the Mode in Which the Constitution May be Amended.

Be it ordained by the people of Alabama, in convention assembled, that Article XVII of the Constitution be stricken out and the following Article inserted in lieu thereof:

ARTICLE VXII.

Mode of Amending the Constitution.

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 proposed amendment. If such election be held on the day of the general election, the officers of the general election shall open a poll for the vote of the qualified electors on the proposed amend-

ments; 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 the State, and counted, in the same manner as is done in elections for representatives in the General Assembly, and if it shall thereupon appear that a majority of the qualified electors who voted at such election upon the proposed amendments voted 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; provided, that representation in the Legislature shall be based upon population and such basis of representation shall not be changed by constitutional amendment.

2. Upon the ballots to be used at all elections provided for in Section 1, of this Article, the substance or subject matter of each proposed amendment shall be printed, so that the nature thereof shall be clearly indicated. Following each proposed amendment on the ballot shall be printed the word "Yes," and immediately following that shall be printed the word "No." The choice of the elector shall be indicated by a cross mark before the answer he desires, and no amendment shall be adopted unless it receives the affirmative vote of a majority of all the qualified electors who vote at such election.

3. No Convention shall hereafter be held for the purpose of altering or amending the Constitution of this State unless, after the General Assembly, by a vote of a majority of all the members elected to each house, has passed an act or resolution calling a convention for such purpose, the question of Convention or no Convention shall first be submitted to a vote of all the qualified electors of the State and approved by a majority of those voting at such election. No act or resolution of the General Assembly calling a Convention for the purposes 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. Provided, nothing herein contained shall be construed as restricting the jurisdiction and power of the Convention, when 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.

4. All votes of the General Assembly upon proposed amendments to this Constitution, and upon bills or resolutions calling a Convention for the purpose or 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.

THE PRESIDENT PRO TEM.—The question will be upon the adoption of the article as read. As many as favor the adoption of the article will say aye and as many as are opposed will say no, as your names are called.

Upon the call of the roll the vote resulted as follows:

AYES.

Messrs.President,
Altman,
Almon,
Ashcraft,
Barefield,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Browne,
Bulger,
Burnett,
Burns,
Cardon,
Chapman,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Eley,
Eyster,
Espy,
Foster,
Glover,
Graham, of Talladega,
Grant,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Harrison,
Heflin, of Randolph,
Henderson,
Hood,
Howze,
Inge,
Jones, of Bibb,
Jones, of Wilcox,
Kirk,
Knight,
Ledbetter,
Lomax,
Lowe (Lawrence),
Macdonald,
Malone,
Maxwell,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Norwood,
Oates,
O'Neal (Lauderdale),
O'Rear,
Palmer,
Parker (Cullman),
Pettus,
Pillans,
Pitts,
Proctor,
Reese,
Rogers (Lowndes),
Samford,
Sanders,
Sanford,
Searcy,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Stewart,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
White,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Wilson (Clarke),
Wilson (Wash'gton),
Winn.

Total—86.

NOES.

Bartlett,
Byars,
Foshee,
Grayson,
Long, (Walker),
Phillips,
Porter.

Total—7.

ABSENT OR NOT VOTING.

Banks,	Howell,	Opp,
Beavers,	Jackson,	Parker (Elmore),
Carmichael, of Colbert,	Jenkins,	Pearce,
Carmichael, of Coffee,	Jones, of Hale,	Renfro,
Carnathon,	Jones, of Montgomery,	Reynolds (Chilton),
Case,	King,	Reynolds (Henry),
Cobb,	Kirkland,	Robinson,
Cofer,	Kyle,	Rogers (Sumter),
Cornwall,	Leigh,	Selheimer,
Cunningham,	Locklin,	Sentell,
deGraffenreid,	Long (Butler),	Sloan,
Duke,	Lowe (Jefferson),	Sollie,
Ferguson,	McMillan (Baldwin),	Sorrell,
Fitts,	McMillan (Wilcox),	Spears,
Fletcher,	Martin,	Spragins,
Freeman,	Morrisette,	Studdard,
Gilmore,	Mulkey,	Tayloe,
Graham, of Montgomery,	Murphree,	Weatherly,
Heflin, of Chambers,	NeSmith,	Willet,
Hinson,	Norman,	Williams (Elmore),
Hodges,	O'Neill (Jefferson),	

And the article was adopted.

The Clerk read the engrossed article on Representation as follows:

ARTICLE ——.

Section 1. The whole number of Senators shall be not less than one fourth or more than one-third of the whole number of Representatives.

Sec. 2. The House of Representatives shall consist of not more than one hundred and five members, unless new counties are created, in which event each new county shall be entitled to one Representative. The members of the House of Representatives shall be apportioned by the General Assembly among the several counties of the State, according to the number of inhabitants in them respectively, as ascertained by the decennial census of the United States, which apportionment when made shall not be subject to alteration until the next session of the General Assembly after the next decennial census of the United States shall have been taken.

Sec. 3. It shall be the duty of the General Assembly at its first session after the taking of the decennial census of the United States in the year 1910, and after each subsequent decennial census to fix by law the number of Representatives, and apportion them among the several counties of the State, according to the number

of inhabitants in them respectively; provided, that each county shall be entitled to at least one Representative.

Sec. 4. It shall be the duty of the General Assembly at its first session after the taking of the decennial census of the United States in the year 1910, and after each subsequent decennial census, to fix by law the number of Senators, and to divide the State into as many Senatorial districts as there are Senators, which districts shall be as nearly equal to each other in the number of inhabitants as may be, and each shall be entitled to one Senator and no more; and which districts when formed shall not be changed until the next apportioning session of the General Assembly after the next decennial census of the United States shall have been taken; 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 districts shall be made up of two or more counties not contiguous to each other.

Sec. 5. Should the decennial census of the United States from any cause not be taken, or if when taken the same, as to this State, is not full and satisfactory, the General Assembly shall have power at its first session after the time shall have elapsed for the taking of said census to provide for an enumeration of all the inhabitants of this State, and once in each ten years thereafter, upon which it shall be the duty of the General Assembly to make the apportionment of Representatives and Senators as provided for in this article.

Sec. 6. Until the General Assembly shall make an apportionment of representatives among the several counties, at its first session after the taking of the decennial census of the United States in the year 1910, as herein provided, the counties of Autauga, Baldwin, Bibb, Blount, Cherokee, Chilton, Choctaw, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, DeKalb, Escambia, Fayette, Franklin, Geneva, Greene, Lamar, Lawrence, Limestone, Macon, Martin, Marshall, Monroe, Pickens, Randolph, St. Clair, Shelby, Washington and Winston shall each have one Representative; the counties of Barbour, Bullock, Butler, Calhoun, Chambers, Clarke, Elmore, Etowah, Hale, Henry, Jackson, Lauderdale, Lee, Lowndes, Madison, Marengo, Morgan, Perry, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker and Wilcox shall each have two Representatives; the counties of Dallas and Mobile shall each have three Representatives, and the county of Jefferson shall have seven Representatives.

Sec. 7. Until the General Assembly shall divide the State into Senatorial districts, as herein provided, the Senatorial districts shall be as follows: First District, Lauderdale and Limestone, Second District, Lawrence and Morgan; Third District, Blount, Cullman and Winston; Fourth District, Madison; Fifth District, Jackson

and Marshall; Sixth District, Etowah and St. Clair; Seventh District, Calhoun; Eighth District, Talladega; Ninth District, Chambers and Randolph; Tenth District, Tallapoosa and Elmore; Eleventh District, Tuscaloosa; Twelfth District, Fayette, Lamar and Walker; Thirteenth District, Jefferson; Fourteenth District, Pickens and Sumter; Fifteenth District, Autauga, Chilton and Shelby; Sixteenth District, Lowndes; Seventeenth District, Butler, Conecuh and Covington; Eighteenth District, Bibb and Perry; Nineteenth District, Choctaw, Clarke and Washington; Twentieth District, Marengo; Twenty-first District, Baldwin, Escambia and Monroe; Twenty-second District, Wilcox; Twenty-third District, Dale and Geneva; 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; Twenty-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, Henry.

PRESIDENT PRO TEM—The question is upon the passage of the Article on Representation. The Secretary will call the roll.

The result of the call of the roll was as follows:

AYES.

Messrs. President,	Craig,	Howze,
Altman,	Davis, of DeKalb,	Inge,
Almon,	Davis, of Etowah,	Jones, of Bibb,
Ashcraft,	Dent,	Jones, of Wilcox,
Banks,	Eley,	Kirk,
Barefield,	Eyster,	Knight,
Beavers,	Espy,	Ledbetter,
Beddow,	Fitts,	Locklin,
Bethune,	Foster,	Lomax,
Blackwell,	Freeman,	Long (Walker),
Boone,	Glover,	Lowe (Jefferson),
Brooks,	Graham, of Montgomery,	Macdonald,
Browne,	Graham, of Talladega,	Malone,
Bulger,	Grant,	Martin,
Burnett,	Grayson,	Maxwell,
Burns,	Greer, of Calhoun,	Merrill,
Cardon,	Greer, of Perry,	Miller (Marengo),
Carmichael, of Colbert,	Haley,	Miller (Wilcox),
Chapman,	Handley,	Moody,
Cobb,	Harrison,	Murphree,
Coleman, of Greene,	Heflin, of Randolph,	NeSmith,
Coleman, of Walker,	Henderson,	Norman,
Cornwall,	Hood,	Norwood,

Oates,	Rogers (Lowndes),	Thompson,
O'Neal (Lauderdale),	Samford,	Vaughan,
Opp,	Sanders,	Waddell,
O'Rear,	Sanford,	Walker,
Palmer,	Searcy,	Watts,
Parker (Cullman),	Selheimer,	Weakley,
Parker (Elmore),	Smith (Mobile),	White,
Pettus,	Smith, Mac. A.,	Whiteside,
Phillips,	Smith, Morgan M.,	Williams (Barbour),
Pillans,	Sollie,	Williams (Marengo),
Pitts,	Spears,	Wilson (Clarke),
Proctor,	Spragins,	Wilson (Wash'gton),
Reese,	Stewart,	Winn.

Total—108.

NOES.

Byars, Porter,
Foshee,

Total—3.

ABSENT OR NOT VOTING.

Bartlett,	Jackson,	Pearce,
Carmichael, of Coffee,	Jenkins,	Renfro,
Carnathon,	Jones, of Hale,	Reynolds (Chilton),
Case,	Jones, of Montgomery,	Reynolds (Henry),
Cofer,	King,	Robinson,
Cunningham,	Kirkland,	Rogers (Sumter),
deGraffenreid,	Kyle,	Sentell,
Duke,	Leigh,	Sloan,
Ferguson,	Long (Butler),	Sorrell,
Fletcher,	Lowe (Lawrence),	Studdard,
Gilmore,	McMillan (Baldwin),	Tayloe,
Heflin, of Chambers,	McMillan (Wilcox),	Weatherly,
Hinson,	Morrisette,	Willet,
Hodges,	Mulkey,	Williams (Elmore).
Howell,	O'Neill (Jefferson),	

And the Article was adopted.

MR. LONG (Walker)—I ask unanimous consent to introduce a short resolution for the purpose of having it referred.

There was objection.

MR. O'NEAL—I move that the rules be suspended in order that the gentleman may offer the resolution.

MR. LONG—It is a short resolution and no member on the floor would object to its being referred.

THE PRESIDENT—The Clerk will read the next Article.

MR. LONG—I move that the rules be suspended and that I be allowed to introduce this resolution, to be referred to the proper Committee.

MR. O'NEAL—I move that the rules be suspended and that the gentleman be allowed to introduce his resolution.

THE PRESIDENT PRO TEM—The question is, shall the rules be suspended.

Upon a vote being taken the rules were suspended.

The Clerk read the resolution introduced by Mr. Long of Walker, as follows:

Resolution No. 298, by Mr. Long (Walker):

Whereas, There is a difference of opinion in regard to the selection or election of Circuit or County Solicitors, which has been manifested to such an extent by this Convention as to leave questionable all ideas of compromise on the subject, and to leave doubtful the entire Article on Judiciary.

Therefore, with the view of harmony and in the interest of the public good,

Be it resolved by the people of Alabama in Convention assembled, That a committee consisting of the President of this Convention, and each Chairman of the several different committees of this Convention be and they are hereby appointed a special Committee to take under advisement the Article on the Judiciary Department as reported by the Committee, and report some method satisfactory for the election of Solicitors by the people or by the Legislature or by appointment, in whole or in part, that will be satisfactory, so that the said Article on Judicial Department may be taken from the table and passed by this Convention.

MR. LONG—I ask that it be referred to the Committee on Rules.

THE PRESIDENT PRO TEM—The Chair thinks that will be the proper place for it and the resolution is so referred.

MR. SANFORD (Montgomery)—I would like to introduce an ordinance.

There was objection.

MR. O'NEAL—I move the rules be suspended. The gentleman has not offered resolutions often, and I think he is entitled to that courtesy.

THE PRESIDENT PRO TEM—The question is on the suspension of the rules.

Upon a vote being taken the rules were suspended.

The Clerk read the resolution introduced by Mr. Sanford of Montgomery, as follows:

Ordinance No. 450, by Mr. Sanford:

Be it ordained by the people of Alabama in Convention assembled, That no municipality or other political division of this State shall grant a franchise, or enter into any contract which may endure for fifty years, without first submitting such franchise or contract or proposition for a contract, to the qualified electors of such municipality, or other political division of the State at an election specially held for that purpose, and unless a majority of such electors shall approve such grant, or contract, the same shall not be made or granted.

Referred to Committee on Municipal Corporations.

The Secretary read the Article on Municipal Corporations as follows:

MUNICIPAL CORPORATIONS.

Section 1. No person, firm, association or corporation shall be authorized or permitted to use the streets, avenues or alleys and public places 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 first had and obtained.

Sec. 2. The General Assembly shall not enact any law which will permit a person, firm, corporation or association of any character to pay privilege license or other tax to the State of Alabama, and relieve him or it from the payment of all other privilege and license taxes in the State.

Sec. 3. 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 electors 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 reissue of bonds lawfully issued, nor prevent the issuance of bonds in cases where the same have been authorized by laws enacted prior to the ratification of this Constitution, nor shall this Section apply to obligations incurred or bonds to be issued to procure means to pay for street and sidewalk improvements, 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 assessments 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 increased value of such property by reason of the special benefits derived from such improvements.

Sec. 4. 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 herein contained shall prevent any municipality from issuing bonds in renewal or for the refunding of 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.

Sec. 5. 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 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 6th 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, 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 and 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 one per centum per annum, and provided, further, that this section shall not apply to the cities of De-

catur, New Decatur and Cullman, which cities may from and after the ratification of this Constitution levy and collect an additional tax not exceeding three-fourths of one per centum. Such special tax to be applied exclusively to paying the current expenses of the public schools, to public improvements and to the payment of the current expenses of their city governments, 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 purpose 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 payments of 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 one per centum per year upon the value of the taxable property therein, as fixed for State taxation, for general expenses and an additional tax of not exceeding three-fourths of one per centum 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 renewal thereof and to the maintenance of its public schools and public conveniences, and provided, furthe., 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 special 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.

THE PRESIDENT PRO TEM—The question is upon the passage of the Article, the ayes and noes are required. Those in favor of the passage of the Article will say aye and those opposed no, as your names are called.

During roll call:

MR. SANFORD (Montgomery)—I ask unanimous consent to explain my vote.

Leave was granted.

MR. SANFORD—Mr. President, there are many sections in this Article which I most heartily approve, but in as much as I pledged the people of Montgomery not to vote for anything that

would raise the taxes of the people, I am compelled to vote no, for this does raise the taxes in Montgomery.

MR. COFER—I desire to change my vote from aye to no.

THE PRESIDENT PRO TEM—The Article will be ordered printed and referred to the Committee on Order, Consistency and Harmony of the Whole Constitution.

The President resumed the chair.

The call of the roll resulted as follows:

AYES.

Messrs. President,
Almon,
Altman,
Ashcraft,
Banks,
Barefield,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Browne,
Burnett,
Burns,
Cardon,
Carmichael, of Colbert,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Craig,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Eley,
Espy,
Eyster,
Fitts,
Foster,
Freeman,
Gilmore,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Harrison,
Heflin, of Randolph,
Henderson,
Hood,
Howze,
Inge,
Jones, of Bibb,
Jones, of Wilcox,
Kirk,
Knight,
Ledbetter,
Locklin,
Lomax,
Long, of Walker,
Lowe, of Jefferson,
Macdonald,
Malone,
Martin,
Maxwell,
Merrill,
Miller, of Marengo,
Miller, of Wilcox,
Moody,
Murphree,
NeSmith,
Norman,
Norwood,
O'Neal, of Lauderdale,
Opp,
O'Rear,
Palmer,
Parker, of Cullman,
Parker, of Elmore,
Pettus,
Pillans,
Pitts,
Proctor,
Rogers, of Lowndes,
Samford,
Sanders,
Searcy,
Selheimer,
Smith, of Mobile,
Smith, Mac A.,
Smith, Morgan M.,
Sollie,
Spears,
Spragins,
Stewart,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
White,
Whiteside,
Williams, of Barbour,
Williams, of Marengo,
Wilson, of Clarke,
Wilson, of Washington,
Winn.

Total—102.

NOES.

Byars,	**Oates,**
Cofer,	**Sanford,**

Total—4.

ABSENT OR NOT VOTING.

Bartlett,	Jackson,	Porter,
Beavers,	Jenkins,	Reese,
Bulger,	Jones, of Hale,	Renfro,
Carmichael, of Coffee,	Jones, of Montgomery,	Reynolds, of Chilton,
Carnathon,	King,	Reynolds (Henry),
Case,	Kirkland,	Robinson,
Cunningham,	Kyle,	Rogers, of Sumter,
deGraffenreid,	Leigh,	Sentell,
Duke,	Long, of Butler,	Sloan,
Ferguson,	Lowe, of Lawrence,	Sorrell,
Fletcher,	McMillan (Baldwin),	Studdard,
Foshee,	McMillan, of Wilcox,	Tayloe,
Haley,	Morrissette,	Weatherly,
Heflin, of Chambers,	Mulkey,	Willet,
Hinson,	O'Neill (Jefferson),	Williams, of Elmore.
Hodges,	Pearce,	
Howell,	Phillips,	

And the Article was adopted.

Leave of absence was granted to Mr. Sollie indefinitely on account of sickness in his family; to Mr. Williams (Marengo) for Thursday, Friday and Saturday.

MR. FOSTER (Tuscaloosa)—I ask unanimous consent to be allowed to make a report from the Committee on Amending the Constitution.

Leave was granted.

THE PRESIDENT—The report will be taken up after the Article on Exemptions is read and sent to the Committee on Harmony.

The Secretary read the Article on Execptions as follows:

ARTICLE ——.

EXEMPTED PROPERTY.

Section 1. The personal property of any resident of this State, to the value of one thousand dollars, to be selected by such resident, shall be exempted from sale on execution, or other process of any court, issued for the collection of any debt contracted since the 13th day of July, 1868, or after the ratification of this Constitution.

Sec. 2. Every homestead not exceeding eighty acres and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any city, town or village, or in lieu thereof, at the option of the owner, 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 13th day of July, 1868, or after the ratification of this Constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of said homestead by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same.

Sec. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of any debt contracted since the 13th day of July, 1868, or after the ratification of this Constitution, in all cases, during the minority of the children.

Sec. 4. The provisions of Section 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.

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.

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.

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.

THE PRESIDENT—The question will be upon the final passage of the Article. Those who favor the passage of the Article will say aye and those opposed no, as your names are called.

The roll call resulted as follows:

AYES.

Messrs. President,	Banks,	Blackwell,
Almon,	Barefield,	Brooks,
Altman,	Beddow,	Browne,
Ashcraft,	Bethune,	Bulger,

Burnett,
Burns,
Cardon,
Carmichael, of Colbert,
Chapman,
Cobb,
Cofer,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Craig,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Eley,
Eyster,
Espy,
Fitts,
Foster,
Freeman,
Gilmore,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Harrison,
Heflin, of Randolph,
Henderson,
Hood,
Howze,
Inge,
Jenkins,
Jones, of Bibb,
Kirk,
Knight,
Ledbetter,
Locklin,
Lomax,
Lowe, of Jefferson,
Macdonald,
Malone,
Martin,
Maxwell,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Murphree,
NeSmith,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pettus,
Pillans,
Pitts,
Porter,
Proctor,
Reese,
Rogers (Lowndes),
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Sollie,
Spears,
Spragins,
Stewart ,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
White,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Wilson (Clarke),
Wilson (Wash'gton),
Winn.

Total—106.

NOES.

Byars,

Total—1.

ABSENT OR NOT VOTING.

Bartlett,
Beavers,
Boone,
Carmichael, of Coffee,
Carnathon,
Case,
Cunningham,
deGraffenreid,
Duke,
Ferguson,
Fletcher,
Foshee,
Haley,
Heflin, of Chambers,
Hinson,
Hodges,
Howell,
Jackson,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
King,
Kirkland,
Kyle,
Leigh,
Long, of Butler,
Long, of Walker,

Lowe, of Lawrence,	Phillips,	Sloan,
McMillan, of Baldwin,	Renfro,	Sorrell,
McMillan (Wilcox),	Reynolds (Chilton),	Stoddard,
Morrisette,	Reynolds, of Henry,	Tayloe,
Mulkey,	Robinson,	Weatherly,
O'Neill, of Jefferson,	Rogers (Sumter),	Willet,
Pearce,	Sentell,	Williams (Elmore).

And the Article was adopted.

The clerk read the report from the Committee on Amending the Constitution as follows:

Ordinance No. 499, with substitute by Mr. Browne:

Report of the Committee on Amending the Constitution and Miscellaneous Provisions.

Mr. President: Your Committee on Amending the Constitution and Miscellaneous Provisions, to which was referred Ordinance No. 449, by Mr. Browne of Talladega, has instructed me to report favorably the said ordinance with the following substitute for the same, which they recommend be adopted, the said substitute having been agreed upon in writing by those opposing and those favoring said ordinance No. 449. Respectively submitted,

J. M. Foster, Chairman.

AN ORDINANCE

To Repeal so Much of Ordinance No. 390, as Amended and Adopted by This Convention, Which Applies to Beats 8, 9 and 13, of Shelby County.

Be it ordained by the people of Alabama, in convention assembled, that the substitute for Ordinance No. 390, to provide for the establishment of a court house and jail in St. Clair County, as amended by providing for the establishment of a court house and jail in Shelby County, which has been adopted by this Convention, be, and the same is hereby, repealed, so far as the same applies to Beats 8, 9 and 13 of Shelby County.

THE PRESIDENT—The article will be ordered printed and referred to the Committee on Order, Consistency and Harmony of the Whole Constitution.

The Secretary will read the article on amending the Constitution.

The Secretary read the article 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.

1. No person holding an office of profit under the United States, except postmasters, whose annual salaries do not exceed two hundred dollars, shall during his continuance in such office hold any office of profit under this State; nor shall any person hold two offices of profit at one and the same time under this State except Justices of the Peace, Constables, Notaries Public and Commissioners of Deeds.

2. The salary, fees or compensation of any officer holding any civil office of profit under this State or any county or municipality thereof, shall not be increased or diminshed during the term for which he shall have been elected or appointed.

3. It is made the duty of the General Assembly to enact all laws necessary to give effect to the provisions of this Constitution.

THE PRESIDENT—The question is on the final passage of the article.

Upon the call of the roll the vote resulted as follows:

AYES.

Almon,	Davis, of Etowah,	Locklin,
Altman,	Dent,	Lomax,
Ashcraft,	Espy,	Long (Walker),
Banks,	Foster,	Lowe (Jefferson),
Barefield,	Graham, of Talladega,	Lowe (Lawrence),
Beavers,	Grant,	Macdonald,
Beddow,	Grayson,	Martin,
Bethune,	Greer, of Calhoun,	Maxwell,
Blackwell,	Greer, of Perry,	Merrill,
Boone,	Haley,	Miller (Marengo),
Brooks,	Handley,	Murphree,
Bulger,	Harrison,	Norwood,
Burnett,	Heflin, of Randolph,	Oates,
Burns,	Henderson,	O'Neal (Lauderdale),
Cardon,	Hood,	O'Rear,
Carmichael, of Colbert,	Howze,	Palmer,
Chapman,	Inge,	Parker (Cullman),
Cobb,	Jackson,	Parker (Elmore),
Coleman, of Greene,	Jones, of Bibb,	Pettus,
Coleman, of Walker,	Jones, of Wilcox,	Pillans,
Cunningham,	Kirk,	Porter,
Davis, of DeKalb,	Knight,	Proctor,

Reese,
Rogers (Lowndes),
Samford,
Sanders,
Searcy,
Selheimer,
Smith, Mac. A.,
Smith, Morgan M.,
Spragins,
Stewart,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
White,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Wilson (Clarke),
Wilson (Wash'gton),
Winn,

Total—89.

NOES.

Bartlett,
Byars,
Foshee,
Phillips,

Total—4.

ABSENT OR NOT VOTING.

Messrs. President,
Browne,
Carmichael, of Coffee,
Carnathon,
Case,
Cofer,
Cornwall,
Craig,
deGraffenreid,
Duke,
Eley,
Eyster,
Ferguson,
Fitts,
Fletcher,
Freeman,
Gilmore,
Glover,
Graham, of Montgomery,
Heflin, of Chambers,
Hinson,
Hodges,
Howell,
Jenkins,
Jones, of Hale,
Jones, of Montgomery,
King,
Kirkland,
Kyle,
Ledbetter,
Leigh,
Long (Butler),
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Miller (Wilcox),
Moody,
Morrisette,
Mulkey,
NeSmith,
Norman,
O'Neill (Jefferson),
Opp,
Pearce,
Pitts,
Renfro,
Reynolds (Chilton),
Reynolds (Henry),
Robinson,
Rogers (Sumter),
Sanford,
Sentell,
Sloan,
Smith (Mobile),
Sollie,
Sorrell,
Spears,
Studdard,
Tayloe,
Weatherly,
Willet,
Williams (Elmore).

So the article was adopted.

MR. LEDBETTER—I ask unanimous consent to introduce an ordinance which has nothing to do with the Solicitors or Sheriffs, and which I would ask to have referred to the Committee on Judiciary.

Leave was granted.

The Secretary read the ordinance as follows:

Ordinance No. 451 by Mr. Ledbetter:

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 Talladega county within the limits of precincts numbered 9, 10, 11, 12 and 13 of 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 Talladega county to order an election to be held in precincts number 9, 10, 11, 12 and 13 in said 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 for such election shall be appointed, and the election in all things conducted in accordance with the laws governing general elections. Upon the ballot to be used in 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 Sheriffs and other county officers. At the place receiving the highest number of votes at such 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 and 13.

The venue of all sections and suits (other than such as are to be tried before Justices of the Peace), in which only residents of that portion of said precincts 9, 10, 11, 12 and 13 of said county are defendants, shall, except as otherwise provided by law, be at the court house herein provided for.

Second—The Court of County Commissioners of Talladega 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 Talladega county to the amount of ten thousand ($10,000) dollars, the proceeds to be used 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 temporarily equip and furnish the same with record books and other necessary equipments, provided, however, that if said Court of County Commissioners shall levy a tax for such purpose, such tax shall be levied on all taxable property in said county, but all of such tax shall not be levied and collected in one year. And provided further, that such court house and jail shall be completed in every way and shall be ready for the holding of court and the transaction of legal business on or before the first day of September, 1903.

Third—The Sheriff, Probate Judge, Circuit Clerk, Register in Chancery, Tax Assessor, Tax Collector and Superintendent of Education of Talladega 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.

THE PRESIDENT—The regular order this afternoon will be the consideration of the report of the Committee on Education. The Convention had under consideration Section 5, to which there was pending an amendment offered by the gentleman from Barbour, and an amendment to the amendment offered by the gentleman from Lauderdale.

Leaves of absence were granted as follows. To Mr. Reynolds of Henry, for tomorrow on account of sickness in his family; to Mr. Kyle for today.

MR. O'NEAL (Lauderdale)—I think it is unjust to those of us who oppose this Section to assume that we are unfriendly to the cause of public education. I am sure that not a gentleman who has spoken in opposition to this Section is less zealous in favor of increased facilities for public schools than the members of the Committee themselves. Our opposition is on entirely different grounds. No gentleman yet has answered the argument made by the delegate from Madison. We cannot afford to put in the Constitution a rate which is fixed and permanent and which might in the future prevent the State from reducing its taxation, or affect or impair its credit. If the prosperity of the State in the future should be as great as that pictured by the gentleman from Roanoke, if our growth, development and prosperity should grow to such an extent as he has described, then we could afford to reduce the present rate of taxation. How can we reduce the rate of taxation if you say by your Constitution that 30 cents on the $100 shall always be appropriated for the public schools? As the gentleman from Madison wisely said, suppose an individual has an income of $5,000 a year, and he fixes it by deed that $2,500 of that income should be appropriated to the education of his children, and by adversity his income should be reduced to $1,000, is he to take it all and educate his children and let them starve? Suppose misfortune should occur in the State of Alabama, and we can only judge the future by the past, and we know that in the course of time, every ten or fifteen years, great commercial panics occur,

values of property decrease, the tax rate does not bring the revenue we expect, what would be the condition of Alabama. Suppose the authorities of this State should be confronted with this proposition: You must impair the amount appropriated for the public schools or default in the interest on the public debt, which alternative are we to take? I am sure that there is not a delegate in this Convention who would not reduce the appropriation for public schools rather than jeopardize the honor and credit of the State.

MR. GREER (Calhoun)—I want to ask if you had better let your children go a little bit ragged and sometimes a little hungry and educate them than to dress them fine and feed them well and raise them up in ignorance.

MR. O'NEAL—I would rather do both. I would rather educate them and feed them too. When it comes to the question of whether I would rather let them die from hunger or educate them. I would rather feed them.

Now this is a serious practical objection to this Section. Take the State of Pennsylvania, as I heard a gentleman say: The State of Pennsylvania levys no tax on real estate. The State of Texas only has a tax rate of 30 cents, and if the State of Alabama should grow in prosperity, if oil should be found in the northern section of the State, if wealth and population should pour into our borders as described by the gentleman from Randolph, we might wish to reduce the rate of taxation to 50 cents on the $100, but here is this iron manacle in the Constitution to forbid. I am willing to offer this kind of an amendment which I think covers my objection to the Section, (I will withdraw the other amendment at the proper time):

Strike out the following words in line 3 of Section 5: "Together with the special annual tax of 30 cents on each $100 of taxable property in this State," and insert in lieu thereof the following: "Together with an annual appropriation of not less than the amount now paid by the State therefor," and add at the end of the Section the following: "And provided, further, that nothing herein contained shall be so construed as to prevent the Legislature from first providing for the payment of the State's bonded indebtedness and the interest thereon out of all the revenues of the State."

That would meet both objections, or if you had put in your Section here that the amount appropriated for schools should not be less than one-half of the State's taxation, that might not furnish an unbending rule, but if you say that it should never be less than 30 cents on the $100, if the time should ever arrive in this State when, by reason of our increased population and wealth, we desire to reduce our rate of taxation in Alabama, we would be confronted by the fact that we would have to appropriate 30 cents on the $100

for the public schools, when probably 10 cents would be amply sufficient, or 20 cents, if the State grows in wealth and power, might not 30 cents on the $100 raise more than could be wisely appropriated for educational purposes? Why not? Who can answer the question? Suppose it should raise more. It might be that one mill or two mills would be all that was necessary for the general purposes of the State outside of education, and if 30 cents raised more than was necessary for the public schools, you could not reduce it. The gentleman says that might not occur and will not occur. How do you know? We are making a Constitution for twenty-five or fifty years to come, and we do no want to go to the people of Alabama and say that we have fixed it in the fundamental law of Alabama so that it makes no difference how great your revenues may be, whether they are more than necessary for the public schools or not, you never can reduce the tax rate in Alabama below 65 cents on the $100. In the past you have had it at 50 cents, and the State has grown and prospered, but in the future you can never reduce it below 65 cents because two and a half mills will probably always be necessary for the general expenses of the State.

Now the gentlemen say it is popular to adopt this section. That is not the question. It is not a question of popularity. It is a question of principle. We ought not to do anything here that will affect or impair the credit of the State or prevent her bonded debt from being floated at a low rate of interest. We should not sacrifice principle to expediency. They say that this section would not have that effect. Wouldn't it have that effect when you go to the monied world and say to them: By our Constitution we can only appropriate two and a half mills for our public debt. Heretofore you could appropriate seventy-five cents on the hundred dollars; yea, take every dollar of State taxes less the necessary expenses of government if necessary to preserve the honor and credit of Alabama, and yet by this Constitution you say to the bond buyer that under our Constitution Alabama can only take two and a half mills to pay our bonded debt, public interest and expenses of government. That is all that is left, two and a half mills.

MR. SAMFORD (Pike)—I just want to suggest that the running expenses are always preferred claims.

MR. O'NEAL—Certainly. That means simply default. That simply means we default in the public debt. What would be the condition of Alabama if we default in the public debt? Does anybody want to repudiate our public debt? Take Mississippi a few years ago, it repudiated its public debt, and it cost Mississippi millions of dollars. It prevented the influx of wealth and population into her borders, and cost her whenever she undertook to raise a loan in the financial world a rate of interest that was almost

oppressive. We should protect the credit and honor of the State above everything else. Therefore I offered the amendment which I suggest, that nothing in this section should prevent the legislature from appropriating all the revenues of the State to the payment of the bonded debt of the State and the interest on our bonded debt, and also the proposition that we make the amount appropriated to the schools not less than the amount now appropriated so that we can go to the people and say that by our Constitution the amount the schools are to receive in future can never be less than you now receive.

THE PRESIDENT—The gentleman's time has expired.

MR. O'NEAL—I ask leave before I conclude my remarks to withdraw the amendment which I offered and offer the one which I have just read as a substitute.

MR. LOWE (Jefferson)—I move that the time of the gentleman from Lauderdale be extended ten minutes.

MR. GRANT—I believe I have permission to ask a question.

THE PRESIDENT—Yes, sir.

MR. GRANT—Can you tell me how much two and a half mills will raise under the present rate of taxation.

MR. O'NEAL—I know nothing and care nothing about the figures.

MR. GRANT—I am informed that it will raise seven hundred and fifty thousand dollars.

MR. O'NEAL—The time may come when it will raise much more than we need for public schools.

MR. BULGER—Does the amendment cover amount now received by the public schools?

MR. O'NEAL—My amendment says the appropriation shall not be less than the appropriation now made.

MR. BULGER—Eight hundred and seven thousand dollars.

MR. O'NEAL—Yes, sir.

The amendment offered by Mr. O'Neal was read as follows:

"Strike out the following words in line three of Section 5: Together with the special annual tax of thirty cents on each one hundred dollars of taxable property in this State," and insert in lieu thereof the following: "Together with an annual appropriation of not less than the amount now paid by the State therefor," and add at the end of the section the following: "And provided, further, that nothing herein contained shall be so construed as to

prevent the legislature from first providing for the payment of the State's bonded indebtedness and the interest thereon out of all the revenues of the State.

MR. GRAHAM (Talladega)—I am authorized by the Committee to say, in regard to the amendment just proposed, at the end of the section, that we unanimously desire to accept the amendment so far as it relates to that part which is proposed to be added to the end of the section. The Committee does not accept the other part. They are separate and distinct. We are in favor of protecting the public debt and the interest on it above every thing, and hence we endorse the latter part of the amendment, but the other part we do not.

THE PRESIDENT—Does the gentleman wish it submitted at this time?

MR. GRAHAM—I would be glad to have that part of it submitted at this time for unanimous consent, but the other part of it relating to line three we do not accept.

THE PRESIDENT—The Secretary calls attention to the fact that it seems to be all in one amendment.

MR. GRAHAM—I then make no further request. I simply wanted to get the amendment before the Convention.

MR. BROWNE (Talladega)—I will state that when the amendment is before the Convention, a division of the question might be called for, and in that way we could have a vote upon the proviso and then vote upon the other proposition.

I heartily favor the proviso offered in that amendment, and personally, I favor the balance of the amendment offered by the gentleman from Lauderdale, but I do not desire to discuss that question. I desire simply to state that the Committee on Taxation in its investigation of the subject of lowering the rate of taxation in Alabama for State purposes, took into consideration this question of the appropriation for schools, and in every calculation that the Committee made, they provided for eight hundred thousand dollars, at least, for the public schools. They provided for the present one mill of special taxation for the public schools, and for an annual appropriation out of the general fund of five hundred and fifty thousand dollars, and, as Chairman of the Committee, I desire to say that, in my opinion, the State can safely provide, and put it in the Constitution, that not less than eight hundred thousand dollars shall be appropriated for the public schools annually, after lowering the tax rate from seventy-five cents to sixty-five cents on the one hundred dollars. That will leave, without any increase in taxable values, and without any increase of revenues from licenses, a surplus of at least one hundred thousand dollars a year. But we know, Mr. President, that taxable values have increased this over

last year over twelve million dollars; the increase will probably reach fourteen million dollars, but will certainly be over twelve million dollars, and we should not lose sight of the fact that in 1907, if there is not another dollar invested in cotton manufacturing, we will then be taxing at least forty million dollars of cotton factories. If we continue the present yearly increase in capital invested in the cotton manufacturing business, which is nine million dollars a year, we will have at least an increase of seventy-five millions of taxable property from that industry alone in 1907. But, to be conservative, say that no more money shall be invested in that business, in 1907 we will then be taxing at least forty million dollars of capital invested in the manufacturing of cotton alone not now taxable, and if our rate of increase remains the same rate that it has for the last five years, we will have fifty or sixty million dollars more. In other words, unless you calculate upon a panic, we will in 1907 have, at the lowest figure, at least one hundred million dollars more taxable property in Alabama than we have at the present time. That would yield a revenue of about two hundred and fifty thousand dollars. If the bonded indebtedness of Alabama be refunded in three and a half per cent interest bonds, we will save yearly one hundred and twenty thousand dollars. There is no question about refunding the State's bonded indebtedness, if it is done now, at as low a rate as three and a half per cent, and I have no sort of doubt but that it can be refunded now at three and a quarter per cent, and probably less. So there can be no question as to the ability of the State of Alabama to appropriate eight hundred thousand dollars to the public schools.

Now gentlemen say this does not provide for some emergency that may happen. Well, it is owing altogether to the extent and to the character of that emergency. There will be a surplus in the State Treasury, an actual as well as a bookkeeping surplus, of at least three hundred thousand dollars on the first day of October, 1902. It will probably be more than three hundred thousand dollars, but certainly not less than three hundred thousand dollars. In addition to that surplus, against which there will be nothing chargeable, there will be six hundred and seventy-five thousand dollars of actual cash balance in the Treasury, against which there will be chargeable an amount about equal to that, but it will not be payable out of that cash balance, for the reason that the receipts from licenses and taxes paid in November, December and January following will be sufficient to pay those liabilities so chargeable against that actual cash balance, without touching any part of it. Then, if, in 1903, you have a pauic, you would be ready to meet it with one million dollars. You would have your three hundred thousand dollars of actual surplus, and you would have, in round figures, six hundred and seventy-five thousand dollars of cash surplus that you could get along without, which would be

more than sufficient to meet the liabilities chargeable against that cash balance without recourse to the taxes of the next fiscal year.

Now, if such a catastrophe should happen that you could not collect your taxes, you would have this six hundred and seventy-five thousand dollars of cash balance and three hundred thousand dollars of surplus, and you would not need the taxes until that amount was exhausted.

MR. O'NEAL (Lauderdale)—What about the amendment?

MR. BROWNE—I don't care to discuss the amendment, but I will say that I personally favor the amendment. When the report of the Committee on Taxation was up, a howl came from some of the press of Alabama that we intended to cut down the school appropriation, and for the purpose of showing the good faith of the Committee on Taxation, I introduced an amendment to the Constitution, and sent it to the Committee on Education, providing that we should never appropriate less than one mill and five hundred and fifty thousand dollars, which is, in substance, this amendment of the gentleman from Lauderdale. It protects the credit of the State, and it provides that the Legislature shall never appropriate less than now for schools. If, on the other hand, the Convention should see fit to adopt the section as reported by the Committee on Education, I can see no harm in that. If values increase rapidly, the school fund will increase rapidly. If values should depreciate rapidly, the school fund will depreciate rapidly.

MR. GRAHAM (Talladega)—Does not the gentleman think that with the increase in tax values in this State there will be necessarily an increase in population, and, therefore, we would need a larger school fund?

MR. BROWNE—I do think so, and I have no objection to the section reported by the Committee, but it seems to me unnecessary to make it mandatory on the Legislature what amount shall be appropriated, nor to make the increase mandatory. I see no necessity for that. Certainly, we can trust the Legislature to increase the eight hundred thousand dollars in the future as necessity requires, and as the finances of the State will admit. But, on the other hand, if a catastrophe should come, and if values decrease rapidly, why, under the plan proposed by the Committee on Education, the educational appropriation would decrease rapidly; whereas, if that catastrophe came, and we adopted this amendment, we would have to pay the eight hundred thousand dollars no matter what was the extent of the misfortune.

MR. MALONE—I wish to support the report of the committee, especially when we consider the amendment that they have stated they would accept. With that provision, as I understand it, it ought to have the unqualified approval of this entire Conven-

tion. No man wants to interfere with the payment of the interest on the public debt. We all recognize that the debt itself cannot be paid and therefore it must be carried.

What the common schools of the country need is something certain and sure. I think that a certain and sufficient amount to bear the general expenses of the State ought to be assessed. We are assured by the very best authority that thirty-five cents on the hundred dollars is sufficient when we exclude the schools. The schools ought not to be made to bear the brunt of all short comings that may occur in times of depression.

The plan adopted by the committee regulates that in a sliding scale, and if values are decreased we collect less, and as time goes on and values increase, we will collect more. We all expect the State to improve, we all expect values to increase, and we all know that our school system must increase. This provides for it. We have to remember that in a great deal of our country there is not as much interest in that question as you think there is. We have come here to regulate taxation and make propositions applying to cities, villages and towns, but when you look at it, what have we done to interest the man who cares nothing for the election question, nor for the local city government. I am not one to go on and talk about the dear people and say this, that and the other, because I believe in doing right irrespective of what others care or think. He wants to know what benefit it is to him. We have pledged the people that we would give them better schools, if possible. I dare say there is not a delegate on this floor who spoke upon this question of a new Constitution who did not dwell upon the necessity for an improvement in the schools. Furthermore we have made it a condition of suffrage in the future that the people must have an educational qualification. We all agree that that is the meaning of the provision, and I for one have pledged my people that when we required that, we would also say in the Constitution that we would give them better schools. One of the first conditions for better schools is something that is certain, something that is sure. Give them a good foundation that can be relied on. If thirty-five cents is not enough, make it forty-five cents, or thirty cents if that is enough, but do not make the schools dependent on everything else. We all agree that the interest on the bonded debt of the State shall be taken care of. Then let the balance of the rise in values go——

MR. O'NEAL (Lauderdale)—Suppose the time should arrive in the future when thirty cents on a hundred dollars would yield more revenue than was necessary to support the public schools, then we would be in a position where we could not reduce taxes.

MR. MALONE—Why, sir, I expect the time to come when we will pay fifty cents altogether.

MR. O'NEAL—For the public schools?

MR. MALONE—Yes, sir, I certainly do.

MR. O'NEAL—You expect that to be the case in Alabama?

MR. MALONE—I certainly think so. I, for one, never expect to be satisfied with a dollar and forty cents a year for schooling of a child in this State, and I certainly hope that the time will come——

MR. O'NEAL—My question is if thirty cents yields more than is necessary, more than the Legislature or the people deem necessary, for the support of the public schools, wouldn't you have it in the Constitution, and it could not be reduced?

MR. MALONE—Yes, sir. Thirty cents will give an increased amount, as the conditions improve. I believe in progression. I am not satisfied with the schools now. I accept them because we cannot do any better, but when we can do better, I want to do it. If I didn't think this thirty cents would provide for it, I would demand something that would provide for it. As I see it, it is the only thing we can do, and I wish unqualifiedly to endorse that proposition, especially as I am assured by the Committee on Taxation that thirty-five cents is certainly sufficient to take care of everything else, and I am opposed to the schools having to bear the brunt of these other things.

MR. OATES—I have listened to this discussion with a good deal of interest. These are questions to which I have given some thought heretofore. This Convention seems to have the idea in reference to the ability of the States in future, that we will continue to grow and tax values increase all the time with no set-back at all. They remind me of our Southern people who engage in speculating in cotton futures. They nearly always lose, because in that game they are betting upon higher prices, as this is a cotton producing section. They are looking altogether for good times, and never making any allowance for a panic. Financial panics have come in the past. They come along periodically, sometimes in ten years, sometimes in fifteen years or twenty years, but they are sure to come. They always do. Now, sir, it seems to me that the error of this proposition is this: They want to provide certainly for so much money in any event to be appropriated for the public schools and let other interests of the State take care of themselves and take their chances on panics or anything else that may come along. I believe they have in it now a provision to provide for the payment of the interest on the public debt. That is well, but you are going to fix a certain amount, in any event, for the schools, and a certain amount to pay the interest on the public debt, although your old Confederate soldiers and the widows of those who fought gallantly, are indigent, and most of them got

in such a state of poverty in consequence of disabilities incurred in that service, and they may look and look in vain to the Treasury of the State for aid. It is a wrong hypothesis we are adopting. We should provide for all the necessary expenditures of the Government, the proper current expenses, reasonable Confederate pensions and should provide likewise for our other institutions. There is the insane asylum, an institution of the very greatest humanity and splendidly conducted. Is that to fall short in case of a panic, because of no funds to provide for those helpless inmates? Then if any gentleman wants to see and have impressed upon him the importance of schools of a charitable nature, let him visit Talladega and see the schools there for the blind, deaf and mute, and would he not put them on a permanent basis in preference to the common schools? Let us provide that these expenses of the State shall be met, as does the present Constitution. I have been looking at that, and think it wise. It provided for an appropriation of so much out of the Treasury, and for an increase for school purposes to the utmost extent that the financial condition of the Treasury and the people of the State would warrant. Have we got to fix it in the Constitution that there must be so much, in order that you may say to the people, "see what we have done for your schools; that much has got to come whether anything else be provided for or not." That is not wise statesmanship. Provide for the schools always as well as we can, because the old policy of letting every man educate his children has ceased to exist. Now the intent and purpose is to make the property of the State educate the children of the State. That is the policy, but let us provide for the necessary expenditures to run our State Government, and to meet and provided for those charities that are overwhelming in their claims. In any event, let them all be provided for, and then let your Legislature, consisting of patriots and men who desire to see our educational institutions flourish, provide for our schools, and I point to the record of the Legislature on that subject for a vindication of its action and point the people to it, to which they can justly look with the expectation of having every dollar, that can be spared from other necessary and indispensible appropriations to run the schools, and I would prefer to any amendment that has been offered, the provision in the present Constitution that fixes the minimum. If you want to, fix a minimum a little higher than that, but it don't seem from legislative action in the past to be necessary, as they always appropriate all the money that can be spared over and above the necessary expenses, to these public schools. That is safe. That is wise. That is a proper basis upon which this Convention ought to act, in my judgment.

MR. BULGER—Mr. President, I have been very much interested in many of the articles that have been adopted by this Convention, but I am free to confess that I am more interested in this one than in any of them. I like the latter part of the amendment

offered by the gentleman from Lauderdale, because it protects the honor of the State. We are all agreed on one proposition, and that is that the prosperity and welfare of our governmental institutions depends upon the intelligence and integrity of our people. It is the experience of all the States of the Union that the appropriation from the Treasury for the support of the public schools is money well spent. We are all agreed on that proposition. Then the question with which we are confronted is ways and means. How shall it be done?

If this appropriation remains in the Constitution, it will be a realization and a guarantee to the people of Alabama, in my humble judgment, of their fondest hopes. If it is stricken out it will carry disappointment and depression to the people of the State. This Committee is composed of nineteen conservative and intelligent gentlemen. They come from every section of this State. They have spent sixty days in thorough investigation of this question, and they stand united. They stand unanimous for this part of this report that leaves the three mills in the Constitution for the support of the schools. It is urged that it is not a proper subject to be in the Constitution that it properly belongs to the Legislature. I am surprised at some of the gentleman who argued that way, and yet am gratified, even at this late hour, that they have some confidence left in the Legislature. I have faith in this Convention, the representatives of the people, and so far as I have seen, I desire to say that this Convention is superior to the Legislature in only one particular, and that is numbers.

Now should it be left in the Constitution is the question? We only disagree as to whether it should be put in the fundamental law of the State, or whether it should be left to the wisdom of the Legislature. We have precedent, gentlemen, to leave it in the Constitution. The fathers that make the Constitution of 1875 put it in the Constitution. It is now in the old Constitution, that we are revising and amending, and I fail to hear any gentleman give any reason that is plausible why we should strike it out in this day of progress and educational interest in Alabama. Now is it too much? The appropriation now, under the law of this State, is $1,100,000 to the public school fund. We have $550,000 appropriation out of the general fund. We have $250,000 which is appropriated under the one mill tax. We have $150,000 of poll tax, and then we have the Sixteenth Section fund of about $160,000, which makes $1,100,000. The people of Alabama are interested, it is true, in the suffrage question, but if you will go among the people in the country, you will find that they are no less interested in the welfare of the schools in which they must of necessity educate their children. Now is it safe to leave this appropriation in the Constitution? Is there a possibility of the panic that my friend from Montgomery (Mr. Oates) suggests. The taxable values of this State from 1875, when the old Constitution was

made, until 1901, when the new Constitution is made, has more than doubled, and in the past four years, since 1896, $24,000,000 have been added to the tax value of our State. I submit, my friends, that it is unnecessary alarm that these gentlemen sound to this Convention. I believe that the taxable values in the next twenty-five years will increase much more rapidly than they have in the past twenty-five years. I have faith in the judgment and the foresight of my distinguished friend from Randolph, (Mr. Handley), and he says it is so.

Now this is like appropriating the surplus in the Treasury to the support of the common schools in the State. The history of the finances of Alabama for twenty-five years has shown, that with the present rate of taxation, we are doing nothing more nor less than appropriating the surplus in the treasury to the support of the public schools in the State. Last year on the 30th of September we had about a half million dollar surplus in the treasury. That does not look like a scarcity of money, notwithstanding the extravagance of the legislature who years ago, that made more appropriations out of the treasury than any legislature since the war, except the one of last year. Those appropriations were met and paid off promptly, and still when they wound up on the 30th of September, 1900, they had a half a million dollar surplus in the treasury. I, for one, am opposed to its lying there. I am in favor as early as possible, of paying it out, to what I conceive to be the most laudable purpose that can be imagined, to the support of the public schools in the State. The Asylum at Tuscaloosa is in no danger. They get all the money they need and still we have a surplus in the treasury. The University is in no danger. We paid the normal schools throughout the State seven thousand five hundred dollars a piece last year, and still there is a surplus in the treasury.

Now the people in Alabama are expecting that the public school interests in this State will be protected, and that they have a guarantee from this Convention that they will be protected. When you do that, my friends, and connect it with the grandfather clause in the Suffrage Article in my humble judgment no proposition has been so popular before the people of Alabama.

THE PRESIDENT—The time of the gentleman has expired.

MR. SANDERS—I rise to a question of personal privilege. On the vote whereby the article on the "Amending the Constitution," Article No. XVII, was adopted, I inadvertently voted aye, when it was my intention to vote no. I desire leave to be recorded as voting no. I do this because I am opposed to the Constitution providing that the basis of representation shall not be changed by amendment. I voted that way when the Article was under consideration, and I desire to be consistent, and ask leave to be recorded as voting no.

MR. SAMFORD (Pike)—I dislike very much to object to anything of that sort, but this will have the effect of putting the gentleman upon record, and if we start anything of this sort there will be no end to it, and I therefore object to it.

MR. REESE—I move that the rules be suspended and that the gentleman be allowed to record his vote in the way he desires.

THE PRESIDENT—It seems to the Chair it could only be done by unanimous consent.

MR. WHITE—I voted the same way and under the same misapprehension, and of course without consent I could not change my vote from aye to no, but I would like for the Convention to consent for me to make that change. If it does not, I desire to make this statement in explanation of my position.

THE PRESIDENT—The stenographer will take note of the statements of the gentlemen.

MR. GRAHAM (Talladega)—Gentlemen of the Convention, this question——I yield to the gentleman from Lee.

MR. HARRISON—I desire to make the same statement as made by the gentleman from Jefferson, Mr. White. I intended to vote against the passage of that measure. I voted against its adoption, and not hearing sufficiently when it was passed I voted aye when I desired to vote no.

THE PRESIDENT—The stenographer will take note of the statement of the gentleman from Lee.

MR. BOONE—I desire to vote aye on the Article on Exemptions. I wasn't present at the time, and I ask unanimous consent to be allowed to vote aye.

MR. SAMFORD (Pike)—I make the same objection.

THE PRESIDENT—The Chair could not entertain a request of that kind without unanimous consent. It would create a precedent here and we would never get through with the business before us.

MR. PROCTOR—I desire for the same reason to be recorded as voting no on the Article on Representation.

THE PRESIDENT—There is objection. The gentleman may state how he would have voted.

MR. PROCTOR—I would have voted no.

THE PRESIDENT—The stenographer will take note of it.

MR. GRAHAM (Talladega)—Mr. President and gentlemen of the Convention, the Committee on Education desires to be fair

and conservative in all these matters, and we have heard extensive discussions upon this subject. I want to meet the argument made by the gentleman from Lauderdale in behalf of his amendment which provides that the school fund shall be kept the same as it is now. The first objection to it is that it is indefinite. Who knows what "it is now," except a few officials, and in a few years it will be a meaningless section in the new Constitution. The objection that he makes to thirty cents as a permanent public school fund is that possibly in a few years ten cents will be enough. The gentleman must make that statement in total ignorance of the fact that the public school term in Alabama last year for white schools was sixty-eight days, less than three months and a half, and the school teachers drew the pitiful salary of twenty-five dollars and five cents per month for that length of time. I am surprised that that gentlemen who earn good fees and draw good salaries and have positions the year round can make such statements as this in the case of the fact that school teachers in the State draw less than one hundred dollars per annum for their services, and the children go to school less than seventy days in the year. Talk about the possibility of the time coming when ten cents will do, when thirty cents is doing no more than that now!

MR. SAMFORD (Pike)—A friendly suggestion: I would just like to hear the advisability of doing it. Our ability to make it thirty cents, if I can be convinced of that I would be glad to vote on it.

MR. GRAHAM—This Convention was convinced of that, it seems to me, by an overwhelming majority, when it voted that the tax rate should be limited to sixty-five cents in this State, and at the same time put its pledge upon that that the school fund and the soldiers fund should not be touched, and the distinguished gentleman from Randolph, a member of that Committee, and the Chairman of that Committee, came before you today after careful investigation and they make you that pledge, and if you will not be convinced by that it seems to me the Convention is determined that it will not be convinced. Thirty cents is a sliding scale and if the most extreme dreams that are indulged here in regard to the increase in tax values should come true, I tell you that with it will come an increased population, and increased responsibility to meet their necessities, and I ask in all seriousness are you as, delegates, framing a new Constitution in the twentieth century, willing for it to go down in history that the great State of Alabama will make no further provision for public schools than four months in the year, and hold teachers at a salary of twenty-five dollars per month? (Applause.) It will be writing disgrace and shame forever upon the fair brow of our beloved Alabama to make this declaration to the enlightened people of the United States. How do we stand now? Georgia, of the Southern States leads off with

$1,258,000. Virginia with $964,000 from the State and $943,000 from local taxation; South Carolina with $760,000, adding to that $215,000 as local; Tennessee, $1,407,000 from the State, with the local not given; Mississippi with $630,000 from the State and $413,000 local; Texas with $3,118,000 from the State and $868,000 local. When we come down to the average adult per capita tax and Virginia has $2.45; South Carolina, $2.08; Georgia, $2.72; Tennessee, $3.16; Mississippi, $2.07; Texas, $4.40, and Alabama closes the list at the humiliating sum of $1.17 per capita on the adult male population for public schools.

MR. DENT—Is there a constitutional provision in any of these States fixing the amount, the percentage?

MR. GRAHAM—There is no constitutional provision that I know of, but that amount is given. I ask the gentleman from Barbour if he objects to the State of Alabama in its constitution making a pledge to the people as to what it will do for the people on the public school fund? That is the question?

MR. DENT—Do you wish me to answer that?

MR. GRAHAM—I do, briefly.

MR. DENT—I think we can leave it to the Legislature and, judging the future by the past, they will amply take care of the public schools.

MR. GRAHAM—That is the point that I want to come to now. The State officials of Alabama cannot forecast in their messages and reports to the Legislature what the tax rate should be, because they do not know what the Legislature is going to do on the school question. I want it fixed so that whatever surplus may accumulate in this State will be an index to the Legislature that they may, after providing for additional needs of the schools, reduce the tax because the Constitution has already fixed the annual appropriation that the public schools shall receive. The public schools should not be a foot-ball for the Legislature or anybody else, and under this plan, they will rise to the dignity, that they don't have to come to the back-door of the Capitol, as insinuated by the gentleman from Montgomery, to get what they deserve. They will come, as a matter of right, and not as mendicants to the State, for aid. They are not mendicants, and I ask that the Convention shall write it in the bond that public schools are not mendicants. Now, then, do not forget this proposition, that we are not asking you to give us in the Constitution as much as we are now receiving, although our public school term is less than four months and the teachers are working on the pitiful monthly salary of $25. If the poll tax should fall off $50,000 under the new suffrage law, then the schools are off $86,000 to begin with. The new Constitution should show progress on education, and not retrogression. Why, they say adopt the old Constitu-

tion which in the minimum sum of one hundred thousand dollars. We would invite the contempt and the finger of scorn of the enlightened sentiment of the Union by writing that kind of a clause in a Constitution made in the year 1901. Are we asking for immigration in this State, or shall we encourage emigration? If you want to invite immigration, write it in the Constitution that three mills shall be devoted to education, and immigration will come. If you do not want it, write it that you will have one hundred thousand dollars as the minimum and leave the public schools as the football of the Legislature, and no more immigration will come, but I cannot pledge you what will take place on the line of emigration. We have already declared that after 1903 that suffrage in this State shall be based upon intelligence or property, and I pray you answer me what expectations can the uneducated people of this State have that they can qualify to come in under the intelligence clause; and if there is a man here who is skeptical upon the question whether intelligence produces wealth, I want to assure him that it not only produces wealth, but that it promotes virtue, and if we are to have suffrage based upon wealth, give us an intelligence which will not only produce wealth, but along with it will promote virtue and good government in Alabama.

MR. LONG (Walker)—I move to extend the time of the gentleman from Talladega ten minutes.

Upon a vote being taken, the time of the gentleman from Talladega was extended ten minutes.

MR. GRAHAM—I thank you, gentlemen, and will try to get through in less than ten minutes.

In connection with intelligence and wealth, I desire to quote words, than which none more forceful nor more fraught with wisdom have fallen upon the ears of the delegates of this Convention, from the opening address of our distinguished President:

"The productive power of labor in Massachusetts is said to be nearly double that of every inhabitant of the whole United States, and the reason assigned is the superior educational advantages furnished to her people."

Gentlemen, do you know that in many sections of Alabama, that there are proud homesteads that stand dismantled and deserted, almost in the crumbling ruins of desolation itself? And why? Because the people who formerly lived in those homes, on account of the lack of social advantages and social intercourse, and educational advantages for their children, have closed their homes and moved into the towns and cities to educate their children. There are those, less fortunate, unable to get away, that remain behind them. Sitting there in the densest gloom that can

come upon a people from whom the light of Hope has almost gone out, they are anxiously looking for the light which it seems will never come, and I plead with you today that by your action in adopting this section for a 3 mill tax, to show to them

"The crimson streak on oceans cheek,

Which tells of the coming dawn."

With them, this light will never pierce the gloom until you provide means for the education of the children in those homes. The virtue of this great State is gathered around the hearthstones of the people, whether those homes be intelligent or ignorant, I beg you to come up in the manhood that should characterize patriotic citizens, and do your whole duty by the people to whom you have said in the Suffrage Article only those that possess intelligence of property shall vote after January, 1903.

Now, Mr. President, I do not care to argue this matter further. I move to lay the amendments now pending on the table, with the view, if the motion prevails, of offering the latter part of the amendment of the gentleman from Lauderdale, that is, that the credit of this State shall be protected, and that the interest on the bonded debt shall be a preferred claim; and if the motion should prevail, I will offer that amendment by the unanimous request of the Committee on Education. I, therefore, move to table the amendments to Section 5.

THE PRESIDENT—The motion is to table the amendment offered by the gentleman from Barbour, and the amendment offered by the gentleman from Lauderdale.

MR. WATTS—I call for a division of the question.

Upon a vote being taken upon the amendment offered by the gentleman from Lauderdale, the same was tabled.

THE PRESIDENT—The question recurs upon the amendment offered by the gentleman from Barbour.

MR. WATTS—I call for the ayes and noes on that.

The call was not sustained.

The amendment of the gentleman from Barbour was read as follows: "Amend Section 5 of Article on Education by striking therefrom the following words, 'together with the special annual tax of thirty cents on each hundred dollars of taxable property of this State,' in lines three and four of said section, and insert in lieu thereof the following, 'together with such sum as the Legislature may decide.'"

Upon a vote being taken, the amendment of the gentleman from Barbour was laid upon the table.

MR. GRAHAM (Talladega)—I ask unanimous consent that this be placed as an amendment at the close of Section 5. I offer it as an amendment, and ask that it be read:

"Amend Section 5 by adding at the end the following, 'and providing further that nothing herein contained shall prevent the Legislature from first providing for the payment of the State's bonded indebtedness and interest thereon out of all the revenues of the State.'"

Now I move the previous question on the amendment and the section.

THE PRESIDENT—The gentleman from Talladega moves the previous question upon the section and amendment. The question is shall the main question be now put?

MR. JONES—I appeal to the gentleman to withdraw that until I can send up an amendment. You can vote it down. We want to help him.

MR. GRAHAM—I will look at the gentleman's amendment if he will give me time.

MR. JONES—I do not want to discuss it. I will not open my lips.

MR. GRAHAM—Mr. President, I am in full sympathy with that matter but I do not think it belongs under the head of education, and I decline to withdraw the motion for the previous question. If it belonged to the article on education I would put it in.

MR. JENKINS—I move to lay the motion for the previous question on the table.

THE PRESIDENT—That is not in order.

MR. JENKINS—The Chair has ruled that it will take precedence after the previous question is ordered. If it can take precedence after the previous question is ordered, I do not see why it cannot take precedence before it is ordered.

THE PRESIDENT—The motion to table it seems to the Chair, if the gentleman submitted it directly to the amendment to the section would be in order, but when the previous question is moved the Convention can either adopt it or reject it. It seems to the Chair, unless the gentleman has some authority to the contrary, the Chair will overrule the point.

MR. JENKINS—It is in our rules——

MR. GRAHAM (Talladega)—I have not yielded the floor for the gentleman to make any motion.

There were calls for the question.

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

Upon a vote being taken a division was called for and by a vote of 59 ayes and 40 noes the previous question was ordered.

THE PRESIDENT—The question will be first upon amendment offered by the gentleman from Talladega, which is acceptable as he states to the members of the Committee on Education.

Upon a vote being taken the amendment was adopted.

MR. JENKINS—I give notice that on tomorrow I will move to reconsider the vote.

Mr. Dent sought recognition.

THE PRESIDENT—The question now is upon the adoption of Section 5 as amended.

Upon a vote being taken the Chair stated the ayes seemed to have it.

THE PRESIDENT—For what purpose does the gentleman rise?

MR. DENT—I ask for the ayes and noes.

MR. OPP—It is too late.

THE PRESIDENT—The Chair thinks if the demand is made, it is not too late. The ayes and noes are demanded. Is the call sustained?

The call was sustained.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,	Carmichael, of Colbert,	Grayson,
Almon,	Cobb,	Greer, of Perry,
Altman,	Cofer,	Handley,
Ashcraft,	Coleman, of Greene,	Heflin, of Randolph,
Barefield,	Davis, of DeKalb,	Howze,
Bartlett,	Davis, of Etowah,	Inge,
Beavers,	Eyster,	Jenkins,
Beddow,	Espy,	Jones, of Bibb,
Bethune,	Ferguson,	Jones, of Wilcox,
Blackwell,	Foshee,	Kirk,
Boone,	Foster,	Knight,
Browne,	Freeman,	Ledbetter,
Bulger,	Gilmore,	Locklin,
Burnett,	Glover,	Lowe (Jefferson).
Byars,	Graham, of Talladega,	
Cardon,	Grant,	

Lowe (Lawrence),
Macdonald,
Malone,
Martin,
Maxwell,
Miller (Marengo),
Miller (Wilcox),
Mulkey,
Norman,
Norwood,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pettus,
Phillips,
Pillans,
Porter,
Proctor,
Reese,
Rogers (Lowndes),
Sanders,
Smith (Mobile),
Smith, Mac. A.,
Spragins,
Stewart,
Thompson,
White,
Williams (Barbour),
Wilson (Clarke),
Wilson (Washington),

TOTAL—79

NOES

Banks,
Chapman,
Craig,
Dent,
Eley,
Henderson,
Jones, of Montgomery,
Merrill,
Murphree,
Oates,
Pitts,
Sanford,
Searcy,
Selheimer,
Vaughan,
Waddell,
Walker,
Watts,
Whiteside,

TOTAL—19

ABSENT OR NOT VOTING

Brooks,
Burns,
Carmichael, of Coffee,
Carnathon,
Case,
Coleman, of Walker,
Cornwall,
Cunningham,
deGraffenreid,
Duke,
Fletcher,
Graham, of Montgomery,
Haley,
Heflin, of Chambers,
Hinson,
Hodges,
Hood,
Howell,
Jones, of Hale,
King,
Kirkland,
Kyle,
Leigh,
Lomax,
Long (Butler),
McMillan (Baldwin),
McMillan (Wilcox),
Moody,
Morrisette,
NeSmith,
O'Neill (Jeffersogn),
Pearce,
Renfro,
Reynolds (Chilton),
Reynolds (Henry),
Robinson,
Rogers (Sumter),
Samford,
Sentell,
Sloan,
Smith, Morgan M.,
Sollie,
Sorrell,
Spears,
Studdard,
Tayloe,
Weakley,
Weatherly,
Willet,
Williams (Marengo),
Williams (Elmore),

PAIRED

AYES

Fitts,
Greer, of Calhoun,
Long (Walker),

NOES

Winn,
Harrison,
Jackson.

During roll call:

MR. WEAKLEY—On the section as reported by the committee I was paired with Mr. Spears. If he were present he would have voted aye and I would have voted no. Since the section has been amended it meets my views, and I desire to be recorded as voting aye.

And the section was adopted.

MR. LONG (Walker)—I move that the vote by which Section 5 of this article be reconsidered, and I also move to lay that motion on the table.

THE PRESIDENT—The motion would not stand for consideration at this time.

MR. LONG—I move that the rules be suspended.

MR. COBB—I move that we adjourn.

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

Upon a vote being taken a division was called for.

By a vote of 53 ayes and 29 noes the motion to suspend the rules was lost.

MR. PROCTOR—I move that we adjourn.

MR. COBB—I move that we adjourn.

Upon a vote being taken the Convention adjourned.

SEVENTY-SECOND DAY

MONTGOMERY, ALA.,
Thursday, August 15, 1901.

The Convention met pursuant to adjournment, and was called to order by the President, and opened with prayer by the Rev. Mr. Howell of Cleburne as follows:

O, Lord God, we come before Thee this morning realizing our weakness and our need of Thy help and Thy strength. We thank Thee that no evil has befallen us during the dark shades of the night; that we have slept in peace, and have been refreshed, and that we find ourselves this morning in the enjoyment of the usual health of body and mind, and now we come before Thee to invoke Thy blessings upon us this day. Give us the influence and light and guidance of Thy spirit in the work in which we are engaged.

May we ever realize and appreciate the fact that in the great coming day we must stand before Thee and give an account of our work here below. Accept the gratitude of our hearts and the praises of our lips for Thy kind providence and mercy which has followed us all the days of our lives. May we under a sense of our obligations render to Thee the services of our lives and the homage of our hearts. Bless these, Thy servants. Bless their homes. Take care of their families and their interests during their absence, and guide us all in the way of life everlasting. Forgive our sins, and prepare us for every good work, and finally bring us to our home in Heaven, we pray Thee, through Christ, our Redeemer. Amen.

Mr. White here took the chair.

Upon a call of the roll 109 delegates responded to their names.

Leaves of absence were granted to the following delegates: To Mr. Oats for today; to Mr. Macdonald of Montgomery for today; to Mr. Ledbetter for today and tomorrow; to Mr. Miller of Marengo for today, tomorrow and Saturday; to Mr. Porter for Friday, Saturday and Monday.

Leave was granted to the Committee on the Journal to make their report later in the day.

THE PRESIDENT PRO TEM.—The call of the roll of delegates for the introduction of ordinance, resolutions, etc., will be next in order.

MR. PETTUS—I move that the rules be suspended, and the call of the roll be dispensed with.

MR. COLEMAN—I think that we should call the roll; it has not been called for some time.

Upon a vote being taken, a division was demanded, and by a vote of 26 aye and 42 noes, the Convention refused to suspend the rules.

The roll call was proceeded with.

MR. BURNETT—I have a petition on the railroad pass question which I would like to have introduced and then referred, at the request of Mr. Lee from Escambia.

MR. GRAHAM (Talladega)—There was a rule passed here the other day that they should not be read, but simply referred.

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

MR. BROOKS—I did not hear the statement of the Chair with regard to that petition.

THE PRESIDENT PRO TEM.—It was a petition with reference to free passes. It was referred to the Committee on Corporations.

MR. BROOKS—Without being read?

THE PRESIDENT PRO TEM.—Yes, sir.

MR. BROOKS—I do not think any such rule has been passed. It ought, as a matter of right to be read to let us know what it is.

THE PRESIDENT PRO TEM.—The Chair was misinformed, and, if no such rule has been adopted, the petition will be read before it is referred. I suppose the reading of the body of the petition will be sufficient without reading the names.

MR. MULKEY—An examination of the Journal will show that rule was adopted.

THE PRESIDENT PRO TEM.—The clerk informs the Chair it was simply a motion to dispense with it on that evening.

MR. BROOKS—The motion was adopted one evening to send up all at the same time to the secretary without reading.

THE PRESIDENT PRO TEM.—The secretary will read the petition.

The petition was read as follows:

Petition No. 84, by Mr. Leigh:

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 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 and self-operative provision to that end.

Flomaton, July 23, 1901.

F. F. Visscher, Con.; W. L. Abernethy, Phys.; Alex. Stewart, Mer.; H. P. Powell, Carp.; W. Tosend, Mer.; A. F. Chaudron, J. P.; T. M. Smith, Lum. Ins.; J. W. Darling, Tel. Pole Ins.; G. A. Ivey, Mar.; S. L. Craft, clerk; J. E. Holley, Min.; J. M. Holley, mill man; John Hardy, Mer.; R. Martin, Far.; W. P. Powell, Mer.; D. F. Leathewood, Ins. Agt.; W. H. Abernethy, M. D.; J. A. Wilkinson, A. J. Agnew, M. D.; W. M. Weaver, clerk; F. E. Dey, jeweler; J. D. McCurley, Mer.; W. T. Price, clerk; M. A. Whitehurst, Far.; Ezra Hagin, Mer.; J. A. Carson, Car.; W. Weaver,

blacksmith; D. A. Wadkins, Far.; C. J. Johnson, Far.; W. R. Calloway, mill; T. T. Roberts, hotel proprietor; C. D. Moore, Far.; J. W. Evans, W. M. Washburn, timber; W. H. A. Peaden, teamster; H. L. Thompson, livery stable; E. E. Johnson, Mer.

Referred to Committee on Corporations.

Resolution No. 299 was read as follows:

Resolution No. 299, by Mr. Burns.

Resolved, That there should be no attempt to shut off delegates who may desire to offer ordinances, resolutions or amendments, by motions to table or calling for previous question.

Referred to Committee on Rules.

MR. CARDON—I have a resolution.

Resolution No. 300 by Mr. Cardon was read as follows:

Whereas, it is now, beyond all reasonable doubt, apparent that many of the sections of this State believe that all persons now in office in Alabama or that all persons who may hereafter be called upon to fill such offices, are for sale, the price being fixed by the amount of travel, in a year, that they may be required or desire to take over the different railroads within this State; and

Whereas, it is the desire and duty of this Convention to forestall this market by relieving such railroads from the necessity of making bids for or buying the officers and servants of Alabama with railroad free passes, and also by removing from such officers and servants, the temptation of selling themselves to such railroads at the price of a railroad free pass.

Be it therefore resolved by the people of Alabama in Convention assembled, That all the railroads within the State of Alabama be and they are hereby required to issue free passes over the lines of such railroads within this State to all the judges of courts of record in Alabama, and to all the officers of such courts; and also to all the State officers of Alabama and to their employes; and also to all members and employes of the future Legislatures of this State; and also to all delegates to any State Convention that may be hereafter called in Alabama.

MR. OPP—(During the reading of the above resolution)—I rise to a point of order. I do not think this Convention ought to be made a dumping ground for all this rot. It is clearly out of order, and we ought not to be forced to take up the time of the Convention with it.

MR. FITTS (Tuscaloosa)—The resolution offered by the gentleman from Cherokee has the same dignity as any resolution offered by any other delegate on this floor, and I think the Con-

vention has a right to hear his views as much as those of any other delegate to this Convention.

MR. OPP—I ask the ruling of the Chair on the point of order.

PRESIDENT PRO TEM.—The Chair does not see that it is entirely out of order. The Chair cannot so hold, and the point of order is therefore overruled.

MR. BURNS—I suggest that you have it read before you rule whether it is out of order or not. Let us see what it is.

PRESIDENT PRO TEM.—The Chair has already decided on the point of order. The resolution will be referred to the Committee on Corporations.

MR. COLEMAN (Greene)—I prepared yesterday an ordinance to introduce this morning and left it in my book, but find now that it is gone. I have, however, hastily drawn one that will bring up the question.

Ordinance No. 452 by Mr. Coleman read as follows:

Be it ordained that a solicitor for each judicial circuit shall be elected by the qualified electors of the circuit, who shall be learned in the law and who shall at the time of his election and during his continuance in office reside in the circuit for which he is chosen, and whose term of office shall be for four years. Provided, that the Legislature may provide for the election or appointment of solicitors for any county in the State.

Referred to Judiciary Committee.

MR. FOSHEE—I have an ordinance.

The ordinance was read as follows:

Ordinance 453 by Mr. Foshee:

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

First—The Probate Judges of each county of Alabama, shall appoint one registrar in each beat, precinct or ward, whose duty it shall be to register all male persons of 21 years old, who are not debarred from the right of franchise by crime.

Second—The Governor, Attorney General and Commissioner of Agriculture shall appoint three registrars from each county at large, whose duty shall be to register the colored voters in each county and none others.

Referred to Committee on Suffrage and Elections.

MR. HEFLIN (Chambers)—I ask unanimous consent to pass my call until the roll is completed.

Objections were made.

MR. HEFLIN—Who was it that objected?

THE PRESIDENT PRO TEM.—The gentleman was nearer that I am. I did not distinguish just who it was. Some friend, I suppose.

MR. WADDELL—I am one who objected.

MR. HEFLIN — I think that is about all the gentleman knows, is how to object.

MR. MILLER (Wilcox)—I have a petition.

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.

Camden, July, 23, 1901.

J. P. Jones, M. D.; M. A. Turner, mayor; J. P. Jones, Jr., county solicitor; J. R. M. McIntosh, marshal; W. F. McWilliams, E. A. Rentz, merchant; E. P. Boltz, liveryman; J. D. Caldwell; W. W. Boykin, F. L. Moore, J. F. Foster, clerk circuit court; O. H. Spencer, tax assessor; R. H. Bursy, farmer; W. A. Dexter, city treasurer; J. P. Benson, Jr.; B. M. Miller, attorney at law; J. B. Miller; V. C. Gordon; J. Y. Kilpatrick; J. Y. Kilpatrick, Jr.; J. I. Lawler, O. C. Farish, D. D. S.; W. F. Spurlin, H. H. Hart, J. W. Dunn, R. L. Hawthorne, merchant; D. C. Olmoyne, E. L. McIntosh, D. L. Pritchett; W. R. Alford, E. H. Pritchett, C. S. Andrews; H. J. Ray; H. C. DuBose, Sherwood Bonner; J. R. Foster; M. C. Jones, P. H. Jones, W. C. Jones, Jr., J. M. Bonner, A. V. McMillin, H. H. Johnson, F. W. Spurlin, Spurlin Bros.; G. L. Spurlin, W. N. Brigg, I. B. Foster, D. S. Pritchett, Jr., R. D. Gilbert, J. F. Holt, F. H. Savage, J. C. Hart, J. R. Liddell, A. S. Cuberg, T. L. Cochran, attorney at law; R. E. McWilliams, R. E. McWilliams, Jr.; J. H. Duke, Jr., C. C. Ray, J. P.; R. L. Rentz, merchant; Carlisle Duke; T. S. Caldwell; H. F. Cooke, D. J. Spiar, merchant; W. B. Dunn; E. J. Bailey, Jr.; M. W. Smith, W. B. Jones, M. D.; J. H. Jones, M. D.; S. D. Moore, Jr., farmer; H. A. Holt.

Referred to Committee on Corporations.

MR. ROGERS (Lowndes)—I have a resolution.

Resolution 301 by Mr. Rogers (Lowndes).

Resolved, That after this Convention has adopted this Constitution that five thousand (5,000) copies of it be printed in pamphlet form, for distribution through the State and that six (6) copies be sent to each member by the Secretary of the Convention. That the Committee on Printing be instructed to contract for the printing and distribution of the same and report to the Convention the cost of the same.

Referred to Committee on Schedule, Printing and Incidental Expenses.

MR. MALONE—I ask that it be made 10,000.

MR. BULGER—Make it 50,000.

MR. ASHCRAFT—My recollection is that the Enabling Act provides how this Constitution shall be promulgated, and I believe it provides for the printing of a much larger number.

PRESIDENT PRO TEM.—It is referred to the Committee on Printing and Incidental Expenses, and they can take it up there.

MR. SAMFORD (Pike)—I offer Article 6 of the old Constitution. I do not care for it to be read. I offer it and ask to have it referred. I will just state that it is the article on Judiciary in the old Constitution.

MR. WATTS—I rise to a point of order. The rules of this Convention require that any ordinance offered shall be in writing, and you cannot offer an ordinance in connection with other matters, as the getleman has done.

PRESIDENT PRO TEM.—It appears to the Chair that the point of order is well taken.

MR. SAMFORD (Pike)—Does the Chair hold that it must be written out?

PRESIDENT PRO TEM—The Chair holds that you cannot introduce an ordinance in a book with a great deal of other matter contained in the same book or pamphlet.

MR. SAMFORD (Pike)—If the Chair will indulge me a minute, I will cut it out.

PRESIDENT PRO TEM.—The Chair cannot wait on the gentleman.

MR. HEFLIN (Chambers)—It appears to me that the gentleman from Pike has some rights on the floor of this Convention.

MR. ASHCRAFT—I call for the regular order.

MR. PETTUS—I rise to a point of order. The Chair has ruled and the call of the roll is in order.

MR. HEFLIN—He has the right to cut it out of the book, and——

THE PRESIDENT PRO TEM.—The Chair has decided that the ordinance cannot be received in the shape it is in.

MR. HEFLIN—The gentleman from Limestone interrupted me. He was standing between me and the Chair, and——

PRESIDENT PRO TEM.—I understand now, but there is nothing before the Convention now.

MR. HEFLIN—The gentleman from Pike asked the Convention to allow him time to cut it out, and it would not take but a second. The point of order I make is this: Will the gentleman from Pike lose his call because a second of time might enable him to cut it out, and that is to be denied him?

(The article in the meantime was cut out and sent up.)

MR. HEFLIN—I ask that it be read if it has been cut out.

MR. ASHCRAFT—I call attention of rule 50 as follows:

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

PRESIDENT PRO TEM.—The Chair is of the opinion that the ordinance is not in the shape required by the rules of the Convention.

MR. SAMFORD (Pike)—That could not be written on one sheet of paper. It is certainly written on more than one sheet of paper. It is printed. If the Chair holds that it is to be written—

THE PRESIDENT PRO TEM.—The Chair holds that it has to be written or printed.

MR. SAMFORD (Pike)—It is printed.

PRESIDENT PRO TEM.—It is not indorsed as the rules require.

MR. MULKEY—I make the point that it is not in proper shape.

PRESIDENT PRO TEM.—The Chair has ruled that it is not in proper shape.

MR. OPP—I rise to make an explanation. I objected to the reading of the paper with reference to the buying of officials by the railroad passes. I did not hear the first part of it read, and I was under the impression that it was a petition, whereas I have learned that it was a resolution by a gentleman on this floor, which makes it an entirely different thing.

MR. PETTUS—I make the point of order that the gentleman is not stating a question of privilege, and that the regular order is the call of the roll.

MR. OPP—I do not see why the gentleman should interrupt.

PRESIDENT PRO TEM.—Does the gentleman ask unanimous consent to make a statement with reference to a question of personal privilege?

MR. OPP—It is a question of personal privilege. I supposed it was a petition, and while I do not agree with the sentiments expressed in the resolution, being a resolution, it is on a very different footing, and I desire to make that explanation.

Mr. Samford (Pike) took the chair.

MR. SANFORD (Montgomery)—I offer this resolution.

The resolution was read as follows:

Ordinance No. 454, by Mr. Sanford:

Whereas, A Convention of the Democratic Party was held in the city of Montgomery during the month of March, 1901, for the nomination of candidates to be delegates to a Constitutional Convention; and to induce the people to vote for such a Convention, a platform of purposes, promises or pledges was adopted, to be kept by the members of the proposed Constitutional Convention. Among other articles was adopted the following pledge or promise, viz: "Third—That there shall be inserted in such Constitution a provision limiting the rate of taxation by the State, counties and municipalities, and that such rate of taxation shall not exceed the rate now fixed by the present Constitution, but a lower taxation shall be fixed if practicable."

And whereas, The rate of taxation limited for the use of municipalities has been transcended in the case of the city of Montgomery, Therefore, be it ordained by the people of the State of Alabama in Convention, That the part of Section 11 in the Article on Municipal Corporations which is in these words: "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 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 expenses, and an additional tax of not exceeding three-fourths of 1 per cent per year upon the property therein, as fixed for the State taxation, to be devoted exclusively to the payment of the public debt, interest thereon, and renewals thereof, and to the maintenance of its public schools and public conveniences," be and the same is hereby repealed and annulled.

MR. SANFORD (Montgomery)—I ask that the resolution be referred to the Committee on Taxation.

THE PRESIDENT PRO TEM.—The resolution will be so referred.

MR. SLOAN—I have a resolution.

The Secretary read the resolution as follows:

Resolution No. 302, by Mr. Sloan:

Resolved, That hereafter this Convention meet in the afternoon sessions at 3 o'clock and adjourn at 6 o'clock.

Referred to Committee on Rules.

MR. WATTS—Some time ago in this Convention, a resolution amending section 17 of the Legislative Department was introduced by myself, and by the Convention laid upon the table, to be taken up at the pleasure of the Convention. This resolution was to the effect that no negro could hold office in Alabama. I desire to move to take that resolution from the table.

THE PRESIDENT PRO TEM.—That motion would be out of order at this time. A motion to take from the table is not a privileged motion, and the regular order has been called for and the call of the roll of the house has not been completed.

MR. WATTS—I have a right on the call of my name to offer a resolution. I offer a resolution to take this amendment from the table. I do not care to discuss it now.

THE PRESIDENT PRO TEM.—Is the resolution in writing?

MR. WATTS—It is not necessary to be in writing. An ordinance is required to be in writing, but not a resolution.

THE PRESIDENT PRO TEM.—The resolution would have to be in writing.

MR. WHITE—I will ask if it could not be printed? (Laughter.)

THE PRESIDENT PRO TEM.—It might be partly written or partly printed. (Applause.)

When the name of Mr. Wilson (Clarke) was reached, he yielded his call to the gentleman from Chambers, Mr. Heflin.

MR. PETTUS—I object.

THE PRESIDENT PRO TEM—It has been the rule of the Convention that a delegate could yield his call to another delegate, and the Chair would hold that we cannot change that rule at this late day.

MR. HEFLIN (Chambers)—I do not ask that the ordinance be read, but that the resolution be read.

MR. PETTUS—I make the point of order that the ordinance would have to be read under the rules.

THE PRESIDENT PRO TEM.—The point of order is well taken. The Secretary will read the ordinance.

The reading proceeded: "Article VI, Judiciary——

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

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

MR. ASHCRAFT — The proposed ordinance is not in the form required by the rules.

THE PRESIDENT PRO TEM.—What do the rules require?

MR. ASHCRAFT—The title is not endorsed on the article.

MR. HEFLIN—I tried to write it on there, if the gentlemen will give me an opportunity, will try to write it more plainly.

MR. ASHCRAFT — I did not have an opportunity to examine it, but I do not see any indorsement on it.

THE PRESIDENT PRO TEM—This ordinance is headed "Judiciary Department" and relates to the judiciary of the State, and hence it is a sufficient heading upon which the base an ordinance upon Judicial Department, and the name of the gentleman from Chambers is indorsed on the back of it.

MR. ASHCRAFT—Does it say "be it ordained" or "be it resolved?"

MR. PETTUS—I make the point of order there is no ordaining clause in the ordinance, or "be it enacted." Without the ordaining clause, it is not in order.

THE PRESIDENT PRO TEM.—The point of order is strictly correct.

MR. HEFLIN—I move to amend it.

MR. WATTS—I call for the regular order.

MR. PETTUS—I object to any amendment at this time.

MR. COLEMAN—You might as well make objection to any ordinance for any defect in it as presented. It is to be referred. We cannot tell what defects may be in it, not a single proposition we have adopted says "be it ordained," you can take the whole of the Constitution and it is not here.

THE PRESIDENT PRO TEM.—The Chair will hold that a defect in an ordinance may be waived by no objection being made at the time of its introduction. If a valid objection is made at the time of its introduction, the Chair would hold that the point of order would be well taken and under the rules of the Convention ordinances must comply with the rule.

MR. COLEMAN—I would suggest that the defect has been remedied.

MR. O'NEAL—I ask the clerk to see if there is a heading to it.

MR. PETTUS—I rise to a point of order. It has been amended and endorsed by the clerk.

THE PRESIDENT PRO TEM.—The point of order is overruled because the gentleman has a right to amend his ordinance before it is read.

MR. WILSON (Clarke)—Is the point made that the ordinance does not state "be it ordained."

THE PRESIDENT PRO TEM.—Because it had no proper heading.

MR. WILSON—I submit there is nothing in the rules that requires you to say "be it ordained," or calling it an ordinance or proposition; it simply requires that its title be expressed.

THE PRESIDENT PRO TEM.—The point of order was that the heading of the article was not in proper form, but the gentleman from Chambers says that it is made in proper form, therefore the Secretary will proceed to read.

MR. WATTS—I rise to a point of order.

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

MR. WATTS—This ordinance is not in proper shape.

MR. HEFLIN—The Chair has already ruled, and we do not want to consume any more time on it.

MR. WATTS—The gentleman will consume time just the same.

MR. REESE—The gentleman is out of order. The rules require that a delegate shall not be recognized unless in his seat.

THE PRESIDENT PRO TEM.—The point of order is well taken. The Secretary will read the ordinance.

MR. ASHCRAFT — The point of order of the gentleman comes too late, the gentleman from Montgomery had already been recognized.

THE PRESIDENT PRO TEM.—When that point of order was made, it was well taken. It has been held by the President of the Convention that point of order is well taken at any time.

MR. ASHCRAFT—I move that the rules be suspended, and that the ordinance be referred to the Committee on Judiciary without reading.

MR. HEFLIN—I object. I have a resolution accompanying that ordinance, it provides for the raising of a special committee.

THE PRESIDENT PRO TEM.—The Secretary will read the resolution:

The Secretary read the resolution as follows:

Resolution 303 by Mr. Heflin (Chambers):

Whereas, the article on Judiciary has been laid upon the table, and whereas, the Judiciary Committee has indefinitely postponed an ordinance which provides for electing solicitors by the General Assembly and retaining the present circuit solicitor system, and whereas, the Convention desires Ordinance No.—— reported back speedily and favorably to the Convention.

Be it resolved, That a special committee be raised for the purpose of considering and reporting said ordinance No. ——, and said committee shall be composed of the President of the Convention, Smith of Mobile, White, Coleman of Greene, Oates, O'Neal of Lauderdale, Graham of Talladega, Browne, Jones of Montgomery, Lomax, Harrison, Pitts, Howze, Wilson, Fletcher, Weakley, Parker of Cullman, Hood, Foster, Proctor, Heflin of Randolph.

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

The motion of the gentleman from Lauderdale is that the rules be suspended, and that the ordinance introduced by the gentleman from Chambers be referred to the Committee without reading.

MR. HEFLIN—I move to lay that upon the table.

MR. SMITH (Mobile)—I rise to a point of order. Rule 47 reads: "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."

PRESIDENT PRO TEM.—The point of order, it occurs to the Chair, is not well taken, because this Convention may suspend any rule formerly made.

MR. SMITH (Mobile)—The Chair has not heard me. I submit that an article on Judiciary is not referred to the proper committee when it is referred by the Chair without a vote of the House to the Rules Committee, and that the Chair has no right to refer it to the Rules Committee without a two-thirds vote of the Convention.

MR. LOWE (Jefferson)—I suggest in reply to the gentleman from Mobile that the resolution does not pertain to the Judiciary, it pertains to the creation of a special committee.

THE PRESIDENT—The Chair was just about to make that reply.

MR. SMITH (Mobile)—I misunderstood the Chair. I thought the ordinance was referred to the Rules Committee.

THE PRESIDENT PRO TEM.—The Chair is of the understanding that the resolution has been referred, refers to the raising of a new committee for this Convention, and therefore the proper reference would be to the Committee on Rules. The motion of the gentleman from Lauderdale is that the rules be suspended and that the ordinance introduced by the gentleman from Chambers be referred to the Committee on Judiciary without reading. As many as favor the suspension of the rules for that purpose, will make it known by saying aye.

Upon a vote being taken, a division was called for.

MR. WATTS—I call for the ayes and noes on the vote to suspend the rules.

MR. ASHCRAFT—I ask unanimous consent to withdraw the motion I offered. I offered it for the purpose of saving the time of the Convention.

Consent was given, and the motion was withdrawn.

THE PRESIDENT PRO TEM.—The Secretary will proceed with the reading of the ordinance.

MR. WHITE—I would ask the Convention by unanimous consent to allow the Committee on Order, Consistency and Har-

mony to sit from day to day during the remainder of the session of this Convention.

MR. HEFLIN—I would qualify the motion in this way unless their presence is needed here to make a quorum.

MR. WHITE—I will state to the gentleman that we will be in the Senate chamber where we can always be reached.

By unanimous consent, leave was granted.

MR. MAC. A. SMITH—I move that the privileges of the floor be tendered the Hon. H. J. Livingston, who was a member of the Constitutional Convention of 1875.

The privilege was extended.

MR. HEFLIN (Chambers) — I understand that under the rules of the Convention, and I think it is a fact, that all ordinances have to be read, and the gentleman suggests that a motion be made, that it be referred without reading, and I understand the rule is that it must be read.

PRESIDENT PRO TEM.—The rule of the Convention is that all ordinances must be read three times before adoption.

MR. HEFLIN—Then this morning after the reading of this ordinance it will have to be referred?

PRESIDENT PRO TEM.—Yes, sir; the clerk will proceeed with the reading of the ordinance.

The clerk read as follows: "Be it ordained by the people of Alabama, in Convention assembled——"

MR. WATTS—I rise to a point of order. The proposed ordinance in the hands of the Secretary consists of two or three sheets of paper printed upon both sides, and it is not in accordance with the rules of this Convention.

PRESIDENT PRO TEM.—The Chair is not cognizant of any rule which requires that an ordinance be written on only one side of the sheet of paper.

MR. WATTS—But different subject is written on the other side, and it is bound to result in confusion. An ordinance should be separate.

THE PRESIDENT PRO TEM.—The ordinance, it occurs to the Chair, is in sufficient form to be intelligently considered.

MR. WATTS—What?

THE PRESIDENT PRO TEM.—The ordinance it seems to the Chair is in a condition to be intelligently considered.

MR. WATTS—If you will examine it, you will see that what I state about it is correct. It seems to be cut out of the book with something printed on the other side entirely different from the ordinance.

MR. CARMICHAEL—The Secretary can mark that off the back there.

MR. WATTS—The Secretary has no authority to amend an ordinance.

MR. FITTS—The Secretary might as well mark the front of it.

MR. BROOKS—I suggest that the rule in reference to the preparation of ordinances be read so that we will know what it is.

MR. ASHCRAFT—It is rule 50.

PRESIDENT PRO TEM.—Rule 50 reads: The title of each ordinance shall state concisely its subject matter and shall state the article and section of the present Constitution to which it relates as far as practicable, which ordinance shall be written on another sheet of paper with name of the delegate who introduced it, and the title of the ordinance endorsed thereon. There is nothing in this rule with reference to extraneous matters on the other side of the paper. The point of order is overruled.

MR. WATTS—Pardon me one moment, Mr. President. Then you mean to hold that a man could introduce an ordinance here in reference to the Judiciary, that had one of Sax's poems written on it.

MR. HEFLIN (Chambers)—I would like to ask the gentleman a question. Do you think it would confuse you the way it is offered?

MR. WATTS—No, sir; there is no danger of its confusing me, none whatever.

MR. HEFLIN—Don't you think that you are an average specimen of this Convention?

MR. WATTS—I think so, at least the equal of the gentleman from Chambers. (Applause.)

MR. HEFLIN—I grant, Mr. President, that the distinguished gentleman is the equal of any delegate on this flor, and the gentleman said that he would not be confused by it. Then, who is there in this Convention that will be confused?

MR. WATTS—It is not a question of confusion. It is a question of following the rules of this Convention. The gentleman from Chambers should be held to those rules as well as anybody else.

THE PRESIDENT PRO TEM. — If the gentleman from Montgomery has any authority which shows, or any rule of this Convention, that prohibits the printing of extraneous matter, upon the opposite side of paper, upon which an ordinance is written, and will submit it to the Chair, the Chair will hold with him. Otherwise the point of order is not well taken.

MR. WATTS—You ask for my authority. It is one of common sense when a man introduces a proposition.

THE PRESIDENT PRO TEM.—The Chair will state to the gentleman from Montgomery, the question of common sense is always a matter upon which men differ.

MR. WATTS—Very considerably. (Laughter.)

MR. WILSON (Clarke)—I just want to suggest an addition to the reason assigned by the President, that the Chair cannot undertake to say what a gentleman shall put in an ordinance. The Chair cannot undertake to say that several provisions are inconsistent, and a gentleman can put the Greek alphabet in his ordinance if he wants to. That is not a question of order, it is a question for the Committee to deal with.

PRESIDENT PRO TEM.—The Clerk will read the ordinance.

MR. HEFLIN—Mr. President——

PRESIDENT PRO TEM.—The gentleman is out of order.

MR. HEFLIN—I rise to a question of personal privilege.

PRESIDENT PRO TEM.—The gentleman will state the question of personal privilege.

MR. HEFLIN—The gentleman from Montgomery suggests to the Chair that he ought to hold me within the bounds of the rule. I have not undertaken at any time to ask the presiding officer of this Convention to go beyond the rules laid down by this Convention to confer a favor upon me, or any other member on this floor. I dare say, Mr. President, we have not had a presiding officer in that Chair that would show partiality to any member on the floor of this Convention, whether he comes from Montgomery or Chambers or St. Clair, or Clay, or any other county in this State, and I think that the charge or intimation of that sort was entirely out of order.

MR. WATTS—I rise to a point of order. The gentleman on the alleged question of privilege is taking occasion to praise the Chair which is not a question of privilege to him.

MR. PETTUS—He is filibustering!

MR. HEFLIN—The point of order is a question to be determined by the Chair. I appreciate the alertness of my friend

and his keen sense of parliamentary law, but so far as I am individually concerned, I do not care to trust myself to his keeping. I think I am amply able, at least to some extent, to look after myselt, although it may be in a very humble and feeble way, but I have never reached that place.

MR. FITTS—I rise to a point of order. The gentleman is evidently talking against time. There must be some train to come in to bring people here.

MR. HEFLIN—I rise to another question of personal privilege.

THE PRESIDENT PRO TEM.—The gentleman will state the question of personal privilege concisely. (Laughter.)

MR. HEFLIN—The gentleman from Tuscaloosa says that I am talking against time. I have never talked against time but one time in my life, and that was when I was carrying the banner of the Democratic party against its opposition. (Applause.)

MR. WATTS—I rise to another point of order. He has no right to make a speech on the floor of this Convention on a question of privilege——

THE PRESIDENT PRO TEM.—The gentleman will be in order. The gentleman from Chambers will confine himself strictly to the question of privilege, if he has any.

MR. HEFLIN—One moment and I am through. If the gentleman will quit raising other questions of privilege, I will be through. I simply desire to state——

Mr. Reese sought recognition.

THE PRESIDENT PRO TEM.—The Convention will be in order.

MR. PROCTOR—The report of the Committee on Journal was asked for this morning, but it was not ready. The report of the Committee is now ready to report, and ask unanimous consent.

Objection was made.

MR. HEFLIN—I will let him introduce it, but I do not yield my place on the floor.

THE PRESIDENT PRO TEM.—The gentleman asks unanimous consent to make the report.

MR. BURNS — There was objection. You recognized the gentleman upon a question of personal privilege.

THE PRESIDENT PRO TEM.—And the gentleman from Chambers yielded.

MR. HEFLIN—I withdrew it.

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

MR. WADDELL—I rise to a question of personal privilege.

THE PRESIDENT PRO TEM.—The gentleman will state the question.

MR. WADDELL—The gentleman from Chambers, Mr. Heflin, remarked when I was attempting to exercise a right which I have as a delegate to this Convention to object to a departure from the rules of this Convention, that was all right, that was all the sense I had. I wish to reply to the gentleman, Mr. President, that in doing this, he transcended every rule of this House, and while his remarks may have been true, they were unbecoming in any gentleman.

MR. HEFLIN (Chambers)—I rise to a question of personal privilege, I asked this Convention when the roll was being called this morning for the introduction of ordinances and resolutions, to allow my name to be passed that I might, at the conclusion of the call of the roll, immediately, without taking up any time of the Convention, be allowed then to introduce an ordinance that I desired to introduce. I heard an objection or two from somebody, and the Chair stated that there was objection, and I asked who it was that objected. I thought at one time I would ask the gentleman to withdraw his objection, but as soon as I discovered that it was the gentleman from Russell, I desired to make the statement I did not have any wish to ask him to withdraw his objection, and if the gentleman does not like my remarks on that line, I am responsible for them.

MR. WADDELL — Responsibility, Mr. President, does not make a gentleman.

MR. WILSON (Clarke)—I make the point of order that the hour of 10 has arrived, and at that hour, the Convention, under the amendment to Rule 6, leaves off the call of the roll and proceeds with reports of standing committees, and this will go over as unfinished business.

THE PRESIDENT PRO TEM.—The Chair does not understand that while the Clerk is in the midst of the reading of an ordinance, that the reading of it would be dispensed with until the ordinance has been read and referred. If there is any rule to the contrary, the Chair is not aware of it. The Clerk will proceed to read the Article.

MR. HEFLIN (Chambers)—Ten o'clock has arrived, and the ordinance cannot be finished under the rules of this House.

THE PRESIDENT PRO TEM. — The Chair has already stated that if there is any rule of this Convention which requires the Clerk, at the arrival of the hour for the regular order, to stop in the midst of reading the ordinance, before it is completed, and referred, the Chair is not informed of such a rule.

MR. HEFLIN—I yielded a while ago, while making a point of order, and other business has been transacted by this Convention. The report of the Committee on Journal has been read and adopted, and this other matter has come in, I make the point of order that it is out of order and should go over until tomorrow.

THE PRESIDENT PRO TEM. — It is the opinion of the Chair that this ordinance will have to be read and referred. The Clerk will read the ordinance.

Be it ordained by the people of Alabama in Convention assembled, That the following be adopted as Article — on Judiciary.

The ordinance was read as follows:

1. The judicial power of the State shall be vested in the Senate, sitting as a Court of Impeachment, a Supreme Court, Circuit Courts, Chancery court, Courts of Probate, such Inferior Courts of law and equity, to consist of not more than five members, as the General Assembly may from time to time establish and such persons as may be by law invested with powers of a judicial nature.

2. Except in cases otherwise directed in the 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 be from time to time prescribed by law. Provided, that said Court shall have power to issue rights 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 superior jurisdiction.

3. The Supreme Court shall be held at the seat of government, but if that shall have become dangerous from any cause it may adjourn to a different place.

4. The State shall be divided by the General Assembly into convenient circuits, not to exceed eight in number, unless increased by a vote of two-thirds of the members of each House of the General Assembly and no circuit shall contain less than three nor more than twelve counties; and 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.

5. The Circuit Court shall have original jurisdiction in all matters, civil and criminal, within the State, not otherwise except-

ed in the Constitution; but in civil cases only where the matter or sum in controversy exceeds $50.

6. A Circuit Court shall be held in each county in the State at least twice in every year, and the judges of the several circuits may hold courts for each other, when they deem it expedient, and shall do so when directed by law; Provided, that the judges of the several Circuit Courts shall have power to issue writs of injunction returnable into Courts of Chancery.

7. The General Assembly shall have power to establish a Court or Courts of Chancery, with original and appellate jurisdiction. The State shall be divided by the General Assembly into convenient chancery divisions, not exceeding three in number, unless an increase shall be made by a vote of two thirds of each House of the General Assembly taken by yeas and nays and entered upon the journals; and the division shall be divided into districts, and for each division there shall be a Chancellor, who shall, at the time of his election or appointment, and during his continuance in office, reside in the division for which he shall have been elected or appointed.

8. A Chancery Court shall be held in each district, at a place to be fixed by law, at least once in each year, and the Chancellors may hold courts for each other, when they deem it necessary.

9. The General Assembly shall have power to establish in each county within the State a Court of Probate, with general jurisdiction for the granting of letters testamentary and of administration, and for orphans' business.

10. The Judges of the Supreme Court, Circuit Courts and Chancellors shall, at stated times, receive for their services a compensation, which shall not be diminished during their official terms, but they shall receive no fees or perquisities, 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. HEFLIN (Chambers)—Has the ordinance been finished?

MR. WATTS—Oh, no! It will take a week.

MR. FITTS—He has got to read the other side of it——

11. The Supreme Court shall consist of one Chief Justice and such number of Associate Justices as may be prescribed by law.

12. 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, cir-

cuits, counties and chancery divisions for which such courts may be established, at such times as may be prescribed by law.

13. The Judges of such inferior courts of law and equity as may be by law established, shall be appointed in such mode as the General Assembly may prescribe.

14. The Judges of the Supreme Court, Circuit Courts, Chancellors and the Judges of the City Court, shall have been citizens of the United States and of this State five years next preceding their election or appointment, and shall not be less than twenty-five years of age, and learned in the law.

15. The Chief Justice and Association Justices of the Supreme Court, Circuit Judges, Chancellors and Probate Judges 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 office for the full time 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.

16. Judges of the Supreme Court shall, by virtue of their offices, be conservators of the peace throughout the State; the Judges of the Circuit Courts within their respective circuits, and the Judges of the inferior courts within their respective jurisdictions, shall in like manner be conservators of the peace.

17. Vacancies in the office of any of the Judges or Chancellors of this State shall be filled by appointment by the Governor, and such appointee shall hold his office for the unexpired term and until his successor is elected or appointed and qualified.

18. If in any case, civil or criminal, pending in any circuit, chancery or city court in this State, the presiding judge or chancellor shall, for any legal cause be incompetent to try, hear or render judgment in such cause, the parties or their attorneys of record, if it be a civil case, or the Solicitor or other prosecuting officer, and the defendant or defendants, if it be a criminal case, may agree upon some disinterested person, practicing in the court and learned in the law, to act as special Judge or Chancellor, to sit as a court to hear, decide and render judgment in the same manner and to the same effect as a Judge of the Circuit Court or City Court, or Chancellor, 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 a case 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 special cause is not represented in court, the Clerk of the Circuit or City Court, or Register in Chancery of the court in which said cause is pending, shall appoint the special Judge or Chancellor, who shall preside, try and render judgments as in this section provided.

19. The General Assembly shall have power to provide for the holding of Circuit and Chancery Court in this State, when the Judges or Chancellors thereof fail to attend regular terms.

20. 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.

21. Registers in Chancery shall be appointed by the Chancellors of the divisions, and shall hold office during the term of the Chancellor making such appointment; and such Registers shall receive as compensation for their services only such fees and commissions as may be specifically prescribed by law.

22. A Clerk of the Supreme Court shall be appointed by the Judges thereof and shall hold office during the term of the Judges making the appointment, and clerks of such inferior courts as may be established by law, shall be appointed by the Judges thereof, and shall hold office during the term of the Judge making such appointment.

23. Clerks of the Circuit Court shall be elected by the qualified electors in each county, for the term of six years. Vacancies in such office shall be filled by the Governor for the unexpired term.

24. The Clerk of the Supreme Court and Registers in Chancery may be removed from office by the Judges of the Supreme Court and Chancellors respectively, for cause, to be entered at length upon the records of the court.

25. A Solicitor for each judicial circuit shall be elected by joint ballot of the General Assembly, who shall be learned in the law, and who shall, at the time of his election, and during his continuance in office, reside in the circuit for which he is chosen, and whose term of office shall be for six years provided, that the General Assembly, at the first session thereof after the ratification of this Constitution shall, by joint ballot, elect a Solicitor for each judicial circuit of the State, whose term of office shall begin on Tuesday after the first Monday in November, 1876, and continue for four years; and provided, that the General Assembly may, when necessary, provide for the election or appointment of County Solicitors.

26. There shall be elected by the qualified electors of each precinct of the counties, not exceeding two Justices of the Peace and one Constable. Such Justices have jurisdiction in all civil cases wherein the amount in controversy does not exceed one hundred dollars, except in cases of libel, slander, assault and battery, and ejectment.

In all cases tried before such justices, the right of appeal, without repayment of costs, shall be secured by law; provided,

that the Governor may appoint one Notary Public for each election precinct in counties, and one for each ward in cities of over five thousand inhabitants, who, in addition to the powers of notary, shall have and exercise the same jurisdiction as Justices of the Peace within the precincts and wards for which they are respectively appointed; and provided, that Notaries Public without such jurisdiction may be appointed. The term of office of such Justices and Notaries Public shall be prescribed by law.

27. An 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 two years, and until his successor is elected and qualified. After his election he shall reside at the seat of government, and shall be the law officer of the State, and shall perform such duties as may be required of him by law.

28. 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. HEFLIN—I move that the reference of this article be postponed until tomorrow morning.

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

MR. GRAHAM (Talladega)—I make the point of order that it should be immediately referred without debate.

THE PRESIDENT PRO TEM.—The rules would have to be suspended, and a motion would have to be made that the rules be suspended, in order to put the motion that the reference be postponed until tomorrow morning.

MR. HEFLIN—The uniform custom and the ruling of the Chair have been, when a member suggests a committee for his resolution of ordinance to be referred to, for it to be so referred, and it has been the practice of the House for the Chair to ask if the gentleman introducing it would suggest the committee he desired it referred to.

THE PRESIDENT PRO TEM.—The rules of this Convention provided that when an ordinance is read it shall be referred to the appropriate committee which has been raised for that purpose. When it is desired that a resolution or ordinance be referred to any special committee, a motion to suspend the rules must be made, and unless that motion is made, the Chair will refer the ordinance to the Committee on Judiciary.

MR. HEFLIN—I have a resolution raising a special committee to refer this ordinance to.

THE PRESIDENT PRO TEM. — The committee has not been appointed.

MR. HEFLIN—I make the motion, then, that the rules be suspended and that the reference of this ordinance be postponed until tomorrow morning.

THE PRESIDENT PRO TEM. — The gentleman from Chambers moves that the rules of this Convention be suspend and that the reference of the ordinance be postponed until tomorrow morning.

MR. WATTS—On that I call for the ayes and noes.

The call was sustained.

THE PRESIDENT PRO TEM.—The question is, shall the rules of this Convention be suspended for the purpose of postponing consideration of the ordinance just read.

MR. MULKEY—I move to lay that motion on the table.

The motion to table was then withdrawn.

MR. HEFLIN—I will withdraw the motion to postpone the reference.

Objections were made.

MR. HEFLIN—I desire, before I withdraw it, to read Rule 29 to the Chair: "When motions are made for the reference of the subject to a select committee and a standing committee, the question for the reference to a standing committee shall be first put." Now I am trying to have it referred to a select and new committee.

THE PRESIDENT PRO TEM.—The Chair is perfectly satisfied upon this proposition. The gentleman from Chambers asks unanimous consent to withdraw his motion.

MR. PETTUS—I object.

MR. HEFLIN—A further point of order. I call the attention of the Chair to Rule 29 which does not require a suspension of the rules to raise a select committee.

THE PRESIDENT PRO TEM.—This is not a resolution to raise the select committee. The resolution raising the select committee has been referred to the Committe on Rules.

MR. HEFLIN—I move that a select committee composed of the President of the Convention and the Chairman of each Committee be—

THE PRESIDENT PRO TEM.—The Convention will be in order. The gentleman is out of order. The only motion before

this House at this time is in reference to this ordinance which has just been read, and a motion has been made that the rules of this Convention be suspended and that it be referred to a special committee. Upon that motion, the ayes and noes have been demanded, and the call has been sustained. The gentleman thereupon asked unanimous consent to withdraw his motion, and objection is made by the gentleman from Limestone, and the question will be upon the motion to suspend the rules. Those who favor the suspension of the rules will say aye, and those opposed no, as their names are called. The Clerk will call the roll.

Upon a call of the roll the vote resulted as follows:

AYES

Barefield,	Heflin, of Chambers,	Lowe (Jefferson),
Burns,	Heflin, of Randolph,	Opp,
Carmichael, of Colbert,	Inge,	O'Rear,
Carmichael, of Coffee,	Jackson,	Parker (Cullman),
Glover,	Jenkins,	Proctor,
Grayson,	Jones, of Wilcox,	Sanford,
Greer, of Calhoun,	Knight,	Sentell,
Handley,	Lomax,	Smith, Morgan M.,

TOTAL—24

NOES

Altman,	Freeman,	O'Neal (Lauderdale),
Ashcraft,	Gilmore,	Palmer,
Banks,	Graham, of Montgomery,	Parker (Elmore),
Bartlett,	Graham, of Talladega,	Pettus,
Beddow,	Grant,	Pillans,
Blackwell,	Greer, of Perry,	Pitts,
Boone,	Henderson,	Porter,
Brooks,	Hodges,	Reynolds (Chilton),
Bulger,	Hood,	Samford,
Burnett,	Howell,	Sanders,
Byars,	Howze,	Selheimer,
Cardon,	Jones, of Bibb,	Sloan,
Chapman,	Kyle,	Smith, Mac. A.,
Cobb,	Long (Walker),	Spears,
Cofer,	Lowe (Lawrence),	Spragins,
Craig,	McMillan (Baldwin),	Studdard,
Davis, of DeKalb,	Malone,	Tayloe,
Davis, of Etowah,	Martin,	Thompson,
Dent,	Miller (Wilcox),	Vaughan,
Eley,	Moody,	Waddell,
Eyster,	Mulkey,	Walker,
Espy,	Murphree,	Watts,
Fitts,	NeSmith,	Weakley,
Foshee,	Norman,	White,

Whiteside,	Wilson (Clarke),	Winn,
Williams (Barbour),	Wilson (Washington),	

TOTAL—77

ABSENT OR NOT VOTING

Messrs. President,	Hinson,	O'Neill (Jefferson),
Almon,	Jones, of Hale,	Pearce,
Beavers,	Jones, of Montgomery,	Phillips,
Bethune,	King,	Reese,
Browne,	Kirk,	Renfro,
Carnathon,	Kirkland,	Reynolds (Henry),
Case,	Ledbetter,	Robinson,
Coleman, of Greene,	Leigh,	Rogers (Lowndes),
Coleman, of Walker,	Locklin,	Rogers (Sumter),
Cornwall,	Long (Butler),	Scarcy,
Cunningham,	Macdonald,	Sollie,
deGraffenreid,	McMillan (Wilcox),	Sorrell,
Duke,	Maxwell,	Stewart,
Ferguson,	Merrill,	Weatherly,
Fletcher,	Miller (Marengo),	Willet,
Foster,	Morrisette,	William (Elmore),
Haley,	Norwood,	
Harrison,	Oates,	

PAIRED

AYES	NOES
Williams (Marengo),	Smith (Mobile).

And the Convention refused to suspend the rules.

MR. HEFLIN—The Chair rules in the face of Rule 29 that it requires a suspension of the rules. I was satisfied the Convention would suspend the rules for that purpose. I now move and wish to state my reasons why——

Objection was made.

MR. JENKINS—I would like to ask the gentleman a question.

PRESIDENT PRO TEM.—Will the gentleman yield?

MR. HEFLIN—Yes.

MR. JENKINS—I would ask if the Convention could not go into Committee of the Whole, and if the gentleman will accept that; that the Convention resolve itself into a Committee of the Whole this afternoon at 3:30 o'clock.

MR. GRAHAM (Talladega)—I rise to a point of order. The rules of this Convention require that when an ordinance is read, that it shall be immediately referred to the appropriate committee.

PRESIDENT PRO TEM.—The occupant of the Chair has uniformly held——

MR. JENKINS—Will the Chair hear me on that point?

PRESIDENT PRO TEM.—Not until the Chair rules. That under the rules of this Convention, as stated by the gentleman from Talladega, when an ordinance is read, it must be referred, unless the rules of this Convention are suspended. The Convention has failed to suspend the rules and the ordinance is referred to the Committee on Judiciary.

The special order for this time is the consideration of the report of the Committee on Education—Section 6 of the Article.

MR. GRAHAM—Mr. President, Section 6 reported by the Committee does not make any change in the old Constitution, therefore I move its adoption without reading.

PRESIDENT PRO TEM.—The Secretary will read Section 6.

The Secretary read Section 6 as follows:

Sec. 6. Not more than 4 per cent of all moneys raised, or which may hereafter be appropriated for the support of public schools shall be used or expended otherwise than for the payment of teachers employed in such schools; provided, that the General Assembly may, by a vote of two-thirds of each House suspend the operation of this section.

PRESIDENT PRO TEM.—The question is upon the adoption of the section as read.

A vote being taken the section was adopted.

The Secretary read Section 7 as follows:

Sec. 7. The supervision of the public schools shall be vested in a Superintendent of Education, whose powers, duties and compensation shall be fixed by law.

MR. REESE—That section remains unchanged in the old Constitution, with the exception of the Article for the Executive Department, fixing the time of office and the method of election. I move the adoption of the section.

PRESIDENT PRO TEM.—The question is upon the adoption of the section as read.

A vote being taken the section was adopted.

The Secretary read Section 8 as follows:

Sec. 8. No money raised for the support of the public schools of the State shall be appropriated to or used for the support of any sectarian or denominational schools.

MR. BETHUNE—Section 8 is exactly like the old Constitution. I move its adoption.

PRESIDENT PRO TEM.—The question is on the adoption of the Section as read.

A vote being taken, the Section was adopted.

The Secretary read Section 9 as follows:

Sec. 9. The State University and Agricultural and Mechanical College now called the Alabama Polytechnic Institute, shall be each under the management and control of a Board of Trustees. The Board for the University shall consist of two members from the Congressional district in which the University is located, and one from each of the other Congressional Districts in the State. The Board for the Agricultural and Mechanical College shall consist of two members from the Congressional District in which the College is located and one from each of the other Congressional Districts in the State, said trustees shall be appointed by the Governor by and with the advice and consent of the Senate, and shall hold office for a term of six years and until their successors shall be appointed and qualified. After the first appointment each board shall be divided into three classes, as nearly equal as may be. The seats of the first class shall be vacated at the expiration of two years, and those of the second class in four years, and those of the third class at the end of six years from the date of appointment, so that one-third may be chosen biennially. No Trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such. The Governor shall be ex-officio President, and the Superintendent of Education ex-officio a member of each of said Boards of Trustees.

MR. GRAHAM (Talladega)—There is a minority report to that Section.

The Secretary read the minority report as follows:

Therefore, the undersigned minority of your Committee on Education recommends that the words "each of said Boards of Trustees" at the end of Section 9 of the report be stricken out, and that there shall be added in lieu thereof the words "the Board of Trustees of the Alabama Polytechnic Institute. The Superintendent of Education shall be ex officio a member of the Board of Trustees of the University; and the said Board shall elect its own President."

THE PRESIDENT PRO TEM.—The question will be upon the adoption of the minority report. I recognize the gentleman from Limestone.

MR. PETTUS—Mr. President——

MR. FOSTER—Will the gentleman yield to an amendment to be considered at the same time?

MR. PETTUS—I will yield to the gentleman to offer the amendment.

The Secretary read the amendment as follows:

"Amend minority report on Section 9 of Article on Education by striking out of said Section all therein that applies to the State University, and by adding at the end of the Section the following: 'The State University shall be under the management and control of a Board of Trustees, which shall consist of two members from the Congressional District in which the University is located, and one from each of the other Congressional Districts in the State, and the Superintendent of Education and the Governor who shall be ex officio President of the Board; the members of the Board of Trustees now existing shall hold office until their respective terms expire, under existing law, and until their successors shall be elected and confirmed as hereinafter required. When the term of any member of such Board shall expire the remaining members of the Board shall by secret ballot, elect his successor. At every meeting of the Legislature the Superintendent of Education shall certify to the Senate the names of all who shall have been so elected since the last session of the Legislature, and the Senate shall confirm or reject them as it shall determine is for the best interest of the University. If it reject the name of any member, it shall thereupon elect Trustees in the stead of those rejected. The Trustees who shall hereafter be elected and confirmed, shall hold office for a term of six years from the date of their confirmation or election by the Senate, and until their successors shall be elected and confirmed; no Trustee shall receive any pay or emolument other than actual expenses incurred in the discharge of his duties as such.

THE PRESIDENT PRO TEM.—The question will be upon the adoption of the amendment to the minority report. The gentleman from Limestone.

MR. PETTUS—Mr. President, I will state to the Convention that my first idea was to offer some such plan as that proposed by the substitute of the gentleman from Tuscaloosa. Upon a casual investigation of the subject, it appeared to me that it might be wise and proper for the Board of Trustees of the University of Alabama to be made self perpetuating, subject to the confirmation of the Senate, but upon a more careful investigation of the subject, and upon an examination of the laws concerning other institutions of like character, I came to the conclusion that the reasons which might be urged against a section or provision like that were greater than the reasons which could be urged for such a plan. I think, Mr. President, that one objection which I might

mention, taking into consideration the courtesy that holds among bodies of that character, is the consideration which members of a Board of Trustees would come to have for each other, when brought into the social relations that they would, in transacting the business that would come before them. I think that the tendency of human nature in that regard would be for them to nominate each other, even after from old age or some other cause a member should have become inefficient. I do not believe that a Board of Trustees should have power to perpetuate itself in institutions of this character. The Board will never get to the point where they would turn down a single member, if he should desire a re-appointment, and the Senate would not turn down a member recommended by the Board unless there was very serious, grave, or partisan reason for their action in the matter, and I believe that in itself, is a sufficient reason for not adopting this plan.

I have not been able to find any examples of this character in other institutions. My first information was that this plan obtained in the University of Virginia, which I believe to be the model State University in the South, and I got the laws upon that subject to see if the University Trustees had power to perpetuate themselves. On getting the law and investigating the subject I find that the Board of Trustees of the University of Virginia is appointed by the Governor of Virginia, but the Governor is not a member of the Board.

Now, Mr. President, the reason why I object to the Governor being a member of the Board is not based on any special instance, nor on any particular experience, but on the general experience and history of the State. I hold to the principle that the man who appoints the Board of Trustees, and to whom that Board reports, ought not to preside over it, and in that way be able to dominate and control its actions. There is no question in my mind but what the power that appoints the Board of Trustees, if brought into direct personal contact, by being made the ex officio presiding officer of that Board, will be able to dominate and control its action. There is a question, too, whether or not this control will always be for the best and highest interest of the institution, over which he is presiding. In some of the Northern Universities, and in some other institutions, provisions is made for a Board of Trustees to be appointed or elected, by the alumni of those institutions. It does not seem to me that it is necessary to go as far as that in framing a section for the University of Alabama, but I do believe, Mr. President, that the voice of the alumni should be heard upon this subject. I believe that they have an interest in this matter that is perhaps greater than that of other citizens of the State, and certainly it cannot be denied that they have a knowledge of the subject, from their experience and their contract with the University, which is greater than that of other citizens of the

State. Now, while I do not favor the plan at this time, of putting it into the Constitution that the alumni are to elect the Trustees, or a part of them, I do believe that the voice of the alumni should be heard on this great question, and I read from an official resolution which was adopted by the Alumni Society at the last commencement, where a great number attended, and where it was said in the newspaper reports that the alumni who were present were older men than usually come back to the commencements. Interest in the University had brought back very many of the old alumni of the institution, and they adopted a resolution which says in paragraph 2: "That the Governor, being the Chief Executive Officer of the State, whose duty it is to report upon the work of the Board, should not be a Trustee." I submit, Mr. President, that in that pithy paragraph, they have summed up the reasons why the Governor should not be a member of the Board, because the Board reports to him and there should not be the anamoly in the organic law of the State requiring the Governor to report to himself. Let him appoint the Board, and in that way you will get good men; you will get efficient men, and they will be confirmed by the Senate; you will get a change in the Board whenever a change is necessary, and will not have the Governor under obligation to reappoint any members who may have become inefficient from old age or other causes. In that way, the Governor will appoint to be confirmed by the Senate, and these appointees will preside over the destinies of the University, and report to the Governor of the State.

Now, it has been suggested by some, Mr. President, that we ought not to make an exception of any University; that if we are going to take the Governor off of the Board of the University, we ought to take him off the Board of the other institutions, at Auburn and Montevallo. While it might save some little space in printing the Constitution, to have all of it embraced in one section, but I submit that it is no argument that the University should be run like Montevallo or Auburn. The State University is in a class by itself, both from its origin and foundation in the position it occupies among the schools of the State. The reason Why I did not incorporate, with the other seven or eight gentlemen who sign this minority report, a section taking the Governor off of the Board of Trustees of Auburn and Montevallo while I believe the same reasons would hold good there, it would be better and wiser policy, but we did not incorporate in the minority report and make that recommendation to the Convention, because, Mr. President, those institutions sent a long petition to the Committee on Education and specifically requested and asked that no change whatever be made in their management.

MR. BROOKS—I desire to ask my friend from Limestone if he will address himself briefly to the reason for his retaining in his amendment the Superintendent of Education as ex-officio

member of the Board. Why should the Superintendent of Education, whose functions and field of operations are so distinct from that of the University be retained, or why in fact, should there be any ex-officio member of that Board?

MR. PETTUS—The reason which actuated the minority in leaving the Superintendent of Education as ex-officio member of the Board of the State University was this: While the University was founded by the Federal government, while its appropriation that comes annually from the State is but the payment of the interest which the State owes upon the trust fund that founded the University, and while in theory, perhaps, it may be somewhat separate, at least in its origin from the common school system of the State the minority believe that the ideal system of education is to have schools beginning with the common schools, open to all the people in every county, through various graduations, and to have as a top and crown of the educational system of the State, a State University and believing the University should be in touch with these other institutions of learning over which the Superintendent of Education presides, and over which he exercises supervision, the minority believed that it was a wise policy to let him be an ex-officio member of the Board of the State University, in order that the relationship and harmony of the educational ininstitutions and systems of the State might be preserved.

THE PRESIDENT PRO TEM.—The time of the gentleman has expired.

MR. PETTUS—I don't want more time. I simply want to submit that I am opposed to the substitute of the gentleman from Tuscaloosa, and I trust, with the minority of the Committee on Education who have signed the report with me, that the Convention will entertain the substitute and adopt the minority report which simply takes the Governor off of the Board and makes no other change.

MR. FOSTER—The substitute has not been prompted by any feeling on my part that the present system has not resulted in the appointment of good men as Trustees of the University.

I believe that the Governor can always appoint good men upon the Board of Trustees of the University, but it is needless to ignore the fact, as every member of this Convention knowns, there has been a cry all over the State which has injured the University materially, that politics have entered into its control. It has even been stated, Mr. President, in parts of the State, that the University is a mere political machine, used for the advancement of political interests of certain men who are connected with it. Now, Mr. President, while I do not believe that politics enter into the management of that institution to any very great extent, I feel thoroughly and deeply the need of some action upon the

part of this Convention to make it impossible in the future that this cry may be used against this institution of learning. The alumni, Mr. President, also feel it, and it is in response to a resolution at the last meeting of the alumni, that I have drawn up that substitute and offered it before this Convention. The gentleman from Limestone read part of a resolution adopted at the last meeting of the Alumni Association, but he did not read all of it and I desire to call the attention of this Convention to the fourth resolution adopted at that meeting, "that some method should be incorporated in the Constitution of the State, in place of the present one, which will remove the appointment or election of the Trustees, as far as possible, from political influences and obligations." I agree with the gentleman from Limestone that meeting of the Alumni Association was a representative body of the alumni of the University. I do not concede the theory, and I do not believe in it, that the institution belongs to the alumni. I believe notwithstanding what the gentleman from Limestone said that its endowment is a gift of the Federal government, that the institution belongs to the State of Alabama. They are the people interested in it.

Mr. President, the Alumni met there at the last commencement, and having canvassed the whole matter, adopted this resolution, as their deliberate opinion, that the appointment of trustees should be removed as far as possible from political influences and obligations. For that reason, Mr. President, I have framed this substitute endeavoring to take away from any political power the appointment of these trustees, except from the Senate of the State.

Now, I do not think it would be a good idea to leave the Governor off of this Board. I think the Governor ought to be on the Board, and think the Superintendent of Education ought to be on the Board, because, as it said before, the institution belongs to the people of Alabama, and they ought to have their representatives upon the Board of this institution. There are other reasons why I think it best that the Governor should remain on this board. I believe it would be to the interests of the institution that the Chief Executive officer of the State should feel in some measure responsible for its conduct. I agree thoroughly with the gentleman from Limestone for the reason that it tends to harmonize and make a consistent whole out of the educational system of the State, that the Superintendent of Education ought to remain upon the Board, but I submit that the mere fact of detaching the Governor from this Board cannot have the effect that the gentleman from Limestone desires. If any Governor of this State should see fit to appoint men on that Board to advance his political interests or to accomplish any other object, wouldn't he appoint his own creatures, and couldn't he control them from

his executive office just as well as he could from the room in which the Board of Trustees meet at the University? What difference would it make? None whatever in the management of that Board.

Now, it has been unfortunate that we have had trouble at the University. We have even had litigation over the appointment of the trustees. This plan now makes that impossible, if the Convention adopts the substitute offered by myself. The Trustees will themselves elect their successors, subject to confirmation by the State, and if the Senate rejects any member so elected, then it becomes the duty of the Senate itself to elect successors. If objection is raised, that may give a life tenure to some of the Trustees, I have no objection to an amendment, if anyone sees fit to offer it, and I will accept it providing that no member shall be elected more than twice, or shall hold more than two terms. As there are some objections upon that ground, I am perfectly willing to accept that amendment, but I cannot conceive that the Senate of Alabama would confirm a man known to be unworthy of the trust, even if he were elected by the Board of Trustees, and I do not believe the plan as offered by me will result in the continuation of any unworthy man in the management and control of that institution. However, it is not the trustees whose interest I care for. I do not care if their term is limited to one or two or three, or how you limit it. It is the interests of the institution which I have at heart, and which I am endeavoring to protect, and this substitute is in accordance with the resolutions adopted by the Alumni Association. Now, I agree with the gentleman from Limestone that the alumni have the interest of the institution at heart, and that they do know, as well, perhaps, as any other body of the State, or better, what is to the interest of the school. There are, as is well known, and as is suggested to me by my colleague, Mr. Fitts, from Tuscaloosa, three members of the alumni who now sit upon that Board as an Advisory Board to the Board of Trustees. Those men are selected by the alumni and necessarily have great weight and influence in the management and control of that institution.

MR. REESE—May I ask the gentleman a question: Is your plan known as the Harvard plan; is it the same plan?

MR. FOSTER—I am not familiar with that, but I am told that the Harvard plan is something like this; that the alumni there recommend the appointment of some trustees, and the Board elects its own successors.

MR. JENKINS—I want to say that I agree with the gentleman from Tuscaloosa. I made it my business to go to Tuscaloosa and visit that institution at the alumni meeting.

MR. GRAYSON—I would like to hear the substitute read before further discussion.

MR. JENKINS—I will state to the gentleman what the substitute is. It simply provides that all vacancies on the Board of Trustees shall be filled subject to confirmation of the Senate, but they shall hold regularly for only six years. They shall be re-elected by the Board, subject to the confirmation of the Senate, but if the Senate sees fit to reject any member of the Board, or all of the members of the Board, then the Senate shall elect the members of the Board. Now, Mr. President, I think that provision alone requiring the Senate, if they reject the action of the Board, to re-elect, is a safeguard against any undue perpetuation of the Board by themselves. Their vote is a secret ballot, and every man on that Board has more the interest of the University at heart than he has personal ambition, and any member of that Board, I do not believe there is one of them, and I know each and every one of them personally, that would vote to perpetuate a single member if they did not think it was to the interest of the University of Alabama to do so. Now, Mr. President, I say this, that the only trouble with the University of this State today, is the great hue and cry raised by denominational colleges, and pretended friends and open enemies that politics will get in around and about it, and we want to remove that imputation, and if we can remove that imputation, I say you can put thirteen sticks or figureheads on the Board, and every power and force that is inherent in the college and the faculty will carry it over any obstacle that can get in the way. It is not so much the Board of Trustees, but it is that hue and cry of politics, and there is where politics come in through the Governor who appoints the Trustees. It has been the history of the University in the past, with a few exceptions, that the Governors have appointed personal and political friends on the Board, and not so much the interests of the University. It has been the dumping ground, as it were, for politicians, men who have axes to grind, in order to further the ambitions of Governors to the United States Senate and other places. Now, Mr. President, that charge has been made, and I think there has been good ground for it, and we ought to take that power out of the hands of the Governor and place it back with the people in the Senate, and not just leave it to the Governor to name them. I have no objection to the Governor being on the Board, if you remove that power of appointment from him, but if you do not remove that power I think he ought to be taken off the Board. But if you do remove the power of appointment, then his being on the Board will not amount to anything, and he would have only one vote and that is all, but if you allow him to name the Board, he will have the whole vote, because every man he names he will have some kind of a claim upon him or will claim to have it, and there are very few men that can resist it. Now, I have thought

about this question, I have gone to the college. I have talked with the trustees, I have talked with the people in the town, and it is the concensus of opinion as I could gather that this was the most feasible and practical plan for the interest of the university that could be gotten up, and for that reason the gentleman from Tuscaloosa has introduced it, and I believe that the alumni over the State and the college, and the college itself will back it up and will support it and will be thankful to the Convention if they could see fit to give it to them. I will say furthermore that there is another institution in Tuscaloosa standing side by side with the university that has been a crowning success of the nineteenth century, and that is the Bryce Insane Hospital. It is the greatest product of our civilization. Alabama has nothing to compare to it. It is known the wide world over, and what has made the success of that institution? They have such a plan as this for their trustees. They have a board that stays on the grounds, that stays in touch with the institution, that is part and parcel of it, and that is what we want with the university. We do not want a division of the forces all the time, one board coming in and reversing the action of the former board, vascillating, uncertain, wandering policy of the college, but if you will fix it like the asylum, like some of the leading institutions of the United States, why, sir, you will start the ground work of the greatest university in the South right here in Alabama. The university has always had the faculty that was the peer of any in the South. I do not grant any excellencies prior to them, even the University of Virginia. There has never been any faculty superior in the South to the faculty of the University, and its equipment and resources and ability to educate the young men of Alabama have been equal to any, but on account of this cry, this imputation, this entanglement, circumstances that have been round and about it, the institution has been hampered and we want to cut it loose from their charge and let it walk out and stand alone upon its merits, and if you will place it on its merits and take away these charges and this damning influence that is ruining the college and has for thirty years, why, Mr. President, it will be all well with the institution, and the only way to do it is to make a self-perpetuating board subject to the approval of the Senate. That to my mind is a sufficient guard against undue perpetuation by unworthy members. Now, Mr. President, I sincerely hope that the substitute the gentleman from Tuscaloosa will prevail.

MR. FITTS—I desire to offer an amendment adding a sentence to the end of the substitute offered by the gentleman from Tuscaloosa. I ask unanimous consent to add this: "No trustee shall hold office under this plan for more than twelve successive years."

THE PRESIDENT—The gentleman from Tuscaloosa asks unanimous consent to offer his amendment to the substitute offered by the gentleman from Tuscaloosa. Is there no objection?

There was no objection, and the amendment was allowed.

MR. DAVIS (Etowah)—I do not care to make any remarks as to the two amendments proposed by the gentleman from Tuscaloosa, but I do desire to make some remarks in opposition to the minority report on this section. It is perhaps indelicate to me, a member of the Board of Trustees of the University, to take part in this discussion, but I would be recreant to the trusts imposed in me were I at this juncture to remain silent when I feel that a hurtful blow is being struck at the chief institution of learning in the State. In coming here as a member of this Constitutional Convention, I adopted for myself a rule of action in which, in my humble opinion, was wise and safe, and that rule is to guard jealously the provisions of the old Constitution and to vote against any proposed change or innovation until I was satisfied that there was a necessity for such change. I shall adhere to that rule of action in the present instance, for I feel that there is not only no necessity for a change, but that such change would be dangerous to the welfare of the University. What good reason can be assigned for wiping out this old landmark from the Constitution? You have all heard the cry of politics, politics in the university; that its baleful influence was hanging like a millstone around her neck and dragging her down to destruction, but I say to you, gentlemen of the Convention, that this cry of politics in the University is all wrong, that the charge that the University is going down is all wrong. She is in better condition for usefulness today than she has ever been. She is the peer of any institution of learning south of the University of Virginia. She has the ablest corps of teachers that she has ever had. She has for President a man whose name is revered and respected throughout the confines of Alabama; a man who has left the impress of his splendid personality on thousands of Alabama's most honored sons. Would any man dare say that politics placed a single one of that able corps of teachers there, that politics ever remotely entered into the selection of Dr. Wyman for its President or his predecessor, Dr. Powers, both of whom have spent their lives in the cause of education? Gentlemen of the Convention, it is well known that recently there was an applicant from our own State for the Presidency of the University—a man of scholarly attainments, one who had been honored not only by Alabamians but by the great universities of foreign lands, one who had stood high in the councils of the nation, yet he had never had any experience as an educator. It is equally well known that his application was backed by a petition with the names of 114 members of this Constitutional Convention signed thereto, urging the members of the Board of Trustees to elect him President; and yet notwithstanding this great

political pressure, they selected a man who was neither directly nor indirectly an applicant for the position, because they believed that the welfare of the University demanded it. Was this politics? Gentlemen of the Convention, I beg you to pause and consider long before you make this change. Take not ruthlessly from your chief educational institution the man whom the people of Alabama have honored by making him their Chief Executive. The students of the University feel honored by having the Governor of Alabama present at their closing exercises. The alumni and friends of the University who gather annually at the historic city of Tuscaloosa to witness commencement exercises feel glad to see that the State is present in the person of her Governor to add dignity to the occasion and to bid godspeed to those who are engaged in the noble work of higher education. Do not strike from the roster of her Board the Chief Executive. Let her not feel by such a blow that Alabama has discarded her from the list of her cherished children and has relegated her to the position of a step-child. She is worthy of your love, and your respect, and your personal attention. We all felt, when we elected Dr. Wyman to the presidency, that peace and harmony had at last been restored to this grand old institution, but hardly has she had time to adapt herself to the repose thus offered, when an attempt is made to disturb her serenity and to thrust her back into the old condition of unrest. I love the University; I love her classic halls. She is my alma mater; my cherished mother at whose breast I imbibed the greater portion of what learning I possess. In youth she nurtured me, and with what strength I have, I shall protect her now. It was the hand of our forefathers that planted her there to be forever a seminary of learning for the higher education of the young men of Alabama. The winds and the waves of stormy periods have beat about her. Even the cruel hand of grim-visaged war has been laid heavily upon her, and those halls, consecrated to learning, were consigned to the flames; but even as those flames mounted upwards and the fiery sparks from that seething conflagration leaped skyward, they were borne by the winged messenger of the gods, Mercury, to the very battlements of heaven, and there laid at the feet of Minerva, the goddess of war and wisdom, who sat in full panoply of war at the right hand of her omnipotent sire, and Mercury said to her: "Lo, thy legions have invaded a fair land; they have sacked and pillaged; they have applied the torch freely, and now, mad with unbridled license, they have consigned to the flames as a burnt offering to thee a great seminary of learning;" and Minerva said to him, "Take back to the sorrow-stricken people of that fair land a message. Tell them that the walls of that school shall be rebuilt and that I will make of her a greater institution of learning wherein not only the sons, but the daughters, of Alabama shall drink deep at the fountain of learning." Gentlemen of the Convention, do not adopt this minority report, lest some time in the future even-handed justice

should place the poisoned chalice to the lips of your other great educational institutions. But should you decide against her, should you decide she no longer shall be honored by having the Chief Executive at the head of her Board of Trustees, that same moment blot from the galaxy of great educational institutions in your State the bright star that glitters to the name of the University, but remember, you will have left her like "the Niobe of nations, voiceless in her woe." (Applause).

MR. REESE—The correction of abuses, and the reformation of abuses, are frequently accompanied with disaster. The efforts to correct and the efforts to reform do more harm than the abuses which it is intended to correct. Now, Mr. President, the distinguished delegate from Limestone, and I say it with the greatest sincerity, has undertaken to break down the greatest system that has endured since the commencement of the State University. He attempts to strike down from this Board, as the head of it, the people's chosen servant, the man who holds the most exalted position in Alabama, the man above all others, who possesses the confidence and trust of the people of Alabama, and why, Mr. President, because forsooth during the last few years in the party which has been dominant there has arisen factions, and among them it was made the fashion of the day to abuse the late Governor of Alabama, and for the purpose of tickling the ambitions of gentlemen, who have found it proper and expedient to break down the late administration of Alabama they propose to strike from the books the provision that will rob the State University of the most capable man in Alabama, the man who possesses the trust, and in whom is reposed the great executive authority of Alabama. Mr. President, I concede that politics have crept into this University, this grand old institution that has turned out so many great men. Its distinguished alumni are numbered by the thousands. Why, Mr. President, I am a graduate of that institution myself. (Laughter and applause.) Mr. President, I speak for myself, I speak for the institution (applause), and it is all right, notwithstanding I did graduate there. Now, I speak for myself and the other alumni of that institution that are devoted to its future, and who hope and confidently expect to see our sons educated in our old Alma Mater. I want it to be put on a grand plane, where it will be a grand institution. Certainly it has the faculty there which is capable of making it such. Now the plan proposed by the gentleman from Tuscaloosa, and I want to say as a member of this Committee on Education, as one who voted for the majority on this report, I believe it is a better proposition than either of those suggested to the Convention by the majority or minority of the Committee. Mr. President, it is advocated by the gentleman from Tuscaloosa, the three gentlemen, as I am informed from Tuscaloosa, who live in that atmosphere, that it is for the interests of Tuscaloosa, for the interest of the

State University. Now, what is the plan of the gentleman from Limestone? It does not take away from the Governor the appointing power. It permits him to put his minions in there if he sees fit to do it. If the Governor of Alabama sees fit to control the affairs of that University for political purposes he has just as much power to do it under this plan as formerly, and, Mr. President, he can do it without assuming the responsibility for it. He can dictate in a private caucus to his minions his appointees what they shall do and yet he is not held to personal account for he can say that he has nothing to do with it, that he is not the presiding officer. Now the plan of the gentleman from Tuscaloosa is the solution of the proposition. If you want to get it out of politics and I say as an alumnus of that institution, I want to get it out of politics, and I say as a citizen of Alabama I want to get it out of politics and I say as the father of a boy, that I want to send there in the future, I want to get it out of politics. I want to take away from the Governor this appointing power but I am unwilling that the State University should be deprived of the service of a man whom the people of Alabama say is the most trustworthy man in Alabama to attend to the affairs that belong to the people of Alabama. Mr. President, the gentleman is willing, and the other gentleman, in this report, they are willing to have Auburn afflicted with these troubles that have existed in the past.

MR. PETTUS—Don't you know that Auburn people sent a large petition to Montgomery to the Committee on Education asking specifically that no change be made in regard to the measurement of that institution?

MR. REESE—Yes, sir; I understand that, but are the officials, the professors and the beneficiaries of the plan which the gentleman from Limestone would tear down to dictate to this Convention. Are there responsibilities resting upon them as to what shall go into this Constitution. The responsibilities cannot be shifted and the fact remains, Mr. President, if it is a good thing for the State University to take the Governor of Alabama off of its Board and to say to the Governor that he shall take no interest in the State University, it is a good thing to say to him that he shall not interfere with the affairs at Auburn, the affairs that the Girl's School, and these other schools. The position of the minority in this case is absolutely inconsistent. As delegates of the people of Alabama they propose to leave an iniquitous plan on this question and propose an unjust discrimination in favor of the State University. They propose to leave the Governor, the official head of every other educational institution in Alabama. They propose to say to him that he shall have nothing to do with it and absolutely put him in an attitude of an unexpected guest at the State University. One of the most pleasant and attractive incidents of every commencement at the University when I was there, was Governor's day, when he came there with his military staff from these hand-

some military-looking gentlemen. I recollect as a boy now we used to enjoy seeing these military men, these members of the Governor's staff. Now, Mr. President, if it is a good plan for Tuscaloosa it is good for Auburn, and all these other schools. The proposition of the gentleman from Tuscaloosa is the solution of the question and I ask the Convention to adopt it. These gentlemen more than others, represent the interests of the State University. They are there and they grew up, every boy and child and man about Tuscaloosa, they have an attachment and veneration for this institution. Now, Mr. President, I move the previous question on the two amendments.

MR. PETTUS—I will ask the gentleman to withdraw that for the purpose of hearing discussion on the subject. It occurs to me that after some gentleman speaks they want to stop—

MR. REESE—I ask the gentleman if he was not preparing to move to lay Mr. Foster's amendment on the table?

THE PRESIDENT PRO TEM—The gentleman from Dallas moves the previous question.

MR. PETTUS—I move we lay the motion on the table.

MR. FOSTER—I demand the ayes and noes.

The call was sustained.

MR. LOMAX—I call for a division of the question. I ask that the vote be taken on the amendment offered by Mr. Fitts, and then on the proposition of the gentleman from Tuscaloosa, Mr. Foster.

THE PRESIDENT PRO TEM—The Chair will state to the gentleman from Montgomery that was incorporated by unanimous consent in the substitute offered by the gentleman from Tuscaloosa, Mr. Foster, and it seems to the Chair that the question is not divisible.

MR. LOWE (Jefferson)—I would like to suggest to the Chair as I understand the proposition, the Chair held that the amendment offered by the gentleman from Tuscaloosa (Mr. Fitts) would not be in order, and unanimous consent was asked then to introduce the amendment.

THE PRESIDENT PRO TEM—The question before the House——

MR. LOWE—If it had been a question of acceptance, and if I had so understood it, I would not have consented.

THE PRESIDENT PRO TEM—The Chair submitted the question as to whether the request of the gentleman from Tuscaloosa, Mr. Fitts, asking unanimous consent that it be accepted as

an amendment to the substitute be permitted, and the Chair heard no objection. It was thereupon incorporated as a part of the substitute offered by the gentleman from Tuscaloosa, Mr. Foster; otherwise it would have been out of order.

MR. LOWE—There was where the misunderstanding occurred. The Chair held that it was out of order at that time to submit an amendment to the substitute as offered by the gentleman from Tuscaloosa, and as I understood it, and as many others understood it, the request was for consent for the introduction of the amendment to the substitute. Now that was the way it was understood, and I am sure the gentleman from Tuscaloosa would be perfectly willing for his amendment to stand upon that basis.

MR. PETTUS—I submit the gentleman from Tuscaloosa, Mr. Foster, asked leave to accept the amendment. The question was put by the Chair whether or not consent was given to accept the amendment, and if any gentleman on the floor misunderstood it, it was his misfortune.

MR. LOWE—The gentleman from Limestone is certainly in error as to any statement of that kind made by the gentleman from Tuscaloosa, Mr. Foster.

THE PRESIDENT PRO TEM—The gentleman from Tuscaloosa, Mr. Fitts, asked unanimous consent of the Convention that the amendment which he offered might be added at the end of the substitute offered by the gentleman from Tuscaloosa. That is the understanding of the Chair.

MR. LOWE—We might refer to the stenographers notes to ascertain what was said. I do not so understand it.

THE PRESIDENT PRO TEM—The journal would govern. The journal shows it was accepted by unanimous consent. The question will be upon the substitute offered by the gentleman from Tuscaloosa, Mr. Foster.

MR. LOWE—I move to strike out the amendment offered by the gentleman from Tuscaloosa.

MR. PETTUS—I make the point of order that it is out of order at this time. It was amended by unanimous consent.

THE PRESIDENT PRO TEM—It seems to the Chair that the motion to strike out would not be in order, after an amendment has been accepted. The question will be upon the motion to table. The reading of the substitute has been called for. The Secretary will read the substitute as offered by the gentleman from Tuscaloosa, Mr. Foster, and amended by the gentleman from Tuscaloosa, Mr. Fitts.

The substitute, as amended, was again read.

THE PRESIDENT PRO TEM—The question will be upon a motion to table. As many as favor the motion to table, will say aye and those opposed, no, as your names are called.

Upon the call of the roll, the vote resulted as follows:

AYES.

Altman,
Ashcraft,
Bethune,
Cofer,
Eley,
Foshee,
Harrison,
Hodges,
Merrill,
Opp,
Pettus,
Proctor,
Vaughan,
Williams (Barbour),

Total—14.

NOES.

Almon,
Banks,
Barefield,
Bartlett,
Beddow,
Blackwell,
Boone,
Browne,
Bulger,
Burnett,
Burns,
Byars,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Chapman,
Cobb,
Coleman, of Greene,
Cornwall,
Cunningham,
Dent,
Eyster,
Espy,
Ferguson,
Fitts,
Foster,
Freeman,
Gilmore,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Montgomery,
Jones, of Bibb,
Jones, of Wilcox,
Knight,
Kyle,
Locklin,
Long, of Walker,
Lowe, of Jefferson,
Lowe, of Lawrence,
Malone,
Martin,
Maxwell,
Miller (Wilcox),
Mulkey,
Murphree,
NeSmith,
Norwood,
O'Neal (Lauderdale),
O'Neill, of Jefferson,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Phillips,
Pillans,
Pitts,
Porter,
Reese,
Reynolds (Chilton),
Rogers (Lowndes),
Samford,
Sanders,
Sanford,
Searcy,
Sentell,
Sloan,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Spears,
Spragins,
Stewart,
Stoddard,
Thompson,
Waddell,
Walker,
Watts,
Whiteside,
Wilson (Clarke),
Wilson (Wash'gton),
Winn.

Total—97.

ABSENT OR NOT VOTING.

Messrs. President,	Kirk,	Pearce,
Beavers,	King,	Renfro,
Brooks,	Kirkland,	Reynolds, of Henry,
Carnathon,	Ledbetter,	Robinson,
Case,	Leigh,	Rogers (Sumter),
Coleman, of Walker,	Lomax,	Selheimer,
Craig,	Long, of Butler,	Sollie,
Davis, of DeKalb,	Macdonald,	Sorrell,
Davis, of Etowah,	McMillan, of Baldwin,	Weakley,
deGraffenreid,	McMillan (Wilcox),	Weatherly,
Duke,	Miller (Marengo),	White,
Fletcher,	Morrisette,	Willet,
Greer, of Perry,	Moody,	Williams (Marengo),
Haley,	Norman,	Williams (Elmore),
Jones, of Hale,	Oates,	

During roll call:

MR. DAVIS (Etowah)—Being a member of the Board of Trustees, I ask unanimous consent to be excused from voting.

Consent was given.

MR. LOMAX—As a member of the present Board of Trustees of the University, I ask to be excused from voting on this proposition.

The consent was given.

The motion to table was lost.

MR. PETTUS—I will state that the acceptance of the amendment offered by the gentleman from Tuscaloosa, Mr. Fitts, limiting the term of office of these Trustees to a term of twelve years, obviates the objection I had to it.

MR. REESE—I make the point of order that the previous question has been ordered on the pending amendments.

MR. O'NEAL (Lauderdale)—Are we entitled to a division of the question on this subject?

MR. PETTUS—I call for the previous question.

THE PRESIDENT PRO TEM—The Chair does not see very well how it can be divided.

MR. O'NEAL—Some of us are in favor of certain provisions and opposed to others.

MR. PETTUS—I make the point of order that it is one and indivisible.

MR. O'NEAL—What is the previous question asked upon?

THE PRESIDENT PRO TEM—Upon the section and the pending amendment. The gentleman from Limestone moves the previous question on the section and pending amendment.

MR. FOSTER—The gentleman from Dallas moved the previous question upon the two amendments, and it was so ordered by the House.

MR. REESE—That was the motion made by myself.

THE PRESIDENT PRO TEM—The recollection of the Chair is that the motion for the previous question by the gentleman from Dallas was never put to the House. Thereupon the gentleman from Limestone moved to table the substitute offered by the gentleman from Tuscaloosa.

MR. REESE—I make the point of order that when a motion for the previous question is made and not ordered and pending, a vote on that proposition, a motion to table is made, and the motion to table is lost, then the question before the House is the motion for the previous question, which was made before the motion to table.

THE PRESIDENT PRO TEM—The gentleman's point of order, it seems to the Chair, is well taken.

MR. JENKINS—I desire unanimous consent to offer an amendment.

Objection was made.

THE PRESIDENT PRO TEM—The question before the House is the motion for the previous question upon the substitute and the amendment.

Upon a vote being taken, a division was called for, and by a vote of 50 ayes and 16 noes, the previous question was ordered upon the substitute and amendment.

MR. LOMAX—Under the rules of the Convention, I demand a division of the question. The rules of this Convention say that any question may be divided if the sense will admit of it.

THE PRESIDENT PRO TEM—The gentleman from Montgomery will permit the Chair to state that he is perfectly cognizant of that rule, and the Chair will now look at the amendment and see if, in the opinion of the Chair, it can be divided. The substitute as offered by the gentleman from Tuscaloosa, has in itself several separate clauses, whereupon the gentleman from Tuscaloosa, Mr. Fitts, asked unanimous consent that an additional clause be added to the substitute as offered, and that permission was granted. If it be divisible by voting on the last clause, it will be divisible by voting upon each separate clause of the substitute by the gentleman from Tuscaloosa.

MR. O'NEAL (Lauderdale)—Will the Chair permit an inquiry?

THE PRESIDENT PRO TEM—Certainly.

MR. O'NEAL—Would it make sense if we voted on each clause of the original substitute?

MR. LOMAX—If the Chair will permit a suggestion, I will say there was no necessity for a division of the question, except in so far as the House demands that division. My demand for a division of the question goes merely to the amendment offered by the gentleman from Tuscaloosa, Mr. Fitts.

Mr. Graham (Talladega) and Mr. Pettus sought recognition.

THE PRESIDENT PRO TEM—The Chair does not care to hear any further on that, in view of the facts this is a separate amendment offered by the gentleman from Tuscaloosa (Mr. Fitts), it is divisible, and, therefore, the vote will be taken first upon the amendment offered by the gentleman from Tuscaloosa (Mr. Fitts).

MR. PETTUS—I make the point of order that when the previous question was ordered, it thereby cut off amendments, and that if the Chair now entertains a call for a division of the question by the gentleman from Montgomery, the Chair would thereby enable the Convention to divide the question, and in that way to amend the substitute offered by the gentleman from Tuscaloosa by adopting one provision and by striking out another, and an amendment by striking out in that way is out of order, and the Convention has so decided by ordering the previous question.

THE PRESIDENT PRO TEM—And the Chair overrules the point of order.

MR. JENKINS—I make the point of order that the amendment offered by Mr. Fitts has been adopted by unanimous consent.

THE PRESIDENT PRO TEM—And thereupon the gentleman from Montgomery demands a division of the question, and the Chair will so put it, and the point of order is overruled.

MR. PETTUS—I make the point of order that the amendment has already been acted on and accepted by the Convention by unanimous consent.

THE PRESIDENT PRO TEM.—And the Chair holds that it has been incorporated as a part of it, and the Chair is going to divide the question and let the delegates vote upon a division of the question.

MR. PETTUS—And upon that, I call for the ayes and noes.

The call was not sustained.

THE PRESIDENT PRO TEM—The question is upon the amendment offered by the gentleman from Tuscaloosa, Mr. Fitts.

Upon a vote being taken, a division was called for, and by a vote of 50 ayes and 34 noes, the amendment was adopted.

The question then recurred upon the substitute offered by the gentleman from Tuscaloosa, Mr. Foster.

MR. SANFORD (Montgomery)—Can I offer an amendment to his substitute?

THE PRESIDENT PRO TEM.—Not at this time.

Upon a further vote being taken, the substitute offered by the gentleman from Tuscaloosa, Mr. Foster, was adopted.

MR. JENKINS—I want to offer an amendment to the section.

MR. PETTUS—I rise to a point of order. The previous question has been ordered upon the section.

THE PRESIDENT PRO TEM.—The previous question has been ordered upon the substitute and the amendment which is the minority report. The substitute has been passed upon, and the amendment now comes up for adoption, and the amendments are in order and the gentleman from Montgomery is recognized.

MR. SANFORD (Montgomery)—I offer this amendment.

MR. REESE—I desire to make a parliamentary inquiry. The minority report offered an amendment to this section, and that the gentleman from Tuscaloosa offered a substitute. Now, the proposition that stands before this house is the amendment offered by the minority report of the committee, as amended by the substitute offered by the gentleman from Tuscaloosa. Now, it appears to me that it is the proper thing for this Convention to vote upon that proposition, to ascertain whether or not the amendment as amended shall be added to the section. Then the section itself will be open to amendments.

THE PRESIDENT PRO TEM.—The Chair is of the opinion that the point of order is well taken. The Chair will first submit the question as to the adoption of the minority report as amended. Then the section will be open to amendment. As many as favor the adoption of the minority report will say aye, and those who oppose will say no.

Upon a vote being taken the amendment proposed by the minority report, as amended, was adopted.

MR. PETTUS—I rise to a point of order. The amendment offered as a substitute by the gentleman from Tuscaloosa was amended. A separate vote was taken on that. Then the question

was on the substitute as amended, and the subtsitute as amended was adopted, and then the last vote was on the adoption of the section as amended, and that having been adopted, the motion to amend is not in order without a motion to reconsider and I ask for the record as shown by the journal on that.

THE PRESIDENT—The journal shows that the minority report as amended has been adopted, and the section has not been adopted and is subject to amendment, and the gentleman from Montgomery is recognized.

The amendment offered by Mr. Sanford of Montgomery was read as follows:

"Amend Section 9 by adding at the end of said section the words: 'Neither the Legislature nor any Board of Trustees for the control and management of the University of Alabama, or the Alabama Polytechnic Institute of Auburn, shall have authority or power to abolish the system of military education in existence at those institutions of learning."

MR. SANFORD (Montgomery)—I hope that amendment will be adopted because of the great benefit of military education upon the character of the young men of our State. Such institutions have been of vast service to our country, not only in foreign wars, but in the war between the States. The institution of Captain Partridge in Vermont, a famous military academy, has been of great service to the whole United States, in furnishing men accomplished as soldiers. The military institution at Lexington, Va., sent to the war between the States some of the most accomplished gentlemen that figured in that famous conflict. Among them was General Rodes of Tuscaloosa, Alabama. So with the military institution of Georgia at Marietta. Some of the most distinguished soldiers in the army were graduates of that academy. So even with the institution at Tuscaloosa, young as it is, though more than forty years old. Some of the finest soldiers of the last war were graduates and cadets of that famous college. It seems to me that the effect upon men of a military education is that apart from the discipline exercised at a military institution, it teaches them the art of commanding as well as the duty of subordination. The familiarity of men with arms has a great tendency to develop manhood, character and courage. All old soldiers know that the difference between the veteran and the militiamen was simply an acquaintance with the danger, which he acquired after the first battle, when he became almost a veteran. He knew precisely what dangers he encountered, and he calculated the chances of death, wounds and captivity. It developed in him a spirit of honor that nothing in the world could make him forget. What is true of the soldier in the line and in commission is equally true of the young men at these military institutions. They have a sense of honor that resents an insult like it was a blow. The men at West Point

and the men at Annapolis are remarkable for their high character. So with the graduates of all these military institutions. There is nothing that can be said against them, but a great deal in their favor. The conduct recently of the investigation at West Point and Annapolis shows that there was a movement on a contemplated movement for the dismantling of those military institutions and that very thing makes more important and more necessary military colleges in the different States of the Union. They train soldiers, they discipline good citizens, they develop manhood, they raise an exalted idea of character, and all those things that make a man proud of his country and his country no less proud of his manhood, courage, integrity and patriotism, which are developed by such institutions. I hope that this amendment will be adopted.

MR. LOMAX—I move that the amendment be laid upon the table.

MR. SANFORD (Montgomery)—I hope, Mr. Chairman, that he will allow this question to be discussed, and not cut off all argument by that technical rule, which is a favorite weapon when they cannot answer the argument.

THE PRESIDENT PRO TEM—And the gentleman from Montgomery, Mr. Lomax, moves that the amendment of the gentleman from Montgomery, Mr. Sanford, be laid upon the table.

Upon a vote being taken the motion to table prevailed.

MR. PETTUS—I now move the previous question on the section.

MR. JENKINS—I ask the gentleman to withdraw that a moment.

MR. PETTUS—I decline to withdraw it.

MR. GRAHAM (Talladega) — I ask the gentleman from Limestone, if he will yield to me for a moment.

MR. PETTUS—The gentleman, as Chairman of the Committee, will be entitled to the floor after the question is put.

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

Upon a vote being taken a division was called for, and by a vote of 43 ayes and 37 noes the main question was ordered.

MR. GRAHAM (Talladega)—I desire to have a reading of a portion of that substitute that was adopted to see whether or not it leaves this section intact, so far as it relates to the officers—

THE PRESIDENT PRO TEM—It occurs to the Chair that the whole substitute was adopted.

MR. GRAHAM—Yes, sir; but I want a reading of it, because it states something about striking out all of the section that relates to Tuscaloosa in there, and leaving it intact otherwise, and I ask for the reading of the introductory part.

The reading was had.

MR. JENKINS—I think we will have to reconsider the vote by which the previous question was ordered, and amend this section so as to not get this in a tangle. I want to say that a majority of the Board will go out the first four years, and leave the Board—

THE PRESIDENT PRO TEM—The gentleman is out of order.

MR. JENKINS—I move a reconsideration of the vote whereby the previous question was ordered.

MR. PETTUS—I cite the gentleman to Rule 27. I make the point of order that the motion is out of order.

THE PRESIDENT PRO TEM—And the question will be upon the adoption of Section 9 as amended.

MR. JENKINS—I move that we rescind the action of the Convention by which we ordered this question on the previous question.

THE PRESIDENT PRO TEM—Under the rules a motion to reconsider could be entered, but would have to lie over until tomorrow.

MR. PETTUS—I make the point of order that under Rule 27, which reads, "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 reconsideration is decided, that decision shall not be reconsidered, and no question shall be twice reconsidered."

The point of order that I make is that Rule 27 specifically excepts a motion to reconsider, the previous question, or a motion to lay on the table or take from the table.

THE PRESIDENT PRO TEM—That being the case it would be in order to reconsider it right now, and the gentleman from Wilcox moves to reconsider the vote by which the previous question was ordered.

MR. HARRISON—I desire to inquire what is the necessity for this reconsideration? I have heard none.

MR. JENKINS—The Legislature meets every four years, and the Board of Trustees go out every two years, and two-thirds will be out of office until the Legislature meets, and I want to perpetuate the Board until their successors be elected.

MR. GRAHAM (Talladega)—I do not think as Chairman of the Committee, I yielded the floor on my right to close this matter.

THE PRESIDENT PRO TEM—The point of order is well taken.

MR. GRAHAM—The seeming disturbance is in regard to what should be stricken out of Section 9. As it reads so as to leave Auburn intact, it is perfectly satisfactory to the Committee, because it provides that as much as is in there relating to the University shall be stricken out and it leaves Auburn intact. I therefore insist that so far as that part of it is concerned, there is no necessity to reconsider, and I insist upon the regular order.

THE PRESIDENT PRO TEM—The gentleman makes the point of order that the motion of the gentleman from Wilcox is out of order for the reason that at that time the gentleman from Talladega had the floor and the gentleman from Wilcox had no right to make the motion.

MR. JENKINS—I have just been told by the gentleman from Tuscaloosa that my amendment is provided for.

THE PRESIDENT PRO TEM—As many as favor the adoption of the Section will say aye and those opposed no.

Upon the vote being taken the Section was adopted.

Section 10 was read as follows:

Sec. 10. The General Assembly shall have no power to change the location of the State University or the Agricultural and Mechanical College, or the Institutions for Deaf and Blind, or the Alabama Girls' Industrial School as now established by law, except upon a vote of two-thirds of the General Assembly, taken by yeas and nays and entered upon the Journals.

MR. GRAHAM (Talladega)—There is no change in that from the present Constitution except that it adds these other institutions as constitutional institutions in the State, and I move the adoption of the Section.

Upon a vote being taken the Section was adopted.

Section 11 was read as follows:

Sec. 11. The General Assembly shall provide for taking a school census by townships and districts throughout the State not oftener than once in two years, and shall provide for the punishment of all persons or officers making false and fraudulent enumerations and returns; provided, the State Superintendent may order and supervise the taking of a new census in any township, whenever he may have reasonable cause to believe that false or fraudulent returns have been made.

MR. ASHCRAFT—I move its adoption.

Upon a vote being taken, the Section was adopted.

Section 12 was read as follows:

Sec. 12. The several counties in this State shall have power to levy and collect a special tax not exceeding 10 cents on each $100 of taxable property in such counties, for the support of public schools, provided that the rate of such tax, the time it is to continue, and the purpose thereof shall have been first submitted to a vote of the qualified electors of the county and voted for by three-fifths of those voting at such election; but the rate of such special tax shall not increase the rate of taxation, State and County combined, in any year, more than $1.25 on each $100 of taxable property; excluding, however, all special county taxes for public buildings, roads, bridges and payment of debts existing at the ratification of the Constitution of 1875, provided that such funds so raised shall be apportioned and paid through the proper school officials to the several schools in the townships and districts in said county, that the school terms of the respective schools shall be extended by each supplement as nearly the same length of time as practicable.

The General Assembly shall provide for carrying the provision of this Section into effect.

The minority report, offered as a substitute for Section 12, was read as follows:

12. It shall be the duty of the County Superintendents of Education, or other school officer in each county, by and with the advice and consent of the Court of County Commissioners, or body of like jurisdiction, to organize the white people of the county into white school districts, and the colored people of the county into colored school districts, according to their respective needs and advantages, without reference to each other as to territorial boundaries. Provided, no incorporated town or city maintaining a system of public schools, as provided by law, shall be separated into districts without the consent of the Mayor and Board of Aldermen of such city or town.

For the purpose of building, enlarging, improving or furnishing school houses in any district or for the purpose of supple-

menting the general school fund received from Federal, State, county, municipal and other sources, the Court of County Commissioners, or body of like jurisdiction, shall, as hereafter provided, levy a special assessment of not more than one-fourth of one per centum in any one year upon the property of a white person situated in a white district or upon the property of colored persons situated in a colored district; provided, no such levy shall be made except upon the request of three-fifths of the voters voting at an election held for that purpose and residing in the district. At such election in a white school district only qualified white electors shall be permitted to vote, and in colored school districts, only qualified colored electors shall be permitted to vote. It shall be the duty of the Probate Judge to order such election in any district upon the petition of not less than one-fourth of the voters who will be entitled to vote at such election. The order for such election shall state the purpose for which it is proposed to make the assessment, the rate of the propossed assessment and the number of years during which such assessment is proposed to be made. Notice of such election shall be given and the election held in such manner as may be provided by law for such special election. No proposition shall be made at any such election to levy such special assessment during a period of more than four years.

When any property belonging to a corporation is situated in a white school district where a special assessment is to be made as herein provided, such assessment shall be levied upon such proportion of the value of such property as the number of white children of school age in the county bears to the whole number of children of school age in the county. When such property is situated in a colored school district where such assessment is made, it shall be levied upon such proportion of the value thereof as the number of colored children of school age in the county bears to the whole number of children of school age in the county.

THE PRESIDENT PRO TEM.—The question will be upon the minority report as a substitute for the majority report.

MR. ASHCRAFT—Mr. President and Gentlemen of the Convention: I am aware that the proposition of the minority is in a certain sense novel, but the main purpose of this Convention in coming here was to settle in some sense upon a just basis the relations between the white and colored races. I sincerely trust that you will do me the kindness to listen to this proposition. We owe it to our people, gentlemen of the Convention, to at least give the matter careful consideration. Because a thing is new, or even because in some way it has been tried, and in some way failed, does not always argue that it is wrong. Many efforts were made to build the steam engine before the successful effort. Many efforts of government have been made which have proved at first ineffectual and afterwards proved very successful. I say we have

come here chiefly to settle upon some just relation between the two races which inhabit this State. We all know that we must build up two distinct civilizations in one territory. I call your attention to that proposition. You cannot evade it. You are resolved upon it. That is the first proposition, that you are determined to build up two distinct civilizations in one territory. Now we have been aided in that effort by all of the people of the United States to this extent, the highest court of the land has held that we may maintain two distinct school systems. We are able in this way to divide the streams at the beginning, and if we will only act wisely, we may keep the currents apart, and it is with this view that I, and those who have joined with me, have submitted to you this proposition. I know that gentlemen on this floor will argue that it is in violation of the Constitution of the United States, but we respectfully beg to differ with them. In every effort that has been made along this line, an injustice has been sought to be done, an inequality has been sought to be practiced. The proposition which we submit to you gentlemen contains no injustice, but is based on justice. It contains no inequality, but proposes absolute equality, and I claim that the Puitt case and the Cummings case, and all the other cases that have been before the Supreme Courts of the States and of the United States, have been infected with both inequality and injustice. We bring you a proposition which is free from objection, from every moral, ethical and social standpoint. Your attention will be called, gentlemen of the Convention, to the Cummings case in 175 U. S. Supreme Court Reports, page 258. In that case the court went far towards establishing the very proposition which we seek to establish here. In that case an injunction was sought to prevent the white trustees from appropriating the funds to a white high school when they made no such appropriation for a colored high school. They said:

"While all admit that the benefits and burdens of public taxation must be shared by citizens without discrimination against any class on account of race, the education of the people maintained by State taxation is a matter belonging to the respective States, and any interference on the part of Federal authorities with the management of such schools cannot be justified except in the case of a clear and unmistakable disregard of the rights secured by the supreme law of the land."

They held then that an injunction which would only impair the efficiency of the high school provided for white children, and compel the board to close it, would not result in any good to the colored children. They said if that were done the result would only be to take from the white children the educational privileges enjoyed by them without giving the colored children additional opportunities of education furnished in the high schools. That the colored school children of the county would not be advanced

in the matter of education by a decree compelling the defendant board to cease giving support to a high school for white children, and the injunction was denied.

Now, gentlemen, the majority with which we concurred have brought in here, and by your vote have adopted a proposition which carries the advantages of free school education to all the children in this State, colored and white, to the children in remote country districts the same length of time that it carries it into populous cities, and large and more thickly settled rural districts. You have done nobly. The colored race cannot say that you have discriminated against them, because you have been careful to preserve their rights. But it is proposed to go further and authorize a voluntary contribution be made by the respective localities to supplement this fund which has been created by the State. Now it has been held by the Supreme Court of the United States and by the courts of the States that separate schools for the races may be maintained, and in the State of Ohio a special law was enacted whereby colored school districts could be organized independently of the lines which organized other school districts, and it is this proposition which we bring before you.

Section 31 of the General Statutes of Ohio provide:

"The Township Boards of Education in this State, in their respective township, and the several other Boards of Education and the Trustees, visitors and directors of schools, or other officers having authority in the premises, of each city or incorporated village, shall be authorized and they are hereby required to establish, within their respective jurisdictions, one or more separate schools for colored children, when the whole number, by enumeration, exceeds twenty, and when such schools will afford them as far as practicable, the advantages and privileges of a common school education; * * * Provided that when the number of colored children residing in adjoining townships or districts, whether in the same or in different counties, shall exceed twenty, the Boards of Education of said townships or districts so situated, many form a joint district for the education of colored children."

The law was held to be constitutional upon the effort of a pupil who resided in that colored district to be admitted into a white school which was in the same territory.

The North Carolina case is one upon which great stress will be laid, and I trust, gentlemen, that you will notice the distinctions that are drawn here. In that case the course refused to inquire into the consistency of their statutes and Constitution with the Constitution of the United States. In their Constitution, it was provided that taxation should be uniform, and that no law should be enacted which discriminate either for or against either race. They hold in that case that a law which authorizes the

white people in a township to levy a tax upon their property, and the colored people to levy a tax upon their property in the same township, which you will observe, gentlemen of the Convention, was the same social unit, was in violation of their statute which requires taxes to be uniform. We propose to put it into our Constitution that we have two social units occupying practically the same territory, and we propose to delegate to each of those units the right to do something for itself.

THE PRESIDENT PRO TEM. — The time of the gentleman has expired.

MR. PETTUS—I move that the time of the gentleman be extended twenty minutes.

The motion to extend the time was adopted.

MR. ASHCRAFT—I profoundly appreciate this courtesy of the Convention. In that same case, Mr. President, upon which so much stress is laid, it is said: "It is not every distinction dependent upon race, or color that come in conflict with the Federal Constitution, but only when it produces inequality of rights or interests; and when this is the result, the State Legislature from which it flows is rendered inoperative.

"When the same essential privileges are secured to all, such Legislation is valid and rests in the sound discretion and views of public policy of those who make the laws."

I ask you to examine the proposition of the majority report, and show me in any place where it results in inequality of rights or interests. It carries the same fund from the State to the white and to the colored children, and then gives each race the right not only to separate schools, but the right to organize districts best suited to the patronage of those schools. Now where is the inequality of rights? The State manifests its power and its beneficence to both races in exactly the same way. It gives them the same fund and gives them the same social institution. Now, gentlemen, if it is constitutional for the white people to have separate schools and for the colored people to have their schools, how can any man claim it is unconstitutional for each race to organize itself into districts for the better carrying out of its high purpose.

It is not necessary, it is not to the interest of the races, for them to be bound by the same territorial limits. Our proposition looks to the idea of the organization of each race for its own highest advantage. Another argument will be urged here, that the negro does not have much property and that the white people have considerable property, that therefore the white schools would be better than the negro schools. That may or may not follow, but I call your attention to the provision of the majority report, that each county shall be allowed to levy a tax upon its people.

Some counties are poor and other counties are wealthy and able to contribute more. If it so happens that one district is wealthier than another, that will not be discrimination but a misfortune. If the majority report is adopted, each county will be clothed with the same power, each will be given the same advantage. The mere fact that local sources of wealth or the industry of the people are giving them a greater amount of property to be taxed is not a discrimination against less favorably situated. If the minority report is unconstitutional on that ground, the majority report would be. Today the white people of this State have the negroes hung about their necks like a chain, they feel that they cannot make an effort for the upbuilding of themselves without feeling the weight of this chain. They pray the Convention for freedom, to have two institutions not only so far as school houses are concerned, but so far as school communities are concerned. They do not ask you to take from the negro, but they do want freedom for action for and on behalf of their own people. Now look at it from the negro standpoint. Will it be beneficial to him? I am sure that we can do nothing that will please the negro better in this State than to enact some provision like this. As it is he occupies the position of a mendicant, a beggar. This plan would appeal to his sense of liberty—it would relieve that sense of oppression and injustice that he entertains because he has no sphere wherein to exercise himself on behalf of his own people as a race. Give him a chance to have his own school organizations, to say that he will contribute in a legal and statutory way to the upbuilding of his own institutions. When you have done that he will feel that the white people are not against him, that he has some chance to cultivate race pride, to cultivate race fraternity, that he has a place where he can do something for himself and his people. The result will be that patriotism will take the place of suspicion, envy and jealousy, and go further to remove from the negro that hate which makes him commit unspeakable crimes, than any other thing that this convention can do. The white people of Alabama plead with this Convention, they will call upon you to choose wisely. I believe that you take no risk so far as the constitutionality is concerned. What interest would the negro have in striking you down? As the Supreme Court of the United States said it would not result in adding one hour to his school, it would not add one thing to his privileges, it would simply injure him and injure everybody else to destroy the minority proposition. You are not under obligation to enact the majority—not at all. The negro can make no such demand on you. You have done well by them. It is your own race that calls upon you to give them some additional opportunity for each race to do something for itself. I thank God that the Anglo-Saxon race does not have to triumph by pressing other races down. It has been its mission to lift up the fallen, to bring out of chaos the forms of

society which makes for the happiness of mankind. We do not have to trample the negro down. We do not want to rise up in order that we injure him, but in order that we may lift him up too. Let our own race go forward and no other race on this earth will ever suffer by our advancement. But, gentlemen, those who oppose these ideas say that the white and colored race are bound together like Siamese twins, by the fourteenth and fifteenth amendments. I say to you that the Supreme Court of the United States, if we present a fair and just proposition, will go a long way towards sustaining any plan that is founded on justice and equality. In the Slaughter House case they said: "The argument, we admit, is not always the most conclusive which is drawn from the consequences urged against the adoption of a particular construction of an instrument. But when, as in the case before us, these consequences are so serious, so far reaching and pervading, so great a departure from the structure and spirit of our institutions; when the effect is to fetter and degrade the State governments by subjecting them to the control of Congress, in the exercise of powers heretofore universally conceded to them by the most ordinary and fundamental character; when, in fact, it radically changes the whole theory of the relations of the State and Federal governments to each other and of both those governments to the people; the argument has a force that is irrestible in the absence of language which expresses such a purpose too clearly to admit of doubt."

The Supreme Court of the United States found a way to give separate schools, they will find a way to give us separate school districts, they will find a way to let each race have something to do in working out its own destiny. If they have not a separate destiny God would never have created the two separate and distinct races, if they had not a separate destiny—they should not be hindered by forms of law from fulfilling that destiny. We can find a way out. The minority have studiously considered the case, they have sought to eliminate all the objections that have been found in similar effort heretofore, and they present you a plan which is founded on justice, which is founded on equality, which encourages the white race to build itself up without the galling bitterness of being bound to the negro forever, a plan which enables the negro to do something for himself without being a mendicant. Give the two races freedom towards each other and we will do more for the peace and safety of our people than by any other act that we can do.

MR. GRANT—I have some inclination to support the amendment of the minority of the Committee, but I want to inquire before voting, why they felt it necessary to depart so widely from the majority in the amount of the tax. In one case 10 cents on the $100, and in the case of the minority you place it at 25 cents on the $100?

MR. ASHCRAFT—That is a misprint. The original provides for 10 cents just like the other, all we ask is 10 cents.

MR. REYNOLDS (Chilton)—Does your plan for this tax by districts mean the tax is to be collected by districts? What I mean is this, if a railroad runs through a district, and in another district there is no railroad, would the latter get a share of the tax on the railroad?

MR. ASHCRAFT—It would not. We struggled every way to settle that question, and we could not solve it so as to give separate school units without depriving in some sense one poor community from participating in the wealth of the other. The majority does not do that either, it provides the tax of 10 cents for the schools and no distribution can be made between the children in Clay County and the children in Jefferson County.

MR. REYNOLDS (Chilton)—In the districts where negroes are disfranchised, how can they vote for it?

MR. ASHCRAFT—If there are any districts that do not contain negroes who can vote they would have to wait until they could vote. Of course it is absolutely a voluntary matter with the white people whether they will tax themselves, and with the negroes whether they will tax themselves, and if there be a community of negroes without a single man capable of voting they will have to wait till they can educate men who can vote.

THE PRESIDENT PRO TEM.—The time of the gentleman has expired.

MR. LONG (Walker)—Would you object to amending so as to have a County School District?

MR. ASHCRAFT—The minority considered that proposition with great care. We could find no precedents that would lead us to believe that such a plan would not be considered an evasion of the Federal statute.

MR. JONES (Wilcox)—Mr. President and gentlemen of the Convention. It has been urged by a great many friends of education in Alabama that Alabama is behind other States in not having local taxation for schools. If there had been a provision in the Constitution of 1875 which permitted local legislation in the several counties of this State, no doubt, Mr. President, the Legislature of Alabama would long since have provided for it in the counties. All lawyers on this floor are familiar with the case that came up from Cullman County. In the case of Schultz vs. Ellerbe, 82 Ala., in 1887, it was decided by the Supreme Court that the Legislature could not delegate the power of taxation to a municipal corporation, and for that reason, Mr. President, there has been nothing done in this State. I have examined the Constitu-

tion of quite a number of States in the South, in fact nine of them, and I find that there has been a provision in the different States of the South for local taxation, either in the Constitution, or where the Constitution did not prevent it, it has been done by act of the Legislature of the States. Now in Mississippi, it has a statutory regulation, and so it is in Georgia, South Carolina, Tennessee, Kentucky, Arkansas. There is a difference in Florida, it is done by a provision in the State Constitution, so also is it done by a provision in the Constitution of Louisiana. The State of Alabama is the only State in the South where no provision is made for local taxation in any way. The Committee had this question under consideration and spent a great deal of time on it and we came to the conclusion that the best way out of it was to allow local taxation by counties. You may search the Constitution of every State in the South and every State in the North and you cannot find a provision in the Constitution or in statutory laws of those States similar to the minority report. You cannot find it. And why? Is it because such a provision is unconstitutional? It is against the Fourteenth Amendment of the United States Constitution. The gentleman has cited two or three authorities. He cited in the case from North Carolina, First the Cumming case, and which he said went far towards establishing the proposition made in the minority report. The Cumming case decided nothing of the sort. In that case the Court stated that the complaints had taken the wrong means to get relief. They say further that if it had been shown that the school was in fact an abuse, a discrimination and in hostility to the colored people because of race in any way, that the decision of the Court would have been in favor of those filing the bill in that case. In North Carolina the case of Markham vs. Manning, 96 Carolina, the Court decides that taxes for schools open to the children of only one race is unconstitutional as denying equal privileges and immunities. That is the language and opinion of the Court, that it is unconstitutional because it denies equal privileges and immunities. Now the Constitution of North Carolina, under which that case was decided, is almost in the exact language of the Federal Constitution. The gentleman cites another case from Ohio, and that, Mr. President, is nothing in the world but a provision that we have in our Constitution that we have separate schools for the two races. It don't say a word about taxes, not a word, but it simply allows in that State separate schools for the two races, and the gentleman would base an argument upon that, that for that reason you could have separate school districts in the county and the money raised for the whites to go to the white children and the money raised from taxes of the colored people to go to the colored schools.

MR. GRAHAM (Talladega)—The gentleman is making a legal argument, and I fully understand and appreciate that he can-

not finish it now. I move that we adjourn. I move that the rules be suspended first and that his time be extended twenty minutes after dinner.

The motion to extend the time was adopted.

Leaves of absence were given as follows: To Mr. Ledbetter for today and tomorrow; to Mr. Gilmore for Friday and Saturday.

Thereupon the Convention adjourned.

AFTERNOON SESSION

The Convention met pursuant to adjournment, there being 96 delegates present upon the call of the roll.

MR. JONES (Wilcox)—Mr. President, I wish to extend my thanks to the delegates of the Convention for their kindness in extending my time. I promise you that I will not abuse the privilege, and that my remarks shall be as brief as possible. As I stated, Mr. President, the question of local taxation is a new one to us in Alabama. The Constitution of 1875 made no provision for it. Since that time, it has been made a law in the Constitutions or statutes of the different Southern States and Alabama stands alone as a State without local taxation. The Committee on Education considered the matter at great length, in fact we devoted more time to it than to any other section in the article on education, and the report of the majority of the committee in our opinion should be adopted by this Convention. The gentleman who is the author of the minority report stated to you in his concluding argument that the negroes all over Alabama were praying the Convention to give them the liberty of having the disposition of their own taxes. I have never heard of a negro from Booker Washington to a boot black asking any member of this committee to set aside the taxes of their race to themselves and have the white people set aside the taxes of their race for themselves. Why, gentlemen of the Convention, if it were constitutional to do this in a district, in a county, it would be equally constitutional to divide the taxes of the State of Alabama between the two races, and say that which was collected from the taxes of the white people should be set apart for white people, and that the taxes collected from the colored people should be set apart for their children. We know, gentlemen, that such a thing as that could not be done. The first section of the article on education sets out that they shall be as far as possible an equal distribution of the school fund. And why? Why is it done? Because when we fail to do that, we would go in the teeth of the Constitution of the United States, and any court, either State or Federal, that had the question before them would say that we could not

do anything of the kind. Now the gentleman referred to a case as sustaining his position, but to show you how weak the argument of the gentleman was on that point, I will read you the facts, as they are very brief. In the case referred to by him—the case of Claybrook vs. the City of Owensboro, Ky., the decision of the court was rendered by Justice Barr, a United States District Judge in that State. Here are the facts in brief, just exactly in line with the minority report of this committee: "The complainants allege that they are citizens of the United States and of the State of Kentucky, of African descent, and are residents of the city of Owensboro, and are being deprived by defendants of the equal protection of the law in that they are discriminated against in the distribution of the taxes levied by the city of Owensboro for the public schools of that city, and they ask an injunction against the Board of Trustees of Owensboro public schools. The General Assembly of Kentucky has by separate enactment, one in 1871, and the other in 1880, authorized the Mayor and Common Council of the city of Owensboro to assess and levy an ad valorem tax not exceeding two dollars on each resident of said city over twenty-one years of age, this tax when collected to be applied to the maintenance of public schools of said city, the taxes collected and assessed on the white people for white children only and the tax collected on colored people on their property to be used for sustaining the public schools for colored children." The court decided that that law was clearly unconstitutional and void. That is the case referred to by the gentlemen, and yet it is in direct line with the minority report of the committee. That says the taxes shall be collected from the whites for the benefit of the whites, and from the negroes for the benefit of the negroes.

MR. PILLANS—What authority is that?

MR. JONES—The Federal Reporter, Volume 16.

Now as I before stated the other case cited in 95th N. C. went off on the question or whether an injunction was the right way to reach it, and the court there said that if it was shown that there was any discrimination on account of race, if that had been the manner in which it had been presented, that it would have decided that law unconstitutional.

In 48th Cal., the Supreme Court of that State, in speaking of the right of the races to participate in the fund, say that, under the Constitution of the United States the right of the colored race to participate in the school fund is as much a vested right as the right of property. Now, gentlemen, what do they ask us to do? They come here and ask us to pass an unconstitutional provision that the courts have decided is unconstitutional. They ask us to pass a provision in the educational article that they know is in direct conflict with the Constitution of the U. S. and yet they say that the colored people demand it. They would have to be

lacking in all sense if it were possible under the law, to ask that their pittance be set apart for them and that the taxes collected from the white people should be set apart for the white children.

The Supreme Court in the case that I cited a while ago of Claybrook against the City of Owensboro, in their opinion said:

"Waiving all consideration of the question as to the rights of complainants as citizens of the United States, we proceed to inquire whether the Act of 1871 and its amendments deny to complainants the equal protection of the laws does not mean the equal benefit of the laws; that protection in this section does not mean benefit; and that the inequality here is only in the benefits arising from the laws. Perhaps, the best way to test the soundness of this distinction, as applied to the laws of a State, would be to imagine the distinction a good one and see where it would lead. Thus, if protection only means equal taxation and not the equal benefits of the taxes when levied and collected for governmental purposes, the State may apply such taxes not only according to color, but also according to the nativity of the citizen."

Now we have a class in every community of the State, a class of good citizens, a class of people, who do not, as a rule, violate the laws of the State, a class of people who are public-spirited. I allude to the Jews. We had just as well say they are not getting what they ought to get from the other white people of Alabama, and to say that we will set apart the taxes paid by the Jews for the education of the Jews. It would be just as constitutional as the proposition of the minority committee. You might go further still and divide the people into classes and say that the people who are worth ten thousand dollars should be a class, and whatever money is collected from them on their property should go to building up the schools for the people who own ten thousand dollars' worth of property, and the people who owned one thousand should be in another class, and that the taxes collected from them should be set apart for the benefit of their children in the different communities in Alabama.

MR. REYNOLDS (Chilton)—I want to ask you what is the difference in separating the property tax and separating the poll tax? I am not a lawyer.

MR. JONES—You cannot separate either. It is unconstitutional.

MR. REYNOLDS (Chilton)—But it is done.

MR. JONES—There is a section in the Statute laws of Alabama setting apart the poll taxes, and when that is contested, you will see that any court will declare it unconstitutional.

MR. REYNOLDS (Chilton)—How long has it been so?

MR. JONES—I don't remember the year. It was several years ago. The white people did not contest it, and the colored people would not do it. They did not have enough interest in it, but that law is unconstitutional. If the poll taxes collected from the white people is set apart for the white children, and the poll taxes collected from the colored people are set apart for the colored children, that is just as unconstitutional as the setting apart of taxes collected on the value of the property owned by the respective races.

There is no Constitution in the country that has such a provision as this, not one. You will not find it. You will not find it in a single Constitution in the United States, where such a provision as this has been made. There was a statute in one of the States, Kentucky, and that was decided unconstitutional by the court.

Mr. President, the provision that is made by the majority of the Committee for Taxation by counties is the one that has been almost universally adopted in the Southern country in carrying out the provision for local taxation in their Constitutions or in their statute laws. We think that the Committee has acted wisely in the report that it has made, the majority report, and we hope that the Convention will see it in the same way, and will table the minority report that is offered, and have the majority report as part of the Article on Education in the Constitution.

MR. SANFORD (Montgomery)—How long do you estimate the schools will be kept open under the provisions of the majority report?

MR. JONES—Only a short time longer.

MR. WILLIAMS (Barbour)—I did not sign this minority report for the reason that while I heartily approve of one portion of it, I do not the other. I reserved to myself, in the conclusions of the Committee, the privilege to oppose a certain provision, which I shall discuss without making any minority report to the House, and in that action I was sustained by a gentleman who is not here, and whose absence I greatly regret, Mr. Rogers of Sumter. He and I were thoroughly agreed upon one special subject. I do not discuss the matter of race, Mr. President. My friend who has just concluded, said something about class, and that we might manufacture classes and make the same distinction and our action would be unconstitutional. The negro is a class, and was made so by the Great Author of his being. It is not a work of human manufacture. He is of an inferior race and he knows it and feels it, and the distinction between himself and the white man is as wide as the world and is as high as the stars of heaven; so we need not run astray upon the subject of classes in talking about a division of taxes or of anything else with ref-

erence to the negro. But I propose chiefly, in a very plain way, to speak about the feature of taxation that is before us. I have no finished oration to entertain gentlemen with, but I will try to be very practical and plain in what I say, in the hope that I may suggest some consideration to gentlemen who are more fond of debate than I am.

The trouble comes up in Section 12 in both the minority report and in the report of the majority. They differ very little in this special feature of taxation, except that the report of the minority committee goes more into detail. The majority section provides for action by counties. The minority section by school districts, and they both have a very innocent and harmless appearance, when they call these steps a method of securing additional contribution for school purposes. If you will attend me, you will see that there is nothing in the shape of contribution about it, but it is a compulsory movement from which you cannot escape, provided the requisite majority is against you. A few words on the question of taxes in the minority report:

"For the purpose of building, enlarging, improving or furnishing school houses in any district or for the purpose of supplementing the general school fund received from Federal, State, County, municipal and other sources, the Court of County Commissioners, or body of like jurisdiction shall, as hereafter provided, levy a special assessment," not ask you for your contribution, "of not more than one-fourth of one per centum in any one year upon the property of a white person situated in a white district or upon the property of colored persons situated in a colored district; provided, no such levy shall be made except upon the request of three-fifths of the voters voting at any election held for that purpose and residing in the district. At such election in a white school district only qualified white electors shall be permitted to vote, and in colored school districts, only qualified colored electors shall be permitted to vote. It shall be the duty of the Probate Judge to order such election in any district upon the petition of not less than one-fourth of the voters who will be entitled to vote at such election."

Now there you have it, one-fourth of the voters. So, according to the plans of our friends here, one-fourth of the white voters in a white school district, upon a petition to the Judge of Probate Court can secure an election. An election for what? To determine the levy of an additional tax for the benefit of the schools. Can't you read between the lines and see who will compose that one-fourth in making the petition to the Judge of Probate? Don't you know it will be the non-tax-payer? Then if it is voted for by a three-fourths majority when the election comes on, why the additional taxation is fastened upon you. It is well said that this is a new thing in the State of Alabama. It is not only new, but it

is enormous. One-fourth of the non-tax-payers—because they will be the men to petition—will file their petition with the Judge of the Probate Court who will order an election, and when the election comes on, if the proposition for an additional tax is supported by a three-fifths majority then the tax is levied. Gentlemen, so far as I am able to see this gets up a contest in the county between the non-tax-payer and the tax-payer, because the non-tax-payer is the man that has all the interest in it; the non-tax-payer is the man who don't support the schools, nor any of the other burdens of the government unless it is in the militia or when he has to work the road or something of that kind. It is the tax-payer that bears the money burden, and in that way holds the support of the State upon his shoulder, and the tax-payer is cited to come up at the behest of one-fourth of the qualified voters of the county to an election.

To do him any good? To benefit his children, give them enlarged privileges of an education. Why, gentlemen, the tax-payer has already done that. He has borne all the burdens of the government in the shape of taxation for schools and everything else and he is the only man that can do it. So it is not intended for his benefit, but it is intended to be a compulsory movement provided there be the requisite majority against him. The matter looks very innocent and very harmless when you read it casually, but look at the facts and see the meaning that lies under the surface. They will call that election. If there be a majority of non-tax-payers there, they will vote the additional tax amounting to ten cents on the hundred dollars. Well, gentlemen, taxation is not a very easy thing to bear. I happen to live in an agricultural section of your State where we have not the channel of prosperity so active in the mineral regions. We have nothing but the cotton out of which we can make our revenue and that is paid once a year. The interchanges of money do not visit us as they do in the mineral regions. By the help of advanced prices for cotton last year we forged through the weight of a large portion of our indebtedness and became reasonably independent and began to improve the farming situation and to meet all the duties and obligations of citizenship and we are not prepared in the shape of our consent to come up to a contribution forced upon us by those who pay none of the taxes of the government.

THE PRESIDENT—The time of the gentleman has expired.

MR. SANFORD (Montgomery) — I move that the gentleman's time be extended.

MR. HODGES—Mr. President and gentlemen of the Convention, I feel, in rising to speak upon this question that I should ask the pardon of the Convention for getting the consent of my mind to break a silence which I suppose must be regarded as golden, and it is only because of the intense interest that I feel

in this question of public education that I have gotten the consent of my mind to address any remarks to the Convention upon this or any other subject. I shall not undertake to discuss the constitutionality of the question. I will say that there are those who have studied that feature of it, lawyers if you please, and they are not agreed upon the proposition that it is unconstitutional. I speak of the minority report. So, since there is a question, and since there has been a question upon other propositions as to whether they are constitutional or not, I feel that at least the minority report is likely to be constitutional as unconstitutional. Hence, I for one, am willing to risk the judgment of the gentlemen who have studied it and said there is no danger along that line. The objection that I have to the report of the majority of the Committee is that the unit is too large. One gentleman has said that the principle embodied in the majority and in the minority report is very much the same and it is true and as I say the objection that I have of the minority report I find to the majority, is that the unit of taxation is too large. In all matters of local government it is a matter of observation that the smaller the unit the more apt the measure to carry. In matters of prohibition, I have known counties where they would hold an election as to whether saloons should be open in the county or not, and prohibition would fail, and in those same counties when the precincts or localities would take hold of the matter and vote as a precinct prohibition would be established, and so I regard it with reference to the two propositions before us that it would be a difficult matter to persuade any one county to vote a tax upon themselves as a county, whereas, I believe that in many cases it would be an easy matter to persuade these districts, much smaller than the counties, that it would be best for them to have this special tax. It has been objected by some members that this proposition of a special tax would decrease the general appropriation. I feel that that proposition has been answered in the Section that has already been adopted which provides that the appropriation cannot be decreased at the will of the Legislature. It seems to me, Mr. President, that the principle running through the minority report of local self-government is one that we can safely afford not to be afraid of. It has been argued that the tax payer and the non-tax payer would come in conflict with each other on other views on this proposition. In answer to that I would remind the delegates that, as they well know the tax paying element of the voting population of this country is usually the element that predominates in popular elections. One gentleman referred to the poll tax idea and doubtless will be followed by others. It has not been the practice of this State to divide the poll tax between the races according to the amount that each paid. It would not be constitutional, as charged by one speaker, but I for one, with many others, believe that the poll tax idea is right, and I also believe that the proposition for dividing the county into school dis-

tricts for taxation is right, and I believe that the time to strike an effective blow at the weight that has so long hindered the white people of the State of Alabama is now in granting to them in this new instrument which is to be the new Constitution for perhaps a quarter or a half century to come, the right to tax themselves for the purpose of educating themselves and when this is done I believe that the people we represent will say that our work here has not been in vain and that they will be glad to vote for a Constitution embodying propositions that lie so close to them as the question of local self-government.

MR. COLEMAN (Greene)—Mr. President and delegates of the Convention: I do not think that I will be able to present this question as it ought to be in the short time that is alotted to us, but since the gentleman who last addressed you has stated that he was not satisfied that this law was constitutional, the proposition made by the minority report, I would respectfully invite his attention and the attention of any other lawyer in this Convention, to the consideration that I will give it for a few moments. It is so clearly unconstitutional and can be so clearly demonstrated, that if you will pay attention, I think you will have no difficulty in coming to a conclusion. A legal argument is always dry, there is no room for verbiage or rhetoric and whether interesting or not, as a matter of judgment for your own guidance I respectfully ask you to follow me while I consider the argument presented by the first gentleman who addressed you. I have all his authorities lying here before me and they are so clearly against any proposition that he has presented to you, that there can be no doubt upon it. Now the only decision by the Supreme Court of the United States is that in 175 U. S., Cummings vs. Board of Education. In this case the injunction was filed by some colored citizens to enjoin a high white school at which about sixty pupils attended, and the complaint was by some colored men that their daughters were excluded from the privileges of that institution. Now as there had been no law in line exactly as is proposed here, the respondents answered this way: We have appropriated the money as asserted by you and maintained the high school at which sixty white pupils attend, and no colored pupils are admitted there, but they say we have reserved the funds so that you could get equal benefit of the money and if you establish a school at which only sixty colored pupils could attend we would thereby exclude from common schools 300 negro children. Now that was the issue before the Court, whether or not the Board of Education in passing upon what was for the best interests of both classes were justified in withholding a high school for negro children in order that the money which would be taken for that purpose should be appropriated to 300 negro children in the common school, and the white school of sixty not getting any advantage in the way of fund, in that view of the proposition, but the question was whether

the Board of Education was acting fairly between the two races with the funds, not that they proposed to take any money or to deprive the colored children of the money, but they proposed to apply it in a different way where it would do the most good and the court said that they could not see exactly how it could be held that the Board of Education was not giving them the benefit of the school funds equally. The colored school children of the county would not be advanced in the matter of their education by a decree compelling the Board to cease giving the support to a high school for white children. The Board had before it the question whether it should maintain under its control a high school for about sixty colored children to bring them up to sixty white, or withhold the benefits of education and primary schools from 300 children of the same race. Now the question was whether they would take the money and establish a high school for sixty, or appropriate that money for 300. "It was impossible, the Board believed, to give educational facilities to the 300 colored children who were unprovided for, if it maintained a separate school for sixty children who wished to have high school education. This decision was in the interest of the greater number of colored children, leaving the small number to obtain a high school education in existing private institutions at an expense not beyond that of the high school discontinued by the Board. Now, Mr. President and delegates of the Convention, that was the reasoning of the Court, but not being contented with that conclusion and that statement, the Court went on to say where in that particular case the plaintiffs were not entitled to release. It is known to every lawyer here of any experience that when he gets into a court he must present his case right according to legal rules and when you apply for an injunction as was done in this case you must show ground for an injunction. Now here a bill was filed to enjoin the continuance of the white school and the Court said in reply what good would that do you? If we stop the white school will you get anything from it? Not at all. There will be no benefit to you to stop them. You ask to enjoin and restrain it from being conducted, but the Court was careful, as all learned courts are, to use this language (a hint full of meaning to every lawyer.)

"If in some proper proceedings instituted directly for that purpose, the plaintiffs had sought to compel the Board of Education, out of funds in its hand or under its control, to maintain a high school for colored children, and then, if it appeared that the Board refused to do it, the consequence would be that they would be compelled to do it."

There is a great difference between restraining a Board from carrying on a school and filing a bill requiring the Board to divide the funds. The intimation here is a very legal one, that if

this bill had been filed against that Board to require them to divide the fund equally, and it appeared that they had not gotten their share of it, why, the court would have sustained the case and that Board that was appropriating this fund for a high school of sixty would have been compelled to distribute that fund equally. There is no doubt about it in the world, and it is just as plain-cut proposition as was ever presented to any court. Now, this next case was the North Carolina case, and I am surprised that an attorney would look so little into the merits of a decision. He said this to you in the Pruett case of North Carolina. The court refused to inquire into the consistency of the statute with recent amendments to the Constitution of the United States, but the court added, "now bear with me," it is not every distinction depending upon the race or color that came in conflict with the Federal Constitution, but only when it produced inequality of rights and when this is the result the State legislation from which it flows is rendered inoperative.

Now, he tries to impress this idea upon the delegates here in as much as the court declared that it would not consider a question as to whether it was in violation of the Fourteenth Amendment or not, and, therefore, you must infer that the court, if the case would arise under his proposition, would not inquire into it.

Now, Mr. President and delegates of the Convention, this was the question. The North Carolina case was precisely the case he has here. Here it is, Section 4. "The assessment thus levied and collected from taxable property composed of white persons shall be expended in aiding to keep up the public schools in said district for white children of both sexes between the ages of 6 and 21, and the assessment levied and collected from the taxable property composed of colored persons shall be expended in aiding to keep up the public schools in said district for the colored children between the ages of 6 and 21." We have his direct proposition, and the gentleman who last addressed you—I do not see him in his seat—had summed out on that question. Well, now, there it is just in his own language. The very statute he would here have you adopt. It has been up before the Supreme Court of the United States and the Supreme Court of the United States has declared that it was in violation of the Constitution of North Carolina, and, therefore, null and void, and then it said and not till then, inasmuch as this statute is null and void under the Constitution of North Carolina, it is unnecessary to consider whether it is in violation of the Fourteenth Amendment, not that the court would not inquire if there had been a provision contrary to the Constitution of North Carolina. Afterwards it would go on and see if it was in violation of the Fourteenth Amendment. But what is the use of it, if it is in violation of your own Constitution? There is the law so clear that there cannot be any mistake about it.

MR. ASHCRAFT—Will the gentleman permit a question?

MR. COLEMAN—Yes, sir; anything on this proposition if the gentleman will give me time.

MR. ASHCRAFT—Does the gentleman state the Constitution of North Carolina on this subject and the Constitution of the United States are the same thing?

MR. COLEMAN—No; I said this court declared it was in violation of the Constitution of North Carolina, and, therefore, it would not consider whether it was in violation of the Fourteenth Amendment. There was no use in going that far; that is what the decision holds, and it holds nothing else; that is the whole cream of it.

MR. ASHCRAFT—The gentleman don't say that I have misquoted. I quoted from the authority——

MR. COLEMAN—Yes, you quoted from the decision like the text "top-not come down," and he preached his sermon against people of proud and high looks, and when he was called upon to show where his text was in the Bible, he got it and it read this way: "Let those on the house top not come down." You have just taken out "top-not come down." You don't take the law.

MR. ASHCRAFT—I say I submitted the quotation on a fair basis.

MR. COLEMAN—Yes, and I have read it from this decision. There is not a shadow in this proposition. Do you think a convention of the intelligence of this one, and of the many States in the Union——

MR. SAMFORD (Pike)—I move that the time of the gentleman be extended ten minutes.

THE PRESIDENT—The gentleman's time has not expired.

MR. COLEMAN—This Convention would not hesitate thirty-four hours if it was our privilege to derive benefits from the taxation that is proposed in this amendment. We would never let it go out from the State of Alabama, if it was in our power to make appropriations for our benefit without doing it at once. But it is the Fourteenth Amendment and decision after decision that ties our hands to the law, and if any such law as that proposed by the minority was enacted it would be declared unconstitutional, not only by your own State, but by every tribunal that had jurisdiction of it in the United States, it is so palpably in violation of law. The other decision referred to was the case commented upon by General Jones. I need not do more than read to you the condensed statement of the law:

"An act of a State Legislature authorizing a municipal corporation to levy a tax for the benefit of public schools within its limits, but directing that the tax collected of the white people should be used to sustain public schools for white children only, and the tax collected of the colored people should be used to sustain schools for colored children, the effect of such discrimination being to give the whites excellent school facilities and a school session annually of nine months, and the colored inferior school facilities and a session of three months, is contrary to the 14th amendment of the United States Constitution and void. The colored race is entitled to have a fair share of the funds raised by such taxation applied to the maintenance of the colored schools." Could anything be plainer than that? How could anything be more clear? I say it is in every decision that could be found.

MR. PETTUS—As one of the delegates who signed the minority report I desire to submit a few remarks in support of it. It seems to me that the question before us to be determined is a question of policy. If there are delegates upon this floor who believe that the taxes paid into the treasury for the benefit of public schools ought to be divided equally, no discrimination against the negro no matter whether he pays taxes or not, or in favor of a white man, of course it is needless to address any remarks to them along that line. There is no question, no matter what the views of individual delegates may be upon this floor, that this is a subject in which the people of the State of Alabama are vitally interested. This was demonstrated by the fact when this Convention first met there was not a day passed when ordinances did not pour in on the Clerk's desk asking for and seeking some plan whereby the taxes could be divided so that the proportion would be more clearly just and equal to the white people than under the present system. Some of the delegates seemed to be frightened at this because they say it is a new idea. Some of them are so bound to the hide bound traditions of the past they cannot get away from them and take fright and are ready to stampede like a herd of cattle, because forsooth it is a new idea. I submit it would be a reflection upon the great State of Alabama if we hold a Convention, sit for three months seeking to meet questions and settle conditions and decide upon policies for this State to live, move and have its being for the next forty years if we cannot develop new ideas, and if we have to fall in the tracks of Mississippi, Louisiana, and North Carolina, I submit it is a reflection if we cannot get up a new idea and I do not believe that we should be so bound to the traditions of the past that we will not accept a new idea if it is right and just, and is good policy, and is not in direct violation of the Federal Constitution. I know that I have sworn to support the Federal Constitution. I have my oath registered along with that of the other members, but I do not believe that when it is a doubtful question that has not

been decided and when there is just as fair and sound argument made by just as able men in support of the minority report, when reasons are sufficient to create a doubt, I will not and cannot resolve that doubt against my own race. The cases which have been cited and read by the gentlemen who oppose this minority report are most of them cases by District Courts. They do not come from the highest tribunal of the United States which passes upon the constitutionality of questions, neither are the facts in those cases the facts that would confront a court if this minority report were adopted in our Constitution and its constitutionality ever raised. The facts in those cases are different, and the North Carolina case which the distinguished gentleman from Greene emphasizes was a case that was decided not upon the Federal Constitution, but upon the Constitution of the State of North Carolina, would have no application and no effect in this State, and I submit that in the dissenting opinion in the North Carolina case it is strongly intimated that local assessments would prevail even under the North Carolina Constitution. They do not seem to discriminate between the idea of a general public tax, like this thirty cent tax we have created in the Constitution for school purposes and the idea of a local assessment which is altogether a different plan and idea, and as has been suggested such a new idea that it has not been up before the courts to be passed upon. Now the gentleman from Wilcox talked about dividing people into classes, and why could we not take the Jews or Italians or some other race and divide them up into separate classes. I submit to the gentleman from Wilcox that the Supreme Court of the United States nor no other court in this country has ever held that it is right, just and lawful to provide separate schools for the Jews or for the Italians or some other white race. The negro race occupies a unique position in this country, and there has been legislation and decisions about the negro race which apply to them particularly and do not fit nor touch nor reach these other races in any particular degree and I submit that whenever the gentlemen on the other side or whenever the courts say that you can have separate schools for the white race and black race, if you follow that idea to its logical end you are bound to admit that you can have separate school districts for these races for the administration of their respective schools, and when you have your separate school districts, one for the negro and one for the white people, I submit under the plan of local assessment, which is elaborately worked out in the minority report, that you can have an assessment of the white race to go for the benefit of the white schools, and for the negro race to go for the benefit of the colored schools. We have cut down taxation from 75 to 65 cents. This minority report provided that in no event shall the local assessment go above the 10 cents taken off, and in no event in the district or county of the State where this plan would be put in op-

eration would there be an opportunity for the taxes to be raised above 75 cents, as they have been under the old Constitution. Now the gentleman from Wilcox and other members, have seen fit to urge against this, its constitutionality, and when somebody asks them about the poll tax which we find in the Code divided up between the races they do not draw the line between the property tax and the poll tax, but they say that the poll tax which is divided is unconstitutional. It is in the Code of 1886, and it is the law that we have been living under for more than a decade, and I submit that I never heard the constitutionality of it questioned until I came upon the floor of this Convention. The question has never been raised on that, and it is not going to be raised on the property tax. Suppose there is doubt in the mind of some technical lawyer about its constitutionality, if there is and if it stands as long as the poll tax has stood upon the statutes of Alabama, then I submit it is the duty of the delegates to put it in the Constitution and let the white people of Alabama get the benefit of it for ten years at least. If the question is not going to be raised then, let us put it in. If the question is going to be raised and there is doubt about its constitutionality, and it seems that lawyers differ about it, then let us give the white people of Alabama the benefit of the doubt. You have already done all that philanthrophy, Christianity, or magnanimity or any other broad or patriotic sentiment could demand you should do, when you put in the Constitution 65 cents to be divided up between the people, white and black, in Alabama, and it is our duty to strike off the incubus which keeps the white people from making a forward step. It is the duty of the Convention to remove the millstone which hangs around the necks of the white people, and put it in the power of the white people to go forward, and under this plan the negroes can go along in their ratio on separate lines. I have always, when confronted with a question like this, and doubts have arisen in my mind as to whether it ought to be done, and whether it is conservative to do it, I have stopped to think what conservatism is, and tried to discriminate between conservatism which I believe is caution, and patriotism, and between inaction and timidity which I believe is something that should never stand in the path of any man, especially if he be the representative of a sovereign people. What is it that prevents us from going forward along this line and taking the progressive step. Is it conservatism, or is it inaction and timidity which makes us afraid to go forward, afraid of some bugaboo in the road. It is the duty of the delegates who represent a noble and sovereign people on this floor when they come to a question like this, not to be deterred by fancied security, by inaction, timidity or cowardice, about what the Supreme Court of the United States is going to do. It is a new question, and has not been decided, and we should give the benefit of the doubt to the white people of Alabama, and ought

not to hide behind so-called conservatism, and let that be an excuse to keep us from going forward along a progressive, and a right and just idea for schools in this State.

MR. BROOKS—The discussion of the constitutionality of the minority report, as I understand it, seems to be decisive against it, but it is a question that may well be considered from the standpoint of expediency, policy and justice. One of the chief instrumentalities which civilization affords for the uplifting and broadening of citizenship is education, and after a good many years of reading and thought and discussion, I have come to the conclusion that the solution of the so-called negro problem depends very largely upon the practical utilization of that instrumentality. I refer not of course to the higher learning, to the university of education, which of course, is by no means to be disregarded, or underrated, but I speak of common school education which comes near to the people, has a direct and immediate effect upon them, and which will elevate our people of both races if applied justly, properly and wisely with reference to the special and peculiar conditions that confront us. Lord Brougham gave the world a very striking estimate of the importance and influence of a common school education in his speech against the appointment of the Duke of Wellington as Prime Minister of England. The great Iron Duke was then in the full tide of his popularity, justly his, as the result of his great military successes. In that speech Lord Brougham in a burst of defiance said: "Field Marshal, the Duke of Wellington may take the army, he may take the navy, he may take the Great Seal, he may take the mitre, I will make him a present of them all; let him come on with his whole force, sword in hand, against the Constitution and the English people will not only beat him back, but will laugh at his attempts. There was a time that the country may have heard with dismay that the soldier was abroad. It is not so now. Let the soldier be abroad if he will he can do nothing in this age. There is another personage abroad, a personage less important in the eyes of some, perhaps insignificant, but the school master is abroad and I trust him and his primer against the soldier in full military array." So, Mr. President, in Alabama today the school master, and the school mistress, if you please, are abroad, in and among the people, bringing the blessings of education, the elementary reform enabling them to gain knowledge and think and elevate themselves in the scale of humanity and become self-sustaining and self-respecting and valuable citizens. Now then, sir, if those things are the outcome of the common school education properly applied with reference to our conditions, it seems to me that they ought to apply equally to both races, and it does seem to me that we are making a great mistake, and we are endeavoring to inaugurate a very unwise policy when we propose

by constitutional ordinance to imbed in it the principle that education shall be dependent upon that line of cleavage in tax-paying which is more fancied than real as I shall show. The whole thing is based upon a fallacy being that the negro is little or nothing of a tax-payer, but if you apply that principle and discriminate in favor of a white man, and against the negro along that line, why isn't it just as proper to discriminate against a white man whose name is not on the tax books, and yet we would not think of doing that. Mr. President, there are thousands of men in the State of Alabama whose names are not found on the assessor's books, who own no property, and who support themselves and their families comfortably and respectably from their daily labor, renting a little cottage over which the good house wife presides, taking care of her children and educating them as far as she can, supplementing the State in its work and in my observation and experience I have seen the children of those people grow up and become influential and prominent men in the communities in which they lived. The negro is a producer, he may not pay any taxes, his name may not appear on the tax books, but the man who employs him, who enjoys and possesses the product of his labor, pays the tax and enjoys the fruit of it. The negro is a consumer and a consumer of the first water. He spends all his earnings in his desire to consume, happy-go-lucky, he has no idea thereafter what becomes of it. It goes into the tills of the merchant and finds its way into the tax book. You have a daily illustration in the city of Montgomery. Go on the thoroughfare any time and see the negroes who have sold their little truck or cotton, see them how lavishly they spend what little they have. What becomes of the profit made upon their labor, what becomes of the money which is paid out, for the articles they need, why it goes into the drawer of the merchant, enables him to enlarge his stock, to employ more labor, to put up a new warehouse, to take stock in the new Montgomery Hotel proposed, or to engage in other enterprises of pith and moment indicative of his prosperity. That is the fruit of the negro, so, practically speaking, he is a tax-payer, and a large tax-payer, and it is not only unjust to him, but Mr. President, it militates against the negro race as a component part of our civilization and must re-act upon our own selves and militate against ourselves. I can not go into a discussion of the negro subject, but I will say very briefly that we can not expect that in the thirty-five years since they have emerged from a thousand years of savagery and several hundred years of slavery and then placed in a position of unnatural antagonism to the white people. We cannot expect that within the short time of thirty-five years for them to show any good results of education, but if education can influence anybody in the world the time must come when it will have its influence upon the negro race. We must recollect that he is here and we can not get rid of him; to use a familiar expression, he is here to say. Now DeQuincy's

thrilling prose poem immortalized the fight of a tartar tribe, but the graphic pen of a future DeQuincy will never be required to record the exodus of the negro race from this land of ours; this is his land of milk and honey and he is here to stay, and our civilization, our well-being depends upon taking him by the hands and giving him all the advantages we can, and giving him an equal opportunity to profit by the educational influences as far as common school education is concerned, and as far as his needs and requirements are concerned, as the other race. Now, sir, my opinion is, of course it is going to take a long time to do it, but whenever the negro reaches the point that he will be educated in the elementary branches of his language, so as to understand what he is doing, so as to be able to defend himself against the cupidity of the white man to swindle him, it makes him a self-respecting citizen, giving him habits of thrift and economy. They are going to be educated, and they will be a valuable part of our civilization, and as they go from one place to another and rise higher in civilization my opinion is the next thing will be a diffusion, they will be diffused all over the United States, because then they will be in a position to complete and maintain themselves in any part of the United States of America. They will be in that position as laborers, as industrious men, as self-sustaining, self-respecting citizens as will be welcome to every community where thrift and enterprise are the rule, and where there is a disposition to maintain those great rights of liberty which have been handed down to us by our forefathers.

MR. CUNNINGHAM—I am in favor of local taxation for the common schools in the country. I am heartily in favor of the County as being the unit of this local taxation. I am in favor of a just and fair and equitable distribution of the funds raised by this method between the races. I am opposed to the proposition contained in a measure that would give to the white people the money raised by taxation of the white people, and to give to the colored people the money raised by taxation of the colored people. I think that the lawyers upon this floor have the better argument who contend that the proposition would be a violation of the fourteenth amendment of the United States. I contend, Mr. President, that it would be a violation of the fundamental principles underlying the whole question of taxation for public schools. If we subscribe to the doctrine that those who pay the taxes are to get the benefit of the moneys raised by taxation, then we necessarily would carry it to individuals, into communities, that means to say that the rich counties of the State who will contribute thirty cents on the one hundred dollars under the provisions of this Constitution for the common schools and who have not sufficient population to get more than one-third of that back to say ten cents on the one hundred dollars, should not be compelled to contribute the other twenty cents. That would be the

position of the County of Jefferson, which will get back under this provision a little more than one-third of the money paid under this provision a little more than one-third of the money paid under this three mill tax. Carry the argument further. It would mean that the poor counties of the State could not get any benefit industrial corporations and the development of your unsurpassed natural resources, and therefore should rely entirely upon the local condition and the wealth in the community in which they live. I undertake to say that the minority on this Committee would not subscribe to that policy. The gentleman from Limestone for example, I am quite sure in his county they get more in proportion for public schools than they pay into the State treasury, than the county of Jefferson would be willing to turn over the excess three mills taxes beyond the number of children that they have to enjoy the benefits. Carry the argument further. It would mean that the great city of Montgomery, or the city of Mobile, or Birmingham paying two-fifths, possibly one-half, maybe more—in my county it pays two-fifths of the taxes in the county, would not divide up and whack up with the poor beats in the county. Carry the argument a little further. The rich man would get the benefit of the money for his children, the comparatively rich man would get the benefit of the money for his children, and the poor man the benefit of the taxes paid for his children, and finally the corporation which is not a matter of flesh and blood and never participates either as a parent or child, ought not to pay anything at all. I am therefore opposed to the principle underlying the proposition of paying out the money raised by one race to that or by one county to that county, or by one community to that community, or by one individual to that individual. Now the question may properly arise what right have we to tax at all for education. Why not tax to clothe the children, to feed the children and to bury them when dead, to provide them with doctors just before they die and with lawyers to administer afterwards? The answer to that proposition is that these things are necessary evils and that the individual must bury them, but education is a blessing and it is a necessary condition to prosperity, safety and civilization and to the growth of this country. Statistics are innumerable to demonstrate the fact that education in any commonwealth aids prosperity; in other words, the greater the education the greater the productive capacity of the commonwealth, and inasmuch as the production of the commonwealth is but the aggregate production of the individual, hence that which increases the productive capacity of individuals, is the only excuse that we have for taxing anything, State, county or individual, for the purposes of education. Now the only objection that I have to this report is that it fixes it at ten cents. I am free to confess that I prefer the report offered by the Committee on Taxation which gave each county a margin between the sixty-five cents, the maximum State tax and the maximum county

tax. I would prefer that. I want to say, in my judgment, if this provision for local taxation is defeated you will have taken a backward step in education. The question was asked me when it was pending if I would advocate a reduction to sixty-five cents, if I would vote for it if I knew it would not pass. I did not feel at that time that it was necessary to give my case away, but I say to you frankly that I expected this great Convention to rise to the occasion and give the people who desire the opportunity to tax themselves. I believe it is a wise provision. Now there are some counties in the State that do not need it. Well, then, if you do not need it you need not have it. There are other counties in the State who do need it, and if they want it, you ought not to deprive them of it. I believe the great county of Jefferson is getting along very well today with educational institutions, but we can improve on them and I want the opportunity to be a unit. I do not want to confine it to the beat, city, district nor the town, I want the outlying districts to get the benefits of our industrial cities that are being built up in the county. I agree with the gentleman from Lauderdale that this is an innovation, and I agree so far as giving the negro the responsibility in the matter is concerned, it is a wise innovation, and as I informed him privately, I would be willing to support some provision of that kind if it could be done so as not to conflict with the Constitution of the United States, to make him the trustee of his part of the fund. I would have no objection to that proposition. I believe it would be a step in the right direction and aid in influencing the character of this dependent race, to encourage them in that line, but that can be done, as I understand it, under the statutes of your State, that the Legislature can now pass laws governing this question and enable the negroes in part at least to take charge of the funds. I do not know whether that be true or not, I am so informed, so it is a proposition that has merit in it, because responsibility stimulates ambition and increases energy, and therefore increases the product of effort, and I believe it would be a step in the right direction. I sincerely hope that this Convention will not take away from the counties of Alabama who want it the opportunity to vote this tax, and I hope they will preserve the county as a unit and provide for an equitable, fair and just distribution of the fund.

MR. HEFLIN (Chambers)—I think, Mr. President, that we have already incorporated in the Constitution a provision that says if any particular section of the Constitution shall be declared by the Federal Court to be unconstitutional, it shall not affect the other sections in the Article. For one, I am in favor of running the risk. If the Federal Court should determine that this particular section was unconstitutional it would not destroy the educational system incorporated in the Constitution.

Mr. President, this provision of the minority gives the people in their respective communities the right to tax themselves, the right to lay off districts. It provides that the white man shall have a district to himself and the negro a district to himself, the white districts to be voted on by nobody but white men and the same way with the black man for his district. It is the old Southern idea that the negroes should go to school to themselves, separate and apart from the whites, and that the whites should attend school to themselves. We have made the line of separation so plain, Mr. President, we do not want it crossed. We do not want to see the time, and I hope to God it will never come when they will mix and mingle in the schools of the South. They do in some sections of the country. We have said to them here, you shall not marry into the Caucasian race. It is a race, as I stated once before on the floor of this Convention, physically prohibited from assimilation and amalgamation. We have not said to the Jew and to the Italian, you shall not mingle and marry into the families of the Caucasians here and there and everywhere, but we have said to the black man, "so far shalt thou go and no farther." Mr. President, more than any other question, perhaps, before the people was urged this one—any other question save the suffrage—of giving the white man the right to use his own taxes and the black man the right to use his. It has been argued hereby gentlemen that the negro was a slave for a hundred years, and has only had his freedom for thirty-five years, and that it is too short a time after slavery has been abolished to now throw upon him the responsibility of working out his own salvation. I would reply to them that the sons of those men who fought and fell for four years, and who came home and found their property swept from under them; who started out fighting the battles of life, with but little of the advantage afforded by letters; who fought their way and support their mothers and sisters. I ask them if it is right to tax them to educate the negroes of Alabama. The white people of Alabama and the Democratic party, I believe, and it is the dominant party in the State, has urged in different sections (it has been done in my immediate section of the State) that some time this provision would be made; that some sweet day the people of Alabama would have the right to tax themselves —the white people, and would enjoy the benefit of that taxation, and allow the negroes to do the same. I do not believe that it is wrong to the negro race. They are being educated very rapidly. Why, they will attend school with but few garments to wear and with but little to eat, when the child of the white man would be kept at home because he hasn't good clothes to put on and good victuals to send with him to that school, as his neighbor has. Pride offentimes will keep him back. It is wrong, but it is true, nevertheless. The negroes are being educated very rapidly, and I say in the light of all the history of the past, some day when the two separate and distinct races are thrown togeth-

er, some day the clash will come and the survival of the fittest, and I do not believe it is incumbent upon us to lift him up and educate him and put him on an equal footing that he may be armed and equipped when the combat comes. I favor the minority report and shall so vote.

MR. JONES (Montgomery)—Mr. President, I find myself unable to concur in the proposition embodied in the minority report, for two reasons. One is that after a thorough investigation, I find the plan is plainly, and palpably, and manifestly unconstitutional; but I do not rest my opposition upon that ground only. I remember seeing it related somewhere of Robert E. Lee, when he was asked why he took so much interest in a worthless soldier, and why he seemed to have a solicitude for his welfare, that that grand old man answered, "Because he is under me." The negro race is under us. He is in our power. We are his custodians. In furtherance of what this Convention believes to be justice to him and justice to ourselves, we have shorn him of a political power, which is as much to his interest as to ours that he should not now have. In return for that, we should extend to him, as far as possible, all the civil rights that will fit him to be a decent and self-respecting, law-abiding and intelligent citizen of this State. We are dealing not merely with conditions of today, nor for ourselves alone, because in a few years at most, most of us will have passed away. We are dealing with conditions which are to affect our children, and our children's children. This race is here. It cannot be transplanted. It cannot be deported. He is a part of our economic system. We come in contact with him everywhere. If we do not lift them up, they will drag us down. It occurs to me, Mr. President, that a large part of the opposition to dividing the school tax with the negro, is based upon a misapprehension of, or at least a confusion as to a great economic truth. Every negro who works, does pay his share of taxes, whether he ever goes to the tax gatherer's office or not. You may take it in town, in the country, anywhere, and on an investigation you will find that every man who pays rent, every man who works for wages, in the adjustment of those two relations, bears his fair share of the burdens of government. For instance, a man rents a house here; he may have passed the poll tax age; he may have nothing to return to the tax gatherer; and yet, when he pays the rent charged him for that house, in some measure he inevitably aids in discharging the taxes that are levied upon that house, and it is the same way when his wages are adjusted.

Many years ago, having occasion to speak in another place on this same subject, I met a great man, a citizen of this county, who has long since gone to his reward, a Scotchman, a man of the intellect, but of violent prejudices. He reproached me somewhat for taking the position I now advocate. I said to him, "Colonel Gilchrist, has the negro a soul?" He threw up his hands,

and in his impulsive way, said, "That ends it; that settles it; he has a soul." We ought to teach the negro at least enough to enable him to read his Bible, to understand the laws that he is to obey, and to understand the contract he signs.

I hope for better things in the time to come in the relation between these two races. It was, perhaps, unavoidable that distrust, passion and race hatred should arise in the last thirty years, when the negro was launched out by the victor as a citizen and given power over his former master; but we have passed through the worst stages of conditions arising from his sudden emancipation and the ignorance and viciousness of many who led him. Let us not repeal him. Let us make him feel that while we intend to rule this land, yet at the same time we intend to be just to him, to be his friend, and that he ought to rely on us. Let us take hold of him in his schools and elsewhere, and teach him what he ought to learn, that while he can not rule us, that his interests, his prosperity, and his happiness are things for which we care. Let us make him feel that we are too great to legislate on the lines of race hatred, or unworthy race passions. When he is convinced of this, a condition of things will come about which will make a contented race which will be glad to be with us. But let him once be convinced that the white man hates him and intends as far as possible to oppress him, and let the idea glow with him for generations that the power of the white man is to be exerted not merely to govern the land but to cast the negro down as far as possible, and bar him of opportunity to improve, and deny him rights as a human being, and his condition will grow worse and worse. Where he can, he will leave us. Such a policy on our part will bequeath a legacy to our children of perpetual discord, race hatred, and it may be, here and there, race conflict. Why not hope and plan for better things?

Why does the State educate the children? It is because it is to the interest of the State as a body politic, leaving out other considerations, to have its citizens know something of its laws, of its institutions, and of the duties of life. If the State of Alabama had the power to do this thing asked to be done by the minority, what reason is there why we should discriminate in this way, by giving the negro only the taxes on his property, and the white people the taxes on theirs. All of us know and realize that this simply means to give more to one race than to the other, because one is white and the other is black? The constitutional question has been elaborately argued by distinguished gentlemen. I will not go into that, or cite any authorities. We all know it has been laid down in unmistakable terms by the Supreme Court of the United States, that while the Fourteenth Amendment did not create any direct rights, it did negatively create a very valuable one, and that is the right not to be discriminated against in civil rights, not in social, not in political, but in civil rights. We can not dis-

criminate in civil rights between citizens, on account of race, color or previous condition.

I ask any man here, whether he is a lawyer or not, suppose we were to pass a law that the courts in Alabama should be open to the trial of civil disputes between negroes, only so long as the taxes derived from the property of the negroes would keep the courts open, and make the same provision as to white men,—would any man in the sound of my voice say that was giving the negro the "equal protection" of the law. You cannot in a constitutional government, like ours, where these people are citizens and entitled to equal civil rights, use the taxing power, the police power, the taxing or any other power of government, so as to diffuse the blessings or ills of government according to races. You can not make distinctions of that sort. To attempt to do so, is not only wrong in itself, but in violation of the Supreme law, and will only entail complication and trouble in the administration of our school laws. For all these reasons I am earnestly opposed to the minority report.

MR. BROWNE—At the opening of the session of this Convention I introduced, and had referred to the Committee on Taxation, a provision for levying a special county tax for school purposes, to be appropriated to the schools of the two races according to the amount paid by each race respectively. After that ordinance had been referred to the Committee on Taxation, I went into a careful investigation of the whole question, in its legal aspect, and I very soon became fully satisfied that such a provision would be clearly unconstitutional. I read then the authorities that were this morning read and referred to by the gentleman from Lauderdale, Mr. Ashcraft. But there is another case that he did not read or refer to in his brief, which is a much stronger case against the proposition of the minority than any case read or referred to. It is also a Kentucky case, the case of Davenport vs. Cloverport, in the 72nd Federal Report. Now the plan in the Owensboro case, as said by Mr. Ashcraft this morning, provided that there should be levied and collected school taxes upon the property of both the whites and the blacks, and then the amount realized separated into two funds, appropriating that which was derived from the taxation of the property of the whites to their schools, and that derived from the taxation of the property of the colored people to their schools. And he drew this distinction: That the case as provided in his minority report, they do not propose to allow the white people to levy the tax at all upon the property of the colored people, and that therefore this provision was not in conflict with Owensboro case, and was constitutional. That is exactly the point that was contended for in this case of Davenport vs. Cloverport. I will read just a few extracts, enough to show that the position of the minority is not correct:

"There was authorized upon the request of said trustees a levy upon the property, real and personal, of the white persons in said school district, not exceeding 50 cents on each $100 value of property, and a tax per capita, not exceeding $2 on each white male 21 years of age. The said tax was not to be levied unless, at an election held for that purpose a majority of the white voters authorized the levy of said tax. By this law, the property of the colored people and the poll tax of colored voters were not subject to taxation for said purposes."

And by another Section of the law under consideration: "All white persons of both sexes between 6 and 21 years of age, living within the district constituted by this act, shall have equal rights of admission to the schools."

It is alleged in the bill, among other things "that there is received annually from said taxes," from the white people, "a sum exceeding $4,000; and that it should be divided and apportioned equally among and for the benefit of all the children residing in said district and said Cloverport who are of school age."

Now that was the contention. The court held—but first, I will read further: "The bill was demurred to by the defendants, because the matters and things in the bill alleged are not sufficient to constitute a cause of action against them, or either of them, nor can the court, upon the matters and things in the bill alleged, grant the relief prayed for, nor any other relief." The relief prayed for was that this money should be properly divided between the schools of the different races. I read further: "It will be seen the purpose of the bill seeks a mandatory injunction, not to enforce the law of February, 1876, but to declare it unconstitutional, and in effect, applying its provisions to colored children as well as to white children." The Court now says: "This Court has heretofore had occasion to consider (in the Owensboro case) whether a tax levied upon the property of white persons for school purposes, and a similar tax levied upon the property of colored persons for the same purpose, could be separated, and the taxes collected from the property belonging to white persons applied exclusively for the benefit of white children of school age, and the taxes collected from the property of colored persons applied for the benefit of colored children of school age in the same district; and the court decided, after careful consideration, that such a division and distribution of taxes thus levied and collected would be a discrimination which is prohibited by the fourteenth amendment to the Federal Constitution."

"In the case under consideration, no tax was either authorized or levied under the act of 1876 on the property of colored people, but this fact makes no difference in the principle which was decided in the case of Claybrook vs. The City of Owensboro, supra."

The court thereupon held that the levy of the tax itself in this case was unconstitutional, whereas in the Owensboro case, the tax being levied upon the property of both white and black, but applied to the schools of the different races in proportion to the amount paid by each race, the Court held that the application of the tax was unconstitutional."

In this case the Court further says: "It is true, in the case of Claybrook vs. Owensboro, there was a proportion of taxes which had been levied, enjoined, from being applied for school purposes for white children, but there the tax which had been levied, although by separate acts was an equal tax upon the property of both white and colored people, and the unconstitutionality of the act consisted in the unequal distribution of the tax levied and collected, in that the division was attempted by the law upon the color line. But here there is no constitutional authority for the levy of the tax at all; hence the court cannot grant to the complainants the relief prayed for."

Now, if this is good law, and it seems to me it is, it settles the question of the minority report. They undertook, in their report, to get around the decision in the Owensboro case by not levying, in the same district, a uniform tax upon the property of all white and colored people, and then apportioning it in proportion as it was paid by the different races. So they provided, and that was the basis of their whole argument, that the tax should not be levied upon the property of the colored people, but only by a vote of the white people upon their own property, and then applied exclusively to their own schools. Under that decision which I have just read, the Cloverport case, the Court has held that an unconstitutional tax.

I make this statement to show why I have abandoned the ordinance introduced by me at the opening of the session. I introduced as a substitute for a section of the report of the Committee on Taxation, a provision almost identical with the one that has been reported by a majority of the Committee on Education and which was printed, and I am heartily in favor of this section as reported by the majority of the Committee.

MR. GRAHAM (Talladega)—Mr. President and gentleman of the Convention, this matter has been thoroughly discussed from a legal standpoint, and I want to say a few words in concluding the discussion in regard to the necessity for this plan. The recent Federal census shows that there are in Alabama 723,000 children within the educational age. The school fund which we have just provided for in this Constitution will give us in round figures, about one million dollars. This will give a per capita educational fund of one dollar and thirty-three cents in this State, and I agree with the gentleman from Henry who said on yester-

day that Alabama could not be content with one dollar and forty cents per capita for school purposes.

Now, then as to the unit. The State of Alabama has been the unit heretofore. The ideal unit, I admit, is the district, or the township, but we cannot so suddenly come from the large unit of the State to the idea unit. We come first to the county as the unit, and I favor it on this occasion for this reason especially: The development of the State is not equal. The distribution of wealth is unequal. The distribution of corporate property is unequal, and the centers of wealth are scattered. If we take the township as the unit, then these centers of wealth will profit by this, and the poorer sections of the State, especially the farming sections, will not receive any benefit of it. I can possibly give you the best illustration by referring to my own county. There are thirty-two school districts and townships in that county. It so happens that the railroads and furnaces of that county can be found in twenty of those districts, leaving twelve districts which happen to be agricultural districts, with possibly the poorest quality soil. They would receive no benefit whatever if we adopted the township or district as the unit, whereas if we take the county, these twenty districts that are especially favored with railroads or corporate property would give of theirs to the twelve adjoining townships and districts that have no such property. It is but fair between man and man that we adopt this basis now, because, educationally and otherwise, in Alabama, we have not developed beyond that point where we are still in a large sense "our brother's keeper," and it would be unfair for those of us who happen to live in the favored districts where there are railroads and corporate property to desire to hold all the taxes from that property ourselves. It is but just and right that some of us give to our neighbors who have no such property. You will readily recall with me an incident that occurred nineteen centuries ago, when an humble woman came with the box of precious ointment to annoint the weary feet of the lowly Nazarine. There were those who stood by and said, "Why all this waste?" And the Savior administered a rebuke to those misers who stood there that has made that woman famous through all the ages. There are those today who ask us "Why all this waste?" in regard to educational matters. In reply to that I say to you every time you build a school near a farm you enhance the value of that land; every time you educate a child, you add to the prosperity and power of the State, and the more you give to the schools in the rural sections of this State the more you enhance the value of the lands there, and the more you increase the tax values in Alabama. There is no waste. That question has been answered, and there is no necessity to raise it any more. This is only one mill. It is not compulsory. There are many counties in the State that will not levy it, but there are many counties especially in North Alabama that want the privilege, and it is

limited to four years each time. If they try it and find they don't want it, it passes after four years, and the three-fifths vote is but fair. Those who own property cannot question the majority that is required in order for it to be levied. The ideal plan of this would be for the majority of the voters but we never tried local legislation in Alabama, and hence we come, leaving property on the safe side of the issue. No man can say that it is unjust in the present condition of affairs, and my ony hope is that within a few years, when we shall have purged the electorate of Alabama from the ignorant and the vicious vote, that property will no longer be timid on this matter, and that an amendment to this Constitution may be put there whereby a majority may levy this tax not simply in the county, but in each individual district of the State. I do not ask that this be thrust upon the people now, but I ask you to give us this as an experiment, and I believe its results will be so beneficial to Alabama, that the prospect just now spoken of will be possible of realization.

MR. SANFORD (Montgomery)—If the schools were open from January to January for the benefit of the impecunious people, would they be able to avail themselves of the opportunity?

MR. GRAHAM — Unfortunately in many instances they would not be, but that does not argue that we should close the schools from January to January and keep out those who could or would go. Now I move to table the amendment proposed by the minority report.

THE PRESIDENT — The question is upon the motion to table the amendment offered by the minority of the committee to Section 12.

MR. ASHCRAFT—And upon that I demand the ayes and noes.

The call was sustained.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,	Carmichael, of Colbert,	Ferguson,
Altman,	Carmichael, of Coffee,	Fitts,
Bartlett,	Chapman,	Foster,
Beavers,	Cobb,	Freeman,
Beddow,	Cofer,	Gilmore,
Bethune,	Coleman, of Greene,	Glover,
Boone,	Cunningham,	Graham, of Montgomery,
Brooks,	Dent,	Graham, of Talladega,
Browne,	Eley,	Grant,
Burnett,	Eyster,	Greer, of Calhoun,
Byars,	Espy,	Greer, of Perry,

Handley,
Harrison,
Henderson,
Hinson,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Wilcox,
Jones, of Montgomery,
Kirk,
Knight,
Kyle,
Lomax,
Lowe (Jefferson),
McMillan (Baldwin),
Martin,
Maxwell,
Merrill,
Miller (Wilcox),
Mulkey,
Murphree,
NeSmith,
Norman,
Norwood,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Palmer,
Parker (Cullman),
Parker (Elmore),
Phillips,
Pillans,
Pitts,
Proctor,
Reese,
Reynolds (Chilton),
Rogers (Lowndes),
Samford,
Sanford,
Searcy,
Selheimer,
Sentell,
Sloan,
Smith (Mobile),
Smith, Mac. A.,
Spears,
Tayloe,
Vaughan,
Waddell,
Walker,
Watts,
White,
Whiteside,
Williams (Barbour),
Winn,

TOTAL—90

NOES

Almon,
Ashcraft,
Banks,
Barefield,
Blackwell,
Bulger,
Burns,
Cornwall,
Davis, of Etowah,
Foshee,
Grayson,
Heflin, of Chambers,
Heflin, of Randolph,
Hodges,
Jones, of Bibb,
Locklin,
Long (Walker),
Lowe (Lawrence),
Macdonald,
Malone,
Moody,
Opp,
O'Rear,
Pettus,
Sanders,
Smith, Morgan M.,
Spragins,
Thompson,
Weakley,
Wilson (Clarke),
Wilson (Washington),

TOTAL—31

ABSENT OR NOT VOTING

Cardon,
Carnathon,
Case,
Coleman, of Walker,
Craig,
Davis, of DeKalb,
DeGraffenreid,
Duke,
Fletcher,
Haley,
Jones, of Hale,
King,
Kirkland,
Ledbetter,
Leigh,
Long (Butler),
McMillan (Wilcox),
Miller (Marengo),
Morrisette,
Oates,
Pearce,
Porter,
Renfro,
Reynolds (Henry),
Robinson,
Rogers (Sumter),
Sollie,
Sorrell,
Stewart,
Studdard,
Weatherly,
Willet,
Williams (Marengo),
Williams (Elmore),

So the amendment was laid upon the table.

MR. COBB—I offer an amendment.

THE PRESIDENT—The chairman of the committee has an amendment which the chair will entertain and will recognize the gentleman from Macon later.

MR. GRAHAM (Talladega)—I have an amendment just suggested of taxes that can be levied for roads, bridges, etc., I put amount of taxes that can be levied for roads, bridges, etc. I put in the same thing that is in the article on taxation, to relieve it of ambiguity.

The amendment was read as follows:

Amend Section 12 in line nine after the figures "1875" by adding the following: "For which special county taxes not exceeding one-quarter of one per cent. may be levied and collected."

THE PRESIDENT — The chairman of the Committee on Education asks unanimous consent to accept that amendment.

The consent was given.

MR. GRAHAM (Talladega)—One other point. A few days ago the towns of New Decatur, Decatur and Cullman, in the article on municipal corporations put a three tenths of one per cent. for school purposes, and they ask to offer this amendment, which the committee will unanimously accept and asks that the Convention do the same thing.

The amendment was read as follows:

Amend Section 12 by adding at the end of line thirteen the following words, namely:

"And provided that the provisions of this section shall not apply to the cities of Decatur, New Decatur and Cullman."

THE PRESIDENT — The gentleman asks unanimous consent to accept the amendment.

The consent was given.

MR. GRAHAM—I do this because they have already put a tax of three-tenths of one per cent. on themselves, and I do not think we ought to put any more on them. I would not be in favor of accepting it but for that.

MR. COBB—I have an amendment.

The amendment was read as follows:

Amend Section 12 by adding at the close the following: "And provided, further, that the legislature may authorize the levying

of said tax within the municipalities in said county, when no tax has been levied in the county for this purpose; provided the levy of the same be authorized by a three-fifths vote of the qualified voters within such territorial limits as above provided."

Mr. Cobb was recognized.

THE PRESIDENT—Does the gentleman from Macon yield to the genteman from Tuscaloosa to offer an amendment to the amendment.

MR. COBB—Yes, sir.

MR. FITTS—I offer this amendment.

The amendment was read as follows:

Amend Section 12 as follows: "Between lines five and six insert the following: 'And at such special election every single woman over the age of twenty-one years, and owning in her own right one thousand dollars worth of real estate, as shown by the assessment roll of the county shall be entitled to vote, which vote she may cast by a sealed ballot in writing to be delivered to the election managers at the place and within the hours fixed for the holding of the election'."

MR. COBB—I am not advocating that last amendment, but as to my amendment, I do not care to discuss it at any length, but if the policy as marked out by this section is adopted it occurs to me that it might be well to provide that where certain counties do not levy this tax, that municipalities be allowed to do it by act of the legislature and by regular vote, as provided for in the amendment, and it is also suggested to me that it might be well to put in there the municipalities and school district. (There were expressions of dissent.) I do not add that. I merely threw it out by way of suggestion made to me, but the municipalities should have the power, if the counties have it. If the policy is to have this special taxation for school purposes, then there are many municipalities throughout the State of Alabama that might well desire to have this power conferred upon them, and hence I offer this amendment.

I move to lay the amendment of the gentleman from Tuscaloosa—

MR. FITTS—I would like to have a word on it.

MR. LONG (Walker)—This woman's suffrage has been discussed here until it has exhausted all the members, and disgusted the people of the State, and I move to lay that amendment on the table.

MR. FITTS—I would like to have a word to say about it. (Applause.) You just want to rob the women without a word being said in their behalf.

THE PRESIDENT—The delegate from Tuscaloosa is not in order. It is not debatable.

Upon a vote being taken the amendment was tabled.

MR. GRAHAM (Talladega)—I move the adoption of the amendment offered by the gentleman from Macon.

MR. COLEMAN (Greene)—I have an amendment to offer to it.

The amendment was read as follows: "Amend the amendment of the delegate from Macon by adding the following: 'Provided, that the funds raised by such taxation shall be distributed for the benefit of the school children of the county.'"

MR. COBB—I move to lay that amendment on the table.

MR. COLEMAN—I have not yielded the floor.

MR. COBB—I do not mean to cut him off.

MR. COLEMAN—The very argument made by the distinguished gentleman from Jefferson, and by the Chairman of this Committee, shows the injustice of any such provision without the amendment. There are municipalities in Alabama where the wealth of the remainder of the county is concentrated and you will cut off all these poor children of the county from the benefit of such taxation if you confine the appropriations to the children of the municipalities. I say if you are going to raise money by taxation for schools let the poor children, those from the County, get the benefit of it, who are not able to educate themselves, or to be educated by their parents. Let them get the benefit of it. You are bringing up the same evil which was so ably discussed here of allowing the rich to educate themselves, and depriving the poor, those who are entitled to the benefit, and who ought to be educated, from the benefit of such taxation, and it is wrong in principle and the amendment ought to be adopted.

MR. COBB—If I understand his amendment it means that the taxes raised in municipalities shall be distributed over the whole county. That manifestly is unfair.

MR. COLEMAN—May I ask you a question? What would you do if the city of Birmingham, and the city twelve miles below it, where the wealth is concentrated, and the poor children out in the rural districts are not able to educate themselves?

MR. COBB—The county has an opportunity of voting on this. My amendment does not contemplate the levying and raising

of any taxes in any municipalities, where the county acts. Now the preference is given to the county. The whole county may raise this special tax if they desire to do it. Wherever they refuse to do it, or do not want to do it, or neglect to do it, then any of these municipalities afterwards, if they were to decide that they wanted to act, have an opportunity to come in and get the benefit of a part of the funds raised in the cities?

MR. GREER (Calhoun)—Well, after the cities have once acted, would the counties afterwards, were to decide that they wanted to act, have an opportunity to come in and get the benefit of a part of the funds raised in the cities?

MR. COBB—I judge that that could be regulated largely by legislative enactment, but if afterwards the county acted, it would nullify the action of the municipality.

MR. COLEMAN—How could it nullify it?

MR. SPEARS—Take the county of Jefferson, and suppose the whole county acts, and the city of Birmingham acts in conjunction with them, and they decline to levy the tax; then the city of Birmingham comes along and acts for itself, would the city of Birmingham, acting in conjunction with the county, defeat the right of the county to levy in the first place, and then fall back on its right to levy in the second place?

MR. COBB—Possibly so. But I am not apprehensive about that matter. I think it is hardly to be presumed that such a municipality as the city of Birmingham would pursue such a selfish course as that. I do not think that is hardly reasonable, and, as suggested to me, if the county refuses to act, then it could not have another vote, as I understand it, within four years.

MR. GRAHAM (Talladega)—I desire to make a correction. At one time we had that four years, but we substituted instead, "the time which," so the election when held would prescribe the time. I call attention to the error.

MR. COBB—This was merely as suggested to me. I have not kept up with the course of the debate on this point. But be that as it may, I think I am right in the assertion that the adoption of my amendment would not interfere in any particular with the powers of the counties to act at any time at which they are authorized to act under the constitutional provision in this regard.

MR. HARRISON (Lee)—If you will read the first part of this Section 12, you will see whenever one of these elections is ordered the time is submitted to the people when it shall go into effect. Now, under your amendment, if the county has not acted, you allow the municipality to violate this act and make this proviso; they can fix it, say, for ten years, and then where would the poor county districts be, if they wanted to add them afterwards?

MR. COBB—My amendment provides that the Legislature of the State may first authorize these municipalities to act, and the act of the Legisature would be so framed as to meet these questions presented here by the various gentlemen.

MR. HARRISON—This very section authorizes these people voting and fixing the time, which it shall continue, and the purposes thereof shall have been first submitted to the vote of the qualified electors.

MR. COBB—What section are you reading from.

MR. HARRISON—Section 12, on lines three and four.

MR. COBB—If the gentleman from Lee will suggest an amendment that will carry out his views in that matter I will accept it.

MR. HARRISON—I have no amendment, but I would like to make a motion when you get through.

MR. COBB—I do not hear the gentleman.

MR. HARRISON—If the gentleman will yield to me, I will make a motion.

MR. COBB—Well, I have no objection.

MR. HARRISON—I move to lay the amendment and the amendment to it on the table. (Applause).

MR. COBB—Mr. Chairman, I do not think that is exactly fair. The gentleman should be fair to me, when I was trying to be fair to him. But still, I have no objection. If they want it to go on the table I am willing.

THE PRESIDENT—The gentleman from Lee moves that the amendment offered by the gentleman from Greene, which is an amendment to the amendment offered by the gentleman from Macon, be laid upon the table.

MR. COBB—I ask for a division of the question.

THE PRESIDENT—The question first will be upon the amendment offered by the gentleman from Greene.

Upon a vote being taken the amendment was tabled.

THE PRESIDENT—The next question is the amendment offered by the gentleman from Macon.

Upon a vote being taken the amendment was tabled.

MR. GRAHAM (Talladega)—I move the previous question upon Section 12 as amended.

The main question was ordered.

MR. FITTS—I call for the ayes and noes.

The call was not sustained.

MR. WHITESIDE—I move to lay Section 12 upon the table.

MR. GRAHAM—Upon that I demand the ayes and noes.

The call was sustained.

Upon a call of the roll the vote resulted as follows:

AYES.

Altman,	Foster,	Phillips,
Bartlett,	Freeman,	Pitts,
Beavers,	Harrison,	Proctor,
Bethune,	Henderson,	Samford,
Burns,	Hinson,	Searcy,
Byars,	Howze,	Spears,
Carmichael, of Coffee,	Inge,	Studdard,
Chapman,	Knight,	Tayloe,
Cobb,	Macdonald,	Vaughan,
Cofer,	Martin,	Walker,
Fitts,	Moody,	Whiteside,
Foshee,	Murphree,	Williams, of Barbour,

Total—36.

NOES.

Messrs. President,	Graham, of Montgomery,	Lowe, of Jefferson,
Almon,	Graham, of Talladega,	McMillan (Baldwin),
Ashcraft,	Grant,	Malone,
Banks,	Grayson,	Maxwell,
Barefield,	Greer, of Calhoun,	Merrill,
Beddow,	Greer, of Perry,	Miller, of Wilcox,
Blackwell,	Handley,	Mulkey,
Boone,	Heflin, of Chambers,	NeSmith,
Brooks,	Heflin, of Randolph,	Norman,
Browne,	Hodges,	Norwood,
Bulger,	Hood,	O'Neal, of Lauderdale,
Burnett,	Howell,	O'Neill (Jefferson),
Carmichael, of Colbert,	Jackson,	Opp,
Coleman, of Greene,	Jenkins,	O'Rear,
Davis, of Etowah,	Jones, of Bibb,	Parker, of Cullman,
Dent,	Jones, of Wilcox,	Parker, of Elmore,
Eley,	Kirk,	Pettus,
Espy,	Kyle,	Pillans,
Eyster,	Locklin,	Reese,
Ferguson,	Lomax,	Reynolds, of Chilton,
Gilmore,	Long, of Walker,	Rogers, of Lowndes,
Glover,	Lowe, of Lawrence,	Sanders,

Selheimer,	Smith, Morgan M.,	Weakley,
Sentell,	Spragins,	White,
Sloan,	Thompson,	Wilson, of Clarke,
Smith, of Mobile,	Waddell,	Wilson, of Washington,
Smith, Mac. A.,	Watts,	Winn.

Total—81.

PAIRS.

AYES.	NOES.
McMillan, of Wilcox,	Palmer,
Carnathon,	Sorrell,
Robinson,	Cunningham.

And the motion to table was lost.

THE PRESIDENT—The question recurs upon the adoption of the Section as amended.

Upon a vote being taken the Section as amended was adopted.

MR. GRAHAM—In view of the fact that we have had a long debate this afternoon, I move that we do now adjourn.

(There were loud expressions of dissent.)

MR. GRAHAM—I desire to withdraw the motion.

MR. BAREFIELD—I renew it.

MR. HEFLIN (Chambers)—I rise to a question of personal privilege. I did the delegate from Russell an injustice this morning in a reply to him for objecting when I wanted my name passed on the roll call for the introduction of ordinances. I was somewhat nettled when the objection was made and retorted that the gentleman wasn't fit for anything else, or something of the sort. I desire to withdraw the remark. I think I owe it to him. I did not mean it in the serious sense in which he took it, and I owe it to the Convention and to myself to make this statement.

MR. WADDELL—The gentleman having withdrawn the remarks, mine are not applicable to it at all, and I heartily withdraw what I said.

Leaves of absence were granted to Mr. Duke for today and to Mr. Haley.

MR. BAREFIELD—I move that we adjourn.

CORRECTIONS

In proceedings of seventy-first day, first page, second column, on the report of Committee on Engrossment and Ordinance to

contract for enrollment on animal parchment, the result of the vote should read as follows: "Upon a vote being taken a division was called for, and the motion to table was sustained by a vote of 55 ayes and 26 noes."

In proceedings of seventy-first day, fourth page, fifth column, in remarks of Mr. Browne, strike out word "nor" after the words "be appropriated in answer to question by Mr. Graham (Talladega) and insert "and" in lieu thereof. Also strike out the words: "Say that no more money shall be invested" and insert in lieu thereof: "Admit that the present rate of increase shall not be maintained."

In Resolution No. 296, offered by Mr. Burns, the words "unless they have relieved," were omitted. Also, in his question to Mr. Handley was left out the words "especially hotel property."

SEVENTY-THIRD DAY

MONTGOMERY, ALA.,
Friday, August 16, 1901.

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

O Lord, our Heavenly Father, we thank Thee that we are alive and are here to meet the responsibilities and to face the duties of another day. We pause ere we begin our work and look unto Thee from whence cometh all of our help, praying that Thou wouldst strengthen us for the duties that lie before us, and that we may be enabled to accomplish all that Thou wouldst have us do. We thank Thee for Thy help in the past, for Thy mercies which have been unfailing, and for Thy goodness which has followed us all the days of our lives. We have seen the end of days and years, but of God's goodness and mercy we have seen no end. We are here today, our Father, as living monuments to Thy mercy and love. We pray Thy blessings upon us and that into our hearts may come that peace which passeth all understanding, that we may have clear judgments and that we may do the work that Thou hast assigned to us in a manner pleasing to Thee. We pray Thy blessings upon this Convention, and we thank Thee that the health of Thy servants has been dear in Thy sight. We pray that Thou wilt be with them and that the wrok they may do will redound to the good of all the people. Bless them today, give each one strength and wisdom and may the work done, O Lord, be such as will be acceptable to Thee, and that will accomplish good to our people. Bless any who are in distress; bless any who may be suffering with the severity of the elements. May the Lord bless

all of our people along the storm-stricken coast, and grant, our Father, that Thy blessings may rest upon them, and that no harm may befall them. Bless us today and lead us through all of our future life, and when our work here is ended, in Heaven, in the home of the good and the pure, save us, we pray Thee, through Christ, our Redeemer. Amen.

Upon a call of the roll 75 delegates responded to their names.

MR. PARKER (Cullman)—I move the call of the roll of the House and that absent members be sent for.

THE PRESIDENT—It is moved that we have a call of the roll of the House, and that the sergeant-at-arms be instructed to send for absent members.

The motion was carried, and the call of the House proceeded.

The absent members were summoned.

THE PRESIDENT—It now appears that there are 92 delegates, and a quorum.

The report of the Committee on the Journal was read, stating that the Journal for the seventy-second day had been examined, approved and adopted.

MR. WHITE—I desire to make this statement to the Convention. The Committee on Order, Consistency and Harmony of the whole Constitution is being very much delayed by printing. To give you one instance, the Article on Suffrage was paced in the hands of the printer on the 9th. We have not yet received that article. We have been urging it, the clerk of the Convention has been urging it, and the Committee on Printing and Incidental Expenses volunteered their services to hurry it up, but it seems we cannot have it done. The sub-committees are entirely up with their work and have been since last week, and if their continues, it is necessarily going to delay this Convention a week at least, after it has finished all of its other duties. I call the attention of the Convention to it, in order that it may take such steps as it seems proper to remedy this matter.

MR. FITTS—I move that the public printer be brought before the bar of the House to give such excuse as he can before this august body, as to the delay he is forcing upon this entire Convention.

THE PRESIDENT—It seems to the Chair that the motion would be out of order.

MR. VAUGHAN—I move that the article on Judiciary be taken from the table and be put upon its passage.

MR. HEFLIN—I make the point of order that it is out of order.

MR. COLEMAN (Greene)—Is that in order until we call the roll?

MR. HEFLIN—I call for the regular order.

THE PRESIDENT—The motion may be entered, but it will not be in order at this time for consideration, as a motion to take from the table is not a motion that has any privilege, and therefore would not displace the regular order.

The Secretary will call the roll of delegates for the introduction of ordinances.

MR. BEDDOW—I move that the rules be suspended and that the call of the roll of delegates be dispensed with.

MR. COLEMAN—I insist upon the call of the roll this morning. I want to introduce a resolution.

MR. BEDDOW—I will not insist upon it if there is objection.

Mr. Winn yielded to Mr. Coleman of Greene.

MR. COLEMAN (Greene)—I wish to introduce a short resolution to be referred to the Committee on Rules, which I think will meet the motion just made.

Resolution No. 304, by Mr. Coleman of Greene was read as follows:

"Resolved, That the article on Judiciary may be taken from the table, and when taken from the table, Section 28 thereof may be amended, or revised or stricken out."

Referred to the Committee on Rules.

Leaves of absence were ganted as follows:

To Mr. Cardon for today and Monday; indefinite leave to Mr. Haley on account of sickness; to Mr. Reynolds of Henry for today and tomorrow on account of sickness in family; to Mr. Espy for today and tomorrow on account of sickness; indefinite leave to Mr. Kirkland on account of sickness in his family.

Mr. Burns offered the following resolution: "Resolved that the expenses of this Convention should be reduced and that a recess for ten days without any pay except mileage should be taken in order that the Committee on Harmony may make complete report."

Referred to the Committee on Rules.

MR. HOOD—I move that the further call of the roll be dispensed with.

Upon a vote being taken, a division was called for, and by a vote of 39 ayes and 38 noes, the Convention refused to suspend the rules.

Mr. Cofer sent up the following resolution:

Ordinance No. 456 by Mr. Cofer:

An ordinance to be entitled an ordinance to authorize and require the Governor, State Auditor and State Treasurer to set apart a certain sum annually out of the funds of the State for the purpose of paying the bonded indebtedness of the State of Alabama.

Be it ordained by the people of Alabama in Convention assembled, that after the ratification of this Constitution the Governor, Auditor and Treasurer of the State be authorized and directed to set apart the sum of not less than five thousand dollars ($5,000) and as much more as they shall deem prudent annually from the moneys in the State Treasury for the purpose of paying off and discharging the bonded indebtedness of the State, and calling in such bonds as they may deem advisable.

Referred to Committee on Taxation.

Mr. Lomax offered the following resolution:

Resolution 306 by Mr. Lomax:

Resolved, That Ordinance 429 in reference to quadrennial sessions of the Legislature be and the same is hereby withdrawn from the Committee on Legislative Department and that the said ordinance with the views of the minority of the committee thereon be printed and placed on the calendar.

Referred to Committee on Rules.

Mr. Sorrell offered the following petition, which was referred without reading:

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.

Rockford, July 23, 1901.

J. W. Batson, attorney; E. C. Batson, merchant; J. S. Coleman, jeweler; J. W. Brooks, editor; J. K. McEwer, merchant; S. M. Suttle, clerk; J. Dabson, farmer; T. W. Johnson; A. D. Bentley, merchant; W. H. Bentley, farmer; J. Jones, M. D.; T. B. Reidy, J. P.; D. L. McAllister & Sons, machinists; A. L. Bridges, farmer; C. C. Denson, farmer; J. A. Crawford, Judge of Probate; J. T. Cason, merchant; C. C. McManus, merchant; J. S. Kelly, farmer; G. W. Batson, merchant; W. F. Johnson, Circuit Clerk; J. C. Atkinson, farmer; J. F. Johnson, farmer; M. L. Lauson; A. D. Crawford; O. C. McCain, County Treasurer; T. P. Pennington, ex-County Supt. Education; T. S. McDonald, merchant; Geo. McDonald; A. L. Cordon, farmer; J. A. Smith, farmer; W. T. While, M. D.

Rockford, Coosa County, Ala.

This list could be extended to any length, had I been able to see more people All whom I presented to, signed it.

I can safely say that there is not fifty men in the county who does not oppose this "free pass evil."

Yours respectfully,

John W. Batson.

Referred to Committee on Corporations.

MR. SMITH (Mobile)—I move to make the motion of the gentleman from Dallas, to take the Judiciary report from the table, the special order for 11 o'clock today.

MR. PETTUS—I second the motion, and on that I ask the ayes and noes.

MR. COLEMAN—I suppose that is open for discussion.

THE PRESIDENT—The Chair will hear from the gentleman from Greene.

MR. COLEMAN—Mr. President, there was a resolution introduced this morning which would require but a few moments for the Committee on Rules to act. I will read it again that you may understand it——

MR. SMITH (Mobile)—I rise to a point of order. The resolution offered by the gentleman this morning is not germane to this discussion.

MR. COLEMAN—I insist that it is germane. It is part of my argument why it should not be set for 11 o'clock——

THE PRESIDENT—The Chair would be inclined to hold that the gentleman in opposing an early setting of the considera-

tion of this motion might give his reason in the course of his argument that another time would be better and would be more just to the other side, incidentally as a part of his argument.

MR. COLEMAN—The resolution introduced reads this way: That the article on Judiciary may be taken from the table, that Section 28, that is the section regulating the selection of Solicitors may be amended or revised or stricken out, just as the Convention sees proper.

Now if you take that article up from the table without this rule, we will undergo the same delay and controversy that transpired here the other day upon the floor, but if the Committee should see proper to report this rule, then when it is taken from the table——

MR. PETTUS—I rise to a point of order. A motion to postpone the consideration to a time certain is not debatable under parliamentary authority.

THE PRESIDENT—The question that the gentleman is speaking to is a motion to make the consideration of the motion a special order.

MR. PETTUS—The gentleman is making a motion to postpone to a time certain and it is not debatable.

THE PRESIDENT—The motion seems to be to advance its hearing instead of postponing it. Under the regular order it would probably be reached during the next session of some other Convention. They have not reached miscellaneous business during this Convention and this is a motion to advance the hearing. It seems to the Chair the gentleman might be heard briefly on both sides of the proposition.

MR. COLEMAN—I do not feel that I can be heard at all. I wish to call attention to the fact that if the Committee reports this rule and it is adopted, then that question will come before this Convention subject to its control and action without the delay incident to parliamentary rules, and the rules we have adopted, and that is all that is desired, that the question may be fairly considered, not hampered by any rule of this Convention, and it does seem to me if anybody wants to meet the question upon its merits, there can be no objection to that rule. I therefore insist, Mr. President, that that motion is not adopted unless you defer it longer, say until 4 o'clock this evening, or sometime when the Committee on Rules may meet and determine what is best to be done with the resolution referred to them. I would have no objection whatever if it was delayed until 4 o'clock this evening, so that the Committee may have time to meet, and if they report favorably, the whole question is then before you on its merits. I therefore move an amendment that it be deferred until 4 o'clock this afternoon.

THE PRESIDENT—It is moved to amend by setting this matter as special order for 4 o'clock this afternoon, in stead of 11 o'clock this morning.

MR. SMITH (Mobile)—This resolution that the gentleman has presented, and that he now claims an opportunity to be heard upon, is only one of seven resolutions that have been presented with the same view and with the same purpose. They claim that it is not fair that this thing should be taken up within a couple of hours, and heard that he just wants five more hours, and yet he has has five hours on one such attempt at parliamentary tactics, and five on another, and more than five on another, until so far from its being apparent that those who are opposed to him are indulging in procrastination, it is perfectly apparent that not only has the gentleman undertaken to sacrifice the whole ordinance for the purpose of enforcing his individual views upon the Convention, but it is desired to abolish the rules, and to proceed in line with his particular wishes, in derogation of the method of procedure that has been deemed sufficient and proper in all of the important matters of this Convention. When he laid this article on the table, he did it under a speech, in which he positively assured this Convention that there would be no embarrassment whatever in taking that article from the table, and when it was taken from the table, under parliamentary rules, it would be subject to this amendment, which he seems to introduce a special rule to accomplish. Now, Mr. President, what is the proposition. Under the rules of this Convention, that article cannot be amended, when it is put upon its passage. To suspend those rules, requires a two-thirds vote of the Convention. The gentleman now proposes to introduce a resolution and asks the Rules Committee to declare that rule is not operative and effective in this particular instance. I am not much of a parliamentarian, but it seems to me, Mr. President that the Rules Committee has no more right to declare that a rule shall be suspended, by a majority vote, than has any other committee or small number of this Convention. If the Rules Committee were to report a resolution that this article might be taken up and amended, that would simply be a report, recommending a suspension of the rules, and then to adopt that report I take it, unless the Chair ruled that they might do by indirection what could not possibly be done by direction, they would have to suspend the rules by a two-thirds majority.

MR. COLEMAN—May I ask the gentleman a question? This Convention adopted the rules?

MR. SMITH—It did.

MR. COLEMAN—And can't it change them?

MR. SMITH—They were adopted for the method of procedure, and not to meet the behests of any one individual—

MR. COLEMAN—Answer my question.

MR. SMITH (Mobile)—I am answering your question and will not be cut off in my answer when you have part of it and not the whole.

THE PRESIDENT—The gentleman does not consent to yield.

MR. SMITH (Mobile)—Not to stop. This Convention can suspend the rules, for the benefit of the Convention, and in the interest of the people, and the Convention can revoke the rules, but the Convention cannot simply suspend the rules by a majority vote, when it is declared by its rule that it shall only be done by a two-thirds vote. I submit that there is no excuse for this further effort at delay by parliamentary tactics. I submit that the whole procedure of laying this on the table is not in the interest of the people generally, and is not so considered, and I submit that this article ought to be brought up as a special order at 11 o'clock and I hope that the Convention will vote down the amendment.

MR. HOOD—I call for the ayes and noes.

The call was sustained.

THE PRESIDENT—The gentleman from Mobile moves that the consideration of the motion to take from the table the article reported by the Committee on Judiciary be made the special order for 11 o'clock today. Thereupon the gentleman from Greene moves to amend by making its consideration the special order for 4 o'clock this afternoon. The question will be first upon the amendment offered by the gentleman from Greene. The ayes and noes have been called for and the call sustained. As many as favor the adoption of the amendment will say aye and those who oppose no, as their names are called.

MR. PETTUS—I understand there was a motion to table the amendment.

THE PRESIDENT—The Chair heard no such motion.

Upon a call of the roll, the vote resulted as follows:

AYES.

Messrs. President,	Carmichael, of Colbert,	Foster,
Almon,	Carmichael, of Coffee,	Glover,
Barefield,	Cobb,	Grant,
Beavers,	Coleman, of Greene,	Grayson,
Brooks,	Duke,	Greer, of Calhoun,
Browne,	Eley,	Greer, of Perry,
Burnett,	Eyster,	Handley,
Burns,	Ferguson,	Harrison,

Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Locklin,
Lomax,
Long (Walker),
Lowe (Jefferson),
Macdonald,
Martin,
Nowood,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Opp,
O'Rear,
Parker (Cullman),
Reese,
Rogers (Lowndes),
Sanford,
Searcy,
Selheimer,
Sentell,
Smith, Morgan M.,
Williams (Barbour),
Wilson (Clarke),

Total—55.

NOES.

Altman,
Asheraft,
Banks,
Beddow,
Bethune,
Blackwell,
Boone,
Bulger,
Byars,
Cofer,
Cornwall,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Fletcher,
Foshee,
Freeman,
Graham, of Montgomery,
Graham, of Talladega,
Hodges,
Hood,
Howell,
Jones, of Bibb,
Kyle,
Lowe (Lawrence),
McMillan (Baldwin),
Malone,
Maxwell,
Merrill,
Miller (Wilcox),
Moody,
Murphree,
NeSmith,
Norman,
Palmer,
Parker (Elmore),
Pettus,
Phillips,
Pillans,
Pitts,
Reynolds (Chilton),
Sanders,
Sloan,
Smith, Mac. A.,
Sorrell,
Spears,
Spragins,
Stewart,
Studdard,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
White,
Whiteside,

Total—60.

ABSENT OR NOT VOTING.

Bartlett,
Cardon,
Case,
Espy,
Gilmore,
Haley,
King,
Kirkland,
Ledbetter,
Leigh,
Long (Butler),
Morrisette,
Pearce,
Renfro,
Reynolds (Henry),
Robinson,
Rogers (Sumter),
Samford,
Sollie,
Willet,

PAIRED.

AYES.	NOES.
Carnathon,	Chapman,
deGraffenreid,	Fitts,
Knight,	Miller (Marengo),
Coleman, of Walker,	Mulkey,
Proctor,	Porter,
Williams (Marengo),	Smith (Mobile),
Williams (Elmore),	McMillan (Wilcox),
Wilson (Wash'gton),	Henderson,
Winn,	Jones, of Hale,
Weatherly,	Oates,

So the amendment offered by the gentleman (Mr. Coleman) from Greene was lost.

THE PRESIDENT—The question will recur upon the original motion made by the gentleman from Mobile, which is that the consideration of the motion to take the report from the table be made the special order for 11 o'clock this morning.

MR. HEFLIN (Chambers)—Upon that I call for the ayes and noes.

The call was not sustained.

Upon a vote being taken the motion was carried.

THE PRESIDENT—The Chair will announce that there will be a meeting of the Rules Committee in the Senate Chamber at 10:30 o'clock.

Mr. Pettus took the Chair.

MR. CUNNINGHAM—I desire to ask the unanimous consent of the Convention to make a statement on behalf of the Ladies Memorial Association of this city.

Leave was granted.

MR. CUNNINGHAM—I hold in my hand a little pamphlet which is edited by Mrs. I. M. P. Ockenden, which is a history of the Confederate Monument on Capitol Hill. It begins with the inception of the movement to erect upon this hill a monument in memory of the Confederate dead, and ends with the unveiling. It contains the orations delivered on various occasions by some of the best orators of the State of Alabama. The purpose of the Ladies' Memorial Association is to offer this pamphlet to each of the members on this floor, and who may come hereafter, at the very low and insignificant price of 25 cents, and they request that the attention of the Convention be brought to it, in order that every one may have an opportunity to procure copies. I therefore move,

Mr. President, that the Chair appoint two pages to take the names of delegates who are willing to subscribe for this beautiful and splendid book, which is not only a memorial to our Confederate dead, but to the self-sacrificing work of these splendid women. The price is 25 cents. The purpose, Mr. President, is to erect a monument to the Confederate dead of Alabama in Chicaumauga Park. I sincerely hope that the Convention will adopt it, and that every member will procure a copy.

THE PRESIDENT PRO TEM—The Chair will presume a motion will not be necessary, and will appoint Paul West and Westley Gaston to act.

The special order for this hour is the report of the Committee on Education, Section 13. I recognize the gentleman from Talladega.

MR. GRAHAM (Talladega)—I call for the reading of Section 13.

MR. HEFLIN (Randolph)—I ask unanimous consent to make a report from the Committee on Schedules, Printing and Incidental Expenses.

Leave was granted.

The Secretary read the report as follows:

Mr. President, the Committee on Schedule, Printing and Incidental Expenses have instructed me to make the following report, viz.:

The committee has audited the accounts hereto attached, and finds that the State of Alabama is indebted to the Ed. C. Fowler Company of Montgomery in the sum of $113.15.

We find that said State is indebted to the Brown Printing Company of Montgomery, Ala., in the sum of $464.45 for printing.

We find that said State is indebted to J. W. Terry of Montgomery, Ala., in the sum of $5 for the use of a typewriter from July 24 to August 24.

All of the above accounts are for printing done, and for articles furnished to the State of Alabama for the use of the Constitutional Convention, and all of the above accounts are itemized as shown by bills hereto attached. Total amount, $582.60, and we recommend the payment of the same, all of which is respectfully submitted.

John T. Heflin,

Chairman Committee on Schedule, Printing and Incidental Expenses.

MR. HEFLIN—I move that the report take its usual course, be printed and lie upon the table.

The motion was adopted.

MR. JONES (Montgomery)—I ask unanimous consent on behalf of the Committee on Executive Department to take up an ordinance and have it referred to the Committee on Printing and Incidental Expenses. It is to reimburse a gentleman who did some work for the Committee. The ordinance is for the relief of E. L. May.

Unanimous consent was granted.

The Secretary read the ordinance as follows:

Mr. President, the Committee on Executive Department direct me to report the accompanying ordinance for the relief of E. L. May, and to recommend its passage.

Thomas G. Jones, Chairman.

An ordinance for the relief of E. L. May:

Be it ordained by the people of Alabama in Convention assembled, that the sum of $35 be and the same is hereby appropriated to pay E. L. May for his services as clerk for attending the meetings of the Committee on the Executive Department and transcribing the article on the Executive Department as finally adopted and reported by the committee.

PRESIDENT PRO TEM—The ordinance will be referred as requested.

MR. WATTS—Some days ago this Convention laid upon the table, to be taken up at the pleasure of the Convention a proposition of mine that no negro should hold office in this State. I want the Convention to dispose of the matter in some way, and I ask to take it up from the table and to make it a special order for next Tuesday at 11 o'clock.

THE PRESIDENT PRO TEM—Will the gentleman designate the number of his ordinance?

MR. WATTS—It is an amendment to the amendment to Section 17 of the report.

Upon a vote being taken the motion was adopted.

MR. SAUNDERS—I move that the Rules Committee be recalled, and be not allowed to sit during the morning session.

MR. REESE—I move to lay that motion on the table.

MR. SAUNDERS—Upon that I call for the ayes and noes.

The call was not sustained.

THE PRESIDENT PRO TEM—The question is on the motion of the gentleman from Limestone who moves that the Committee on Rules be recalled and be not allowed to sit during the morning session and the gentleman from Dallas moves to lay that motion on the table.

Upon a vote being taken, division was called for, and a further vote being taken, there were ayes 39, noes 57, and the motion to table was lost.

PRESIDENT PRO TEM—The question recurs on the motion of the gentleman from Limestone that the Rules Committee be recalled and be not allowed to sit during the morning session of the Convention.

MR. REESE—Mr. President, it is possible that this Convention, after having been in session for nearly three months, is going—

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

MR. REESE—It is debatable.

PRESIDENT PRO TEM—It is the opinion of the Chair that the motion is debatable.

MR. HOWZE—I rise to a point of order.

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

MR. HOWZE—That notice was given that this Committee would meet and the Committee went out for that purpose, and that notice implies unanimus consent of this Convention, and therefore this motion is too late.

PRESIDENT PRO TEM—The Chair will hold that it is within the power of the Convention to rescind its action and recall the Committee. The point of order is not well taken.

MR. REESE—I have the floor.

The President returned here, and resumed the Chair.

MR. GRAHAM (Talladega)—I rise to a point of order that the committee has already met and is back, and it is not necessary to consider it any further.

MR. GREER (Calhoun)—I rise to a point of order.

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

MR. GREER—It would require a suspension of the rules of this Convention before they could be recalled.

THE PRESIDENT—What is the point made by the gentleman from Dallas?

MR. REESE—I was arguing against the motion to recall the Committee on Rules. I do not think the Convention ought to make an exception against the Committee on Rules.

THE PRESIDENT—The understanding of the Chair is that the Committee on Rules may meet any time, and report at any time, so as to transact the business of the Convention.

MR. SMITH (Mobile)—I desire to ask what disposition the Chair makes of Rule 44: "No committee shall sit during the Convention without special leave."

MR. WILSON (Clarke)—I submit in connection with subdivision 1 of rule 41, the committee is exempt from that: "Rules, of which the President shall be Chairman, to be composed of nine members, and which shall have the right to report at any time."

MR. HARRISON—I am instructed by the Committee on Rules to report a substitute for resolution No. 304.

MR. SMITH (Mobile)—I rise to a point of order.

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

MR. SMITH (Mobile)—Resolution No. 304 was not before the Committee.

MR. HARRISON—I report a substitute for resolution No. 304.

MR. SMITH—I was mistaken in the numbers.

THE PRESIDENT—The Secretary will read the report from the Committee on Rules.

The Secretary read as follows:

"Substitute for Resolution No. 304.

"Resolved, That when the article on Judiciary is taken from the table it shall be subject to amendment, as though it had never passed to a third reading."

MR. COLEMAN (Greene)—I move the adoption of that resolution.

THE PRESIDENT — The Secretary will read the original resolution.

The Secretary read as follows:

Resolution No. 304, by Mr. Coleman of Greene:

Resolved, That the article on Judiciary may be taken from the table, and when taken from the table, that Section 20 thereof may be amended, reviewed or stricken out.

Referred to Committee on Rules.

MR. PETTUS—I rise to a point of order. Under the rules of this Convention that resolution is in effect, a suspension of the rules. Under that construction it would require a two-thirds vote of the Convention to suspend the rules. I make the further point of order that it is in effect a revision of the rule No. 57. This resolution was introduced this morning and reported back at once. There has been no notice that it would be rescinded. I make the point of order that it is out of order, and that it must lie on the table for one day.

MR. HEFLIN (Chambers) — I think the gentleman from Greene gave notice.

THE PRESIDENT—What is the rule?

MR. PETTUS—I refer to Rule 57, and I submit this does repeal a specific rule which has been laid down by the Convention, and it is not in order to repeal, adopt a new rule, or suspend the general parliamentary law, which is the law we are acting under.

MR. LOMAX—A report from the Committee on Rules is in order at any time, and the Rule reported by that Committee now is not a recision of any rule of the Convention, but is a report to meet a situation which was not in contemplation at the time of the adoption of the rule by the Committee. No man on that Committee and no man in this Convention, had anticipated that an article after it had been adopted by this Convention would be reconsidered, and laid upon the table. That situation has arisen, and in order to meet that situation, and to give this Convention an opportunity to dispose of that proposition, which has arisen, without being contemplated by anybody, this rule of the Committee on Rules has been reported. It does not rescind any rule of this Convention, because we had no ruling on the subject. It does not change any rule of this Convention, because we had no rule on that subject.

MR. PETTUS—Does not the gentleman know that we have been acting under the rule for three months nearly, that any article ordered to a third reading, and engrossed, it could not be amended and the purpose is to amend it and suspend the operation of that rule?

MR. LOMAX—We may have been operating under the rule and the article ordered to a third reading could not be amended,

but we have not been operating under a rule which said that an article after a third reading, and had been passed, afterwards a motion to reconsider made, that it should not be amended. I am one of those who take the position and I think the position is right, and if an article has been passed by this Convention to its third reading and voted on, and that vote has been reconsidered, that the reconsideration of that vote opened up the whole article to amendment, notwithstanding the fact that there might be a motion for the previous question or a motion to lie upon the table, and for this reason, that a motion for the previous question on a motion to lie upon the table prior to the passage of the article, exhausted itself upon that particular provision of the article, and that after it had been passed, and the Convention reconsidered it, that the Convention had the right to go back to the point of amendment. I do not propose to challenge the decision of the Chair in that regard, although my views were opposed to his, but I say when this Convention finds itself in that shape, where it must either take this article from the table, and attempt to amend it, or adjourn leaving out one of the co-ordinate branches of this government that the Committee on Rules under the powers given it by the Convention has a right to report a rule which will relieve the Convention from that embarrassment, and that Committee having asserted its right, not undertaking to rescind any rule already made, not undertaking to change any rule that a majority of this Convention can adopt the report and transact its business, up to adjournment.

MR. WATTS—Does all you say excuse the Committee——

MR. LOMAX—The committee is not asking to be excused.

MR. WATTS—Pardon me, until I get my question out: Does all you say excuse the Committee for acting the same day that a resolution is offered, which practically has the effect of changing a rule, when Rule 57 says it shall not be done without one day's notice?

MR. LOMAX—All I say is, if the Committee needs excuse, it does excuse the Committee, because it does not change, it does not alter, it does not rescind, any rule of this Convention.

MR. PETTUS—I submit that the gentleman asked me a question, to which I would like to reply now I have examined the rule. He wants to know what rule of the Convention the report of the Committee rescinds? I submit to the Chair and to the Convention that the effect of that rule if adopted, is to suspend and rescind Rule 57, which provides that a vote cannot be twice reconsidered—the vote by which this article was adopted and ordered to a third reading was attempted to be reconsidered and the motion failed and the Chair has correctly held that that motion could not be reconsidered. Now the gentleman comes in with a report

from the Committee on Rules, and attempts to do by indirection what they cannot do directly, and I hold that the Chair has correctly held that they cannot do directly, and I hold that the Chair has correctly held that they cannot by changing the phraseology, suspend Rule 57, and that would be the effect of it, if the resolution were adopted.

MR. BROWNE—This matter has already been settled by this Convention. Subdivision 6 of Rule reads as follows: "Call of the roll in alphabetical order for the introduction of resolutions, memorials, petitions, and ordinances, and their proper reference." Under that rule, the Chair so construed that rule——

THE PRESIDENT—What rule?

MR. BROWNE—Subdivision 6 of Rule 22, so as to compel the completion of the roll call before any regular order or special order could come up. It was found to work dilateriously, and the Committee reported an amendment to that rule, changing that rule entirely, as follows: "Resolved that Subdivision 6 of Rule 22 be amended so as to read as follows: "Call of the roll in alphabetical order for the introduction of resolutions, memorials, etc., but if the roll call is not completed by 11 o'clock on any day, the Convention shall at that hour, immediately proceed with the next regular order of business." That settles the question now before the Convention. That was an amendment to the rule. No notice was given, and it did not require a two-thirds vote. Rule 55: "That the rules of the Convention shall not be suspended, except by a two-thirds vote etc," has no reference whatever to the changing or amending of rules. There has never been a parliamentary body that by any rule was so handicapped that a majority of the body could not change the rules; they are so handicapped that the Convention itself without amending or changing its rules, cannot suspend the rules for any particular occasion or purpose, but under all parliamentary laws the rules can be amended or changed. Now we have a rule here that no rule shall be rescinded without one day's notice. It is not necessary, however, to give one day's notice, when the proposition is to amend or change a rule or bring in a new rule, but only when a rule is to be rescinded, they must have one day's notice. I submit if it was necessary to give one day's notice, this Convention has had more than one day's notice, because the gentleman from Greene, I believe it was, or some member, introduced a rule and referred it to this committee, and the committee reports this as a substitute for that resolution, and the introduction of that resolution was notice. The gentleman from Greene stated the other day when he advocated the laying of this on the table that the rule would be so changed, but I contend that Rule 55 has no application because this is not a suspension, but a change of the rule, neither does it come under Rule 57, because the Rules Committee does not pro-

pose to rescind any rule, but to amend one. No such point was made, and it is res adjudicata as far as this Convention is concerned, because Subdivision 6 of Rule 22 has already by this Convention been adopted. This amendment does not suspend the operation of the old rule, but it amends the Rule so as to provide that if the roll call had not been completed at 11 o'clock, then they went to the regular order or any special order without completing the roll call, under Subdivision 6 of Rule 22.

MR. OATES — All parliamentary bodies have a right to change the rules governing their procedure, but only in the manner provided for in those rules. Now, sir, the manner provided for in these rules, it is contended, has not been complied with and it is contended on one side this is a change of rules, and denied on the other side. The argument of the delegate who last occupied the floor is not at all to the point, that changes have been made, and they have been made without question, but whenever there is any question made against a change of rule or any new rule which has the effect of a change, then it does invite the attention of the Convention to the rules governing changes. Now, sir, the delegate from Talladega claimed that there had been ample notice given of this and then said that the delegate from Greene (Mr. Coleman) notified the other day that he was going to do it, but there is no report on the resolution introduced by him this morning. It certainly is, of course, in the power of the majority of the Convention, to make or unmake a rule, as it pleases, but the parliamentary code is that changes of rules are as much governed by the rules which have been adopted in the first instance as any other change which may be made by the Convention or anything else, any business, that may be made. Now, sir, here is a fair test. I ask the Chair and every delegate on this floor if when this Judiciary Article is taken from the table, can it be amended? Can it, according to the ruling of the Chair? But the other day the Chair held that the Article having been ordered to a third reading and a motion then made to reconsider, which as been laid upon the table, that it was not open to amendment, and consequently the next step was taken by the friends of those who wish to retain the Circuit Solicitor system, and the delegate from Greene moved to lay the whole Article on the table, and that is the way it got on the table. Now, if it were taken from the table, would not the Chair adhere to the able decision made just the other day that it was not at all amendable? It certainly would, unless it reversed itself. That being true, how can the Committee on Rules bring in a report into this Convention and adopt it today which was not to be done and could not be done under the rules except for that report that is brought in, and that proposed, and proposed this morning.

THE PRESIDENT—The Chair will inquire of the gentleman from Montgomery what is the practice in Congress with reference to changing the rules? Does it require a day's notice?

MR. OATES—I will state that I was coming to that. I will not evade it. I will answer it.

This is in that attitude; to take that Article from the table in the absence of a rule like this, it cannot be changed, it cannot be amended, under the rules. Then this (whatever you call it) report, if adopted, so changes the rules that it can be amended. Then what is it but a change or a rescission of the rules, or a modification of the rules now existing, under which it could not be amended, when the object of this is to allow it to be done?

Now, in answer to the question propounded to me by the Chair. The rule of Congress providing for the change of rules, my recollection is, requires a day's notice, and I know that the rules require a two-thirds vote in order to change a rule of the House, as affecting any business before it. I recollect when a change was made under that rule with less than two-thirds during the time that Mr. Keifer was Speaker of the House, and it was done for the purpose of unseating Judge Dibble from South Caroline and seating his Republican contestant, and when it was done, it was done over the protest of the Democratic minority, everyone of whom signed a protest and had it spread upon the Journals of the House, as being in violation of the rules and in violation of parliamentary law. There is no dodging it. While if you have got the numbers, you have power to change, but if you got a change in contemplation of the rules and in accordance with them, by enabling them to do a thing you cannot do without it.

MR. LOMAX—Is it not a fact in the Congress of the United States at the present day, the Committee on Rules, without notice, can report any rule they see fit, and if a majority of that House adopt it, it becomes a rule of the House?

MR. OATES—Yes sir, that is in accord with Republican precedent. That is their method of doing things. If they have got the numbers, they do it without regard to parliamentary law.

MR. LOMAX—Wasn't it done the last time the Democrats had control of the House? Didn't they substantially adopt Reed's rules?

MR. OATES—Well, not in everything. If I had time I could produce the rules. My recollection is that they did not adopt that rule. My attention is called to the action of this Convention in changing Rule 22 under a resolution which had been introduced and pending some days before action was taken. There is no question about notice there at all.

MR. HOWZE—I take the position that this is not an amendment nor a recission of the rules of this house. It gives me an opportunity of bestriding my hobby on one of these rules once more. I think that we have acted too much upon the idea that this is the Congress of the United States or the Legislature of the State of Alabama, which is not a fact. Mr. President, we are nothing more than a deliberate body, and as a deliberative body, we have established our rules and there is not a syllable in these rules which this report rescinds or changes, not one. It is true, Mr. President, that we have been acting somewhat upon the rules of Congress and the Legislature in that we have ordered our articles engrossed and to a third reading, but I want to call the attention of the house to the fact that there is not a rule in this book under which you are acting——

MR. HOOD—If this resolution reported by the committee be not a rescission of Rule 57, then why the necessity of the resolution?

MR. HOWZE—The resolution, as I understand, and shall attempt to show, is simply an explanation of the rules that is what it is, and nothing more. (Laughter.) I stated before I was interrupted that we have been acting upon the theory that we were a quasi Congress of the United States, or the Legislature of Alabama, in that we order articles to be engrossed and to a third reading, but there is no rule requiring such action.

The clock struck eleven o'clock.

MR. PETTUS—I rise to a point of order. The hour of eleven having arrived, the special order is the motion of the gentleman from Dallas to take from the table the report of the Judiciary Committee and put it on its passage.

MR. LOMAX—It cannot displace the report of the Committee on Rules.

THE PRESIDENT—In the opinion of the Chair, the report of the the Committee on Rules is a privileged report and will not be displaced by the special order, but the special order will come up immediately after the disposition of the matter now under consideration.

MR. PETTUS—I would like to ask the Chair, as a matter of parliamentary inquiry, if the special order is not a privileged matter and if it can be displaced?

THE PRESIDENT—The Convention has under consideration a privilege matter. The Committee on Rules may report at any time, nothwithstanding what may be before the Convention.

MR. GRAHAM (Talladega)—I ask the Chair to read Rule 30 on page 11.

THE PRESIDENT—That the matter may be made a special order?

MR. GRAHAM—No, sir, but when made a special order it shall take precedence at that hour of any other business except the motion to reconsider. Rule 30 is explicit.

THE PRESIDENT—That, in the opinion of the Chair, means it shall take the precedence of any matter except the report from a privileged committee and the report of that committee can displace any matter. The Chair will overrule the point of order. The gentleman from Jefferson has the floor.

MR. HOWZE—I want to call attention to what I have said to the Convention as to the latter part of Rule 47 in reference to the action of this Convention upon the article before it, "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, Mr. President, that is what was done with the article on judiciary. It was taken up and considered section by section and then under the custom prevailing here—not a rule—because there is no rule to that effect—it was ordered engrossed and to a third reading and that directly in conflict with Rule 52 which says all articles of the Constitution after their adoption by the Convention shall be engrossed before their delivery to the Committee on Order, etc. That is the rule upon which we are called upon to act and which we did not act upon. I insist that that article, when we ordered it engrossed in the condition in which it was, was nothing more than directing the Clerk of the house to copy it. It did not take away from the house the privilege of further action upon that article, and I insist that every article in this house, that goes through this house, is subject to the action of this house as to amendment, until the final adoption of that article and the report of the Committee on Order, etc. Mr. President, I am borne out in this statement by the fact that in Rule 53 the report of the Committee on Order, Consistency and Harmony of the Constitution is also amendable. There is also a provision that the articles may be amended after they come back here in their report from that Committee on Order, Consistency and Harmony of the Constitution. I say that this argument in favor of the position I take that these articles are always subject to correction by this house until this final report is made and adopted. Now, there is no rule of this house which puts this article beyond the control of this house in the matter of amendment or otherwise and that rule, that report, brought in by this committee, is simply an explanation of the rules simply stating that this article is still subject to the control of this Convention. It is still subject to amendment of this Convention, and nothing more. It does not rescind a single rule. There is not a single rule suspended by it or rescinded by it, and it is nothing more than an ex-

planation of the rules of the house, have not placed this article beyond the control of this house, and I insist that it is an explanation of the rule which can be adopted and accepted by this Convention by a majority vote.

THE PRESIDENT—The Chair is ready to rule on the point of order.

MR. O'NEAL—I want to call the attention of the Chair to one matter. I want to call attention to this fact. It is insisted that this is a rescission of the rules of this Convention. Rule 51 says "none of the foregoing rules shall be rescinded without one day's notice." We are not undertaking to defend any rule in the book. We are undertaking to rescind a general parliamentary rule under which we are acting. Conceding that it is true, that we are undertaking to rescind a general parliamentary rule. Can any gentleman rise here in his place and say that under general parliamentary law we have no power to rescind a general parliamentary rule except by a two-thirds vote and by one day's notice? This says, "none of the foregoing rules." Which are the rules in this report that shall not be rescinded without one day's notice? Now, the rules under which an article can be ordered engrossed and to a third reading, and after that is done, there shall be no amendment, is a general parliamentary rule.

MR. WHITE—If you are not rescinding or suspending this rule, why do you offer the other?

MR. O'NEAL—Because I say this body has a right to change any general parliamentary rule by a majority vote of this Convention.

MR. PETTUS—Without notice?

MR. O'NEAL—Without notice, because no notice is required in these rules.

THE PRESIDENT—The Chair has indulged considerable discussion on this point because the Chair is not free from difficulty on the subject. The Chair inquired of the gentleman from Montgomery as to the practice in Congress, and he says they have a similar rule, which requires a day's notice to change the rules, and yet in the work which I have, "The Constitutional Manual and Digest of Rules and Practice of the House of Representatives," it has been construed that unless the proposition originates with the Rules Committee, a day's notice is not required. This authority lays it down that under the practice, a proposition reported by the Committee on Rules, changing the rules, unless originating with the committee, is not required to lie over for one day. Now, we had up for discussion the other day the question of whether, after this matter has been ordered to a third read-

ing, it was open to amendment, and whether it was open to a motion to refer it to a committee for the purpose of amendment. We considered that, not specially with reference to any special rules, but under the general practice in such cases, and all the authorities, some of which were presented by the gentleman from Montgomery himself (Mr. Oates), went to show that such reference to a committee could not be made except where there was a special rule authorizing it, and in Congress he referred us to a special rule which did authorize it and which modified the general rule on this question. So, if there be any rule or regulation that is changed, it is not much a rule of this Convention that has been adopted, as it is the general parliamentary practice on this subject. Now, Rule 57 says that none of the foregoing rules shall be rescinded, etc. The rule which is reported by the Committee on Rules is not an amendment of any rule which we have, and does not purport on its face to be an amendment. It is not a rescision of any rule that we have, and it does not purport to be a rescision of any rule that we have, but it is a new rule, which is brought in to meet some special exigency, or emergency, in the proceedings of the Convention. For instance, suppose that the Convention has under consideration a matter of debate. This Convention remembers that when the report of the Committee on Suffrage was taken up, the rules limited debate to ten minutes, yet during the session of the Convention, the Committee on Rules, to meet a particular emergency, retired and brought in and reported a new rule, regulating the debate upon that question. This, the Chair understands, is the practice in all deliberative bodies, the Committee on Rules being authorized to report at any time and to bring in new rules, to meet new situations, that did not confront the Convention when the rules were framed, and this is a special rule, a new rule, brought in to meet an emergency, and it does not seem to the Chair that it is an amendment or a rescission of any of our standing rules. It is not so intended, and it does not so appear on its face. Of course, if the Convention does not care to adopt the rule, that is a matter for the Convention. It may be rejected by a majority vote, just as it may be adopted by a majority vote. The Chair will overrule the point of order.

MR. SMITH (Mobile)—If I understand, the question is upon the adoption of the rule.

THE PRESIDENT—The question will be upon the adoption of the rule.

MR. WILLIAMS (Elmore)—I desire to have the resolution read.

The Secretary again read the resolution.

MR. SMITH (Mobile)—I desire to oppose the adoption of the rule because, in the first place, I do not think, upon its merits, it

should be adopted. But in the second place, I desire, on account of my connection with the Rules Committee, to go upon record in this matter. The rules that we have, existed for the enactment of ordinances, have now been in force for nearly three months. The most importane measures have passed and been acted upon under those rules. Amendments which certain gentlemen thought of vital interest to the people, have been ruled out and debarred, the Chair holding that after an Article had once been adopted by the Convention it could not, by a new ordinance or otherwise, be replaced by a contrary proposition, that merely being an indirect way of amending the Articles. So that we have faced emergencies involving the greatest interests of the people and of the State, under rules made for the consideration of these questions, and there has been no thought by the Rules Committee or anybody else of making a new rule to meet any special individual emergency. In this particular instance, the committee has not brought in a substitute, providing as the gentleman from Montgomery has said, for the cassus omissus in the rules. It is not provided that when the Convention finds itself in this dilemma it may take the Article from the table and amend it. The Committee has not trusted itself to set aside wisely adjusted rules for the benefit of the people and the State in general, but it has carefully confined itself to this proposed rule, upon this one controverted question, on the Article on Judiciary, and if tomorrow another Article were laid on the table, this house, under the wisdom of this Rules Committee, would be as helpless to bring it from the table as it was before this Rules Committee sat, passed and recommended this special ordinance to apply this special case.

Now it seems to me that this is putting us in a false position. Here is a Rules Committee with fifteen ordinances before it, some one day old and some a week old. It has not thought the business of the Convention laid before it over a week ago of sufficient importance to take it up and consider it, and yet when this controversy arises the rules of the Committee, sitting without leave of the house and while the house is in the very act of enforcing them to obey the order, rushes through and reports this particular rule upon this particular measure, and leaves unenacted upon the other fifteen resolutions that have been before the Committee for some time. Now it seems to me that such action as that is partisan. It seems to me in the light of the history of the debate on this question that it is extremely a partisal action. It seems to me, Mr. President, that it gives an ugly color to the proceedings when we consider the fact that this Rules Committee consists of nine members, and that seven members of that Committee are arrayed on one side of the question and only two upon the other. It seems to me that the Committee has therefore put itself in a position of trying to force a partisan question by report-

ing a rule adopted in haste, and under circumstances which I submit it would not have reported any other resolution, and has not reported any other resolution, and I do protest not only against the method that has prevailed heretofore in the discussion of this matter, but I do solemnly protest against the proceedings by which this Committee has brought in this rule under the circumstances under which it has been brought in. In the majority of instances I have acted as acting Chairman of the Convention, the Chairman being usually engaged in presiding over the Convention I desire not only to oppose the adoption of the report but to go on record as not being a participant in the methods by which the resolution is offered.

MR. LOWE (Jefferson)—"The letter killeth but the spirit giveth life." The gentleman has protested against the partisan action of the Rules Committee. I am gratified that at one stage of these proceedings I am able to be in accord with the action of the Rules Committee. What has the Rules Committee done? It has offered this Convention an opportunity to vote upon a vexed question which has disturbed your deliberations for many days. Compare the action of the Rules Committee with the action of the other committee, of which the distinguished delegate from Mobile has the honor to be Chairman. That Committee saw fit to pigeon-hole an ordinance, thereby denying the delegate on this floor an opportunity to express themselves upon it, and he complains as the gored jay might wince, when the Rules Committee comes and proposes to this Convention to permit them an opportunity to express their preference upon the question which has held to this Convention for several days. I am astonished that one with so great an intellect, and so accustomed to forensic debate, should have fallen into the error of impeaching the action of the Rules Committee, thereby bringing it in contrast with the action of his own Committee before the delegates of this Convention. Mr. President, it might better have suited the gentleman to have denied the delegates here an opportunity to vote. Can it ever be unfair to give the majority opportunity to express themselves? For what other purpose is the Rules Committee continued? The Rules Committee has performed their ordinary functions when they reported the ordinary rules of this Convention. For what purpose are they continued in office, except to meet an emergency like this. They have offered for days and days their merely technical defences against the assaults of the majority of this Convention. How will they justify themselves before the people of the State if they have to rely upon the fact of resorting to dilatory tactics hiding behind mere technical defences they have denied this Convention the right to express itself. Can this Convention tie its hands so that a majority of the Convention cannot express its will? Why, the statement of the proposition carries with it its answer. Why, Mr. President and gentlemen of

the Convention you have seen on several occasions in this hall, when this question was presented when we asked that the question merely be submitted to the vote of the delegates, those who opposed the will of the majority have sought to explain themselves behind the technical rules of the Convention. For what purpose were the rules made? The rules were made for the purpose of getting the expressions speedily of the will of the majority. When the rules fail to subserve that purpose the rules should be destroyed.

MR. WALKER—Why, then, is this resolution confined to one question and not made applicable to all.

MR. LOWE—I will answer the gentleman. Because the emergency required that the Rules Committee should act on this occasion. The minority is seeking here to deny the majority the right to legislate. The gentleman is too good a lawyer and too good a technical lawyer not to understand all of his legal and technical defences, but in this Convention of the people, of the people's representatives a technical rule should not be allowed to stand in the way of the majority. Now what are we seeking to do? Those of us who seek to change, to amend, they defended themselves the other day behind the technical rule that you could not amend Section 28 because a motion to reconsider had already been made. Gentlemen of the Convention I submit to you that a technical objection ought not to be made and thrown in the way of the expression of the will of the majority. They have for three or four days continued those dilatory tactics and now they accuse the Committee on Rules of being arbitrary and unfair because they, in pursuance of the functions intrusted to them are providing that a majority of the Convention shall find means of expression. Those of us who are opposed to the clause in the article as it now stands are seeking merely to re-establish the law as it has stood in Alabama since Alabama was a State with the exception of the period of Republican administration under a Republican Constitution rose in wrath and destroyed at the first opportunity. Mr. President, why should we depart from the ways of the fathers. What good reason has been shown that we should depart from a method of selecting your prosecuting attorneys, the method that has been pursued since 1819. I say in my judgment that this Constitution of the fathers ought not to be touched unless it be in response to a demand that has grown up among the people and finds expression in this hall by a large decisive majority.

MR. OATES—Does not the gentleman know that it was in observance of the conservatism of a rule technical though he calls it, which saved the South from being reconstructed by the passage of the Force Bill.

MR. LOWE—I am not dealing in the past. My eyes are fixed upon the future. I am looking for the rising sun. We need none to see the South today. If technicalities have subserved their purpose in the past, let not odium come upon technicalities for thwarting the will of the people in the present. Mr. President, there is little to be said in favor of the alteration of that section in the article which is assailed by the majority of this Convention. Those who have sought to defend it have done so behind technical grounds merely. I hope that the motion to take from the table will prevail. I hope that this section will be reconsidered. I know that in my section, and I am thoroughly convinced in many other portions of the State of Alabama——

MR. SMITH (Mobile)—I rise to a point of order. The gentleman is discussing the adoption of an amendment to Article XXVIII.

THE PRESIDENT—It seems to the Chair that the question will be the consideration of the report of the Committee on Rules.

MR. LOWE—I am obliged to the gentleman for his suggestion, because it intimates to me that perhaps he does not like the trend of the argument. I am willing to leave the question to the Convention.

MR. FITTS—Mr. President, it is to be very much regretted that partisan spirit and feelings runs so high. It is to be regretted that the majority on one side or the other of this proposition is not so pronounced as to remove it from further discussion at the hands of this house, but the fact that the vote is close, the fact that delegates of equal dignity, representing the people of the State, are so nearly divided, is no excuse for changing at this time the rules that have been in effect to make the articles of this Constitution under, and have been good enough to form a Constitution under, and to work under for three long months.

Mr. President, it occurs to me that if the Rules Committee is open to criticism, the fact that they have served diligently, and the Convention is composed of great men, is no reason to refrain from criticising them, when they fall into a great error. It seems to me that the action of the Rules Committee on this occasion cannot be characterized as being anything short of extremely partisan. It seems to me that when this house voted that they would take this article from the table at 11 o'clock, that for the Rules Committee to go out of this hall in advance of that hour, and to bring in a special rule which was expected to prevent the carrying out of that order of the house itself, a different rule from that which has met all the needs and the exigencies of every other occasion presented to this house, seems to me to be evidence of an extremely partisan spirit. True that committee is not unanimous. True there are two gentlemen on that committee who do not con-

sent to this particular rule, made for this particular occasion. True that that committee like the Returning Board in the famous Hayes and Tillman controversy, has not risen above partisanship, and has divided strictly in accordance with the way in which they have voted for solicitors. Therefore the particular report of this Rules Committee, reporting this particular rule, is entitled to no more weight or dignity than any partisan effort of that wing of the house to accomplish its purpose. (Applause.)

Now, it is true that deliberative bodies can change their rules, but I never before heard the proposition advanced seriously, that they could change them in any other way than in the mode provided in the rules themselves that they might be changed. When the rules provide a way in which they may be changed, that is the course that ought to be pursued, but it is suggested that this ought to be done on this occasion in free Alabama, here in the Democratic land of the South. Here in this representative body, because forsooth a great big ball-headed Czar from the North, in the Congress of the United States, has established a precedence that the Rules Committee can retire behind curtains at any moment in the Congress of the United States and bring back a rule suited to carry out the will of partisan majority upon any measure. That rule has been general, but the South has arrayed itself in continued criticism and lack of approbation on that. The South stands out against that and the only excuse for this rule on this occasion is that it is on that overbearing rule there layed down. Their further excuse is that this is a particular emergency. I want to ask them who made that particular emergency? (Applause.) Who brought it about? (Applause.) The great article upon the judiciary of this State after two months of consideration at the hands of the committee, had passed this house with less than a score of dissenting voices, and was thus the Constitutional law of Alabama. Who took it after it had passed its third reading, after it was the Constitution at law of this State and because it did not suit forsooth one little coteries of officers, and laid it on the table? Who did that? Who made the emergency that they now seek to escape from? They made it. They made that emergency and now they seek to bring about a rule to get themselves out of a hole they put themselves in. (Applause.) Now, Mr. President, if this rule has been good enough to make this Constitution by, if it has been good enough for you to rule and preside by, for three long months, it is good enough to finsh the work of this convention by, and there is no necessity for the Rules Committee, or a portion of it, when this Convention has made a special order for an hour, that was rapidly approaching, to retire, hastily jump to a conclusion and bring in a special rule said to be for a special emergency, but for an emergency that they made. If this temple falls, if this Constitution goes without an Article on Judiciary, gentlemen of the Convention, if this thing goes wrong,

if these walls fall down that they are claiming to be an emergency about them, they have pulled them down themselves. They will be in the same attitude as Samson of old when he pulled the temple down upon himself. This Article has been enacted, and they, to meet their own emergencies, laid it upon the table, after it was solemnly enacted. Now, gentlemen of the Convention, this is not the time or place to discuss the merits of the Solicitor question as has been attempted to be done. I have no fear upon which side of the controversy merit rests, but this is the time and place to say whether when they say that an emergency exists, a partisan force in this House which can go out and bring in a particular rule in derrogation of the rights of this Convention, or a portion of it, made to fit a particular occasion, made to accomplish a particular purpose, biased in its effect, biased in its operation, and intended to be biased in its results, I hope that this House will by the same decisive vote by which it determined to take this question up at 11 o'clock and dispose of it, will now dispose of this new-born rule, born in a questionable time, and under questionable circumstances and brought in here to be rattled into life in the hands of this Convention. (Applause.) Therefore, Mr. President, I move the previous question upon the adoption of that resolution.

MR. HEFLIN (Chambers)—I ask the gentleman to withdraw that. There is not a single member of the Rules Committee who has had an opportunity to be heard.

MR. FITTS—I will withdraw the call for the previous question.

MR. LOMAX—I have not during the course of this discussion upon the Solicitor's question taken any part in the debate and I would not now take any part in this debate but for the charge of partisanship which is made against the Rules Committee. And I still would not take part in it but for the fact that the charge of partisanship comes from the Chairman of the Committee on Judiciary and from a member of the Committee on Judiciary, which by an indefinite postponement, pigeonholed the deGraffenreid amendment, and kept this Convention from considering it. With what grace can men when a solemn ordinance is introduced by a delegate in this Convention upon an important question in their Committee taks such action as to forever prevent the Convention from acting upon it, charge any other Committee with partisanship with what they do.

MR. WALKER—Is there not a method under the rules of the House of getting that ordinance or any other ordinance from the committee, and it is not the purpose of this resolution to abrogate in effect the rule of the House?

MR. LOMAX—There is a method, but does it stand as right? Is it proper for it to be done, for a great Committee considering the provision of one of the three co-ordinate branches of this Government, to have it compelled by the House to bring in a report on such a subject as that and we can only do it by introducing a resolution to compel them to make a report. Now what has the Rules Committee done?

MR. SMITH (Mobile)—Do you think the Committee ought to be required to consider the same proposition after it has considered that identical proposition four or five times?

MR. LOMAX—I think any Committee of this Convention should be compelled to consider any proposition as long as any representative of the people on this floor believes it ought to be considered.

Now what has the Rules Committee done? Are they undertaking to do anything except to give this House an opportunity to act, and finally act, upon an important matter before the Convention? We have not introduced a rule here to shackle anybody, to shut off anybody or to compel anybody to do anything. The Rules Committee has simply reported to this Convention means by which this Convention can go on with its work and complete the work that the people sent them here to do.

MR. CUNNINGHAM—Has any of the majority who are for this question, asked unanimous consent to offer an amendment?

MR. LOMAX—No sir, I don't know that they have.

MR. CUNNINGHAM—They have failed to ask, which they can do under the rules, to have the rules suspended whereby an amendment would be in order?

MR. LOMAX—Not in that form, no sir.

MR. CUNNINGHAM—Then has the majority of one on this floor exhausted their parliamentary privilege?

MR. LOMAX—They have not done anything the gentleman from Jefferson suggests, but when a member of that Committee has introduced a resolution that this Article be taken up and amended and that has gone to the Rules Committee, finding this House almost at a standstill on that question, had reported it. These gentlemen that talk about fairness and throttling things within the Committee are with the same voice, standing here and trying to prevent this Convention from debating the means the Rules Committee have provided for solving this vexed question. We want to go through with this Convention. We cannot go through with it and leave a co-ordinate branch of the government absolutely unprovided for. And the Rules Committee has proposed to this Convention not to stop debate, not to shut off anybody,

but a means by which a majority of this Convention can accomplish the will of the people who have sent them here.

MR. WATTS—You are a member of the Rules Committee?

MR. LOMAX—Yes sir.

MR. WATTS—Hasn't your Committee indefinitely postponed an ordinance for the appointment of a Committee on Pensions for Confederate Soldiers, for the appointment of three other standing committees and Resolution 96 in reference to——

MR. LOMAX—Don't take up all of my time, please.

MR. WATTS—I am not going to, I am just going to ask you about these things. And didn't it indifinitely postpone discussion about the call of the roll and another Resolution 65, another Resolution 43, another Resolution 93, another Resolution 100, another 61, another 29, another 20, another 108, another 162, another 121 and another No. 16? Hasn't your Committee indifinitely postponed those and not given this Convention an opportunity to pass on them, and can't other committees exercise the same rights as the Rules Committee?

MR. LOMAX—I have not the marvelous recollection of my friend from Montgomery so as to enable me to know what a resolution is by the calling of its number. If the Rules Committee have indefinitely postponed matters, every man on that Committee will bear me out in the assertion that I have always said that we ought not to indefinitely postpone, but ought to report favorably or adversely on every proposition. I notice that my friend from Montgomery was furnished with his information by the distinguished acting Chairman of the Committee on Rules, Mr. Smith of Mobile, and my distinguished friend from Mobile called the attention of the Convention to the fact that there were fifteen ordinances and resolutions now pending before the Committee on Rules and not acted upon. Why? If the President of this Convention, the Chairman of the Committee on Rules, was too busy in the performance of his duty, to call that Committee together why didn't the Acting Chairman of that Committee, the gentleman from Mobile, call that Committee together and get action upon these resolutions?

MR. SMITH (Mobile)—Is it not a fact that on Friday last, while this matter was up, this partisan matter, a meeting of the Committee on Rules was called, and that the acting Chairman was not even notified of that meeting?

MR. LOMAX—I have been so informed by the Acting Chairman, but sitting in my place on this Convention on last Friday, I heard the President of this Convention announce that a meeting

of the Committee on Rules would be held at 8 or 8:30 o'clock on last Friday, and if the Acting Chairman had been using his ears, he would have gotten the same information that I got.

Now, Mr. President, all the Committee on Rules has done, is to bring in here a proposition to finally act upon an important matter, and to reinstate in its proper place the Article that provides for one of the co-ordinate branches of this Government. This Convention need not adopt that rule unless it wants to, but if it wants to do business, if it wants to get through work, if it doesn't want to spend its life with me in Montgomery, it ought to adopt this rule and go on with the work of this Convention.

MR. OPP—Speaking of partisanship, is it not a fact that that side of this question which includes the eminent gentleman from Tuscaloosa (Mr. Fitts) and the pre-eminent gentleman from Mobile (Mr. Smith), would be in a hopeless minority with the Democratic party on this floor, but for the solid aid of the opposition to the Democratic party?

MR. LOMAX—The gentleman is eminently correct in his statement. Now, I do not wish to cut off debate, but unless some other gentleman desires very greatly to discuss this question, I move the previous question upon the resolution.

Upon a vote being taken, the main question was ordered.

MR. HARRISON—I have not intended to say anything upon this question——

MR. PETTUS—I make the point of order that the previous question has been ordered.

MR. HEFLIN (Chambers) — The gentleman representing the Committee has a right to conclude.

MR. PETTUS—I thought the Chairman of the Committee had the right to close.

MR. SMITH (Mobile) — I think the gentleman is acting Chairman of the Committee and would have the right to conclude.

THE PRESIDENT—Regularly, the gentleman from Mobile would be entitled to speak for the Committee, but as he is in opposition to the report, it seems to the Chair that the gentleman who made the report would be entitled to be heard.

MR. HARRISON—It was not my desire to make the report, and, but for the absence, I apprehend, of the distinguished gentleman from Mobile, who has been acting Chairman, I would not have made it. But I feel, in view of the insinuations that have been made, and especially by the members of the Committee, and the so often acting Chairman of the Committee, that the proper respect for my associates demands that I should at least reply

to the insinuation that this is a partisan report. I feel that this Committee is but the mere servant of this Convention, not acting as it has been charged, in obedience to the behest of any Czar in Washington or elsewhere, but acting as it has been acting during the session of this Convention, in an endeavor to carry out the wish of a majority of this Convention, when it has been indicated, and preferring to follow, if need be, the desires of only a small majority rather than those of a minority. It has done what it conceives to be its duty, acting as the servants of this Convention, when this Convention has placed itself in a condition where one of the particular Articles of the Constitution is upon the table, and in a condition unable to carry out the wishes of a majority, not of its own volition, but——

MR. WHITE—Isn't it a fact that it has already been taken from the table and is to be considered at 11 o'clock?

MR. HARRISON—Yes, and it will be in a condition for our action. If we are to undertake, by a minority vote, to throttle the voice of a majority of the people as represented in this Convention——

MR. PETTUS—May I ask a question?

MR. HARRISON—I decline to yield. My time is limited and the gentleman has had the floor.

I desire to say this to justify the Committee who were endeavoring to devise some plan whereby the majority of this Convention can control its deliberations. It is said that this Committee is partisan.

I did not know, until it was stated by the distinguished delegate from Mobile, that this Committee consisted of seventy-two. I have constantly voted for what I thought to be right, and have no interest in this matter, direct or indirect and am perfectly willing to accept any solution which a majority of this Convention may desire. If the Committee were partisan, if my friend who met so often with us, had pointed out the objection, it would certainly have been less partisan than to decline to meet with your Committee, and come here and fight the report which he ought to have made.

MR. SMITH (Mobile)—Are you aware that the question under consideration was the school fund of Mobile, and that I expected it to come up at the hour when the Committee met?

MR. HARRISON—I was not aware of that, but the Committee would doubtless have waited on you. If you had asked for another time, we would doubtless have appointed it, because we have always been courteous among each other. This Committee adopted this report without a dissenting voice. The question of partisan ship wasn't sprung or anything else, but the question before

the Committee was a desire to assist this Convention, and to aid in the discharge of its business, by providing a mode and manner for the conduct of its business, limiting the time of debate and in every other way, as it were, acting as a kind of steering committee for the Convention. To say that this Committee would do like the Judiciary Committee and refuse to act on what has been properly referred to it——

MR. PETTUS—I would like to ask the gentleman a question. He yields to other gentlemen on the floor.

MR. HARRISON—I will yield one moment.

MR. PETTUS—I would like to ask, if the report of the committee is not partisan in its action, why it is they passed over the gentleman from Jefferson, Mr. Cunningham, and the gentleman from Montgomery, Mr. Lomax, and made the gentleman from Lee the acting Chairman of this Committee, when it is customary to take the Committee in the order in which it comes?

MR. HARRISON—I do not know that it shows partisanship so far as Mr. Lomax is concerned. I think Mr. Cunningham was absent from the Committee. I do not know. I certainly did not seek it, and I am sorry the other gentlemen did not, but, by a vote, I was instructed by the Committee to make the report.

MR. HEFLIN — I wish to say that I informed the acting Chairman, the gentleman from Mobile, that the Committee would meet at once, and requested him to be present.

MR. HARRISON—That makes no difference. It is the action of the Committee, and while the present speaker did not seek it, and while it may have been more desirable for some one else to make the report——

MR. CUNNINGHAM—I rise to a question of privilege. I do not desire to contradict the gentleman from Lee, but there was a member of the committee present who opposed this resolution, though not in a speech. I have reference to the gentleman from Jefferson. I do not care to discuss committee proceedings, but if the gentleman will give me the privilege to do so, without violating the courtesy of the committee, I will explain.

MR. HARRISON—I have not heard my distinguished friend. If he called for a question he spoke so low I could not hear, and he has a beautiful voice and if he wanted to be heard I could have heard him.

MR. OATES—I would like to ask my friend this one question.

MR. HARRISON—I decline to yield, even to my friend, General Oates. It looks like you are trying to cut off my time, though it is unlike you.

MR. HARRISON—Briefly in conclusion I desire to say I do not care what becomes of the pending question. I think and I think the majority of your committee thought that this Convention should have some way provided for it to settle this vexed question, and allow us to conclude the labors of the Convention. Your committee has presented a solution of it. It has presented it, not in any partisan spirit, but has provided a rule for an emergency, which this Convention has gotten itself into. It is true that the gentlemen may say that those opposed to them did it, but didn't a majority of the Convention do it.

The intimation of the gentleman from Tuscaloosa that a certain partisan crowd in this Convention created this emergency, I think, Mr. President, is answered by the fact that a majority did it, and ought your Rules Committee, regardless of how they may vote, treat this resolution as the matter has been treated by another committee, postpone it, and refuse to consider it, and prevent it from coming before the Convention? We have simply brought it before you. We have provided a way for you to settle this difficulty, if you desire. If you don't like it and if a majority is opposed to it, and wish to leave the article blank or remain in indefinite session here, you may do so. If you cannot come up like men and compromise on differences and accept the will of a majority, however small, then the Rules Committee has discharged its duty, by offering you an opportunity, by pointing out a way by which you can do it, and the responsibility will be upon the Convention, and your committee will be satisfied.

MR. WHITE—I move to lay the substitute offered by the committee upon the table, and upon that I call for the ayes and noes.

THE PRESIDENT—It is moved that the substitute reported by the Committee on Rules, for the resolution offered by the gentleman from Greene, be laid upon the table, and the ayes and noes have been called for, is the call sustained.

The call was sustained.

MR. PETTUS—If I am in order now I would like to offer a resolution.

THE PRESIDENT—The gentleman would not be in order. There is a motion now before the Convention, and there can only be one motion at a time. And the gentleman from Jefferson submits a motion to table the substitute reported by the committee. The ayes and noes have been called for and the call sustained. As many as favor the substitute reported by the committee for the resolution offered by the gentleman from Greene will say aye and those opposed no as their names are called.

Upon a call of the roll the vote resulted as follows:

AYES

Altman,
Ashcraft,
Banks,
Bartlett,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Bulger,
Byars,
Cofer,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Fletcher,
Foshee,
Freeman,
Graham, of Talladega,
Henderson,
Hodges,
Hood,
Howell,
Jones, of Bibb,
Kyle,
Lowe, of Lawrence,
McMillan (Baldwin),
Malone,
Maxwell
Merrill,
Miller, of Wilcox,
Moody,
Murphree,
NeSmith,
Norman,
Palmer,
Parker, of Elmore,
Pettus,
Phillips,
Pitts,
Reynolds, of Chilton,
Sanders,
Sloan,
Smith, Mac. A.,
Sorrell,
Spears,
Spragins,
Studdard,
Tayloe,
Vaughan,
Walker,
Watts,
Weakley,
White,
Whiteside,

TOTAL—57

NOES

Messrs. President,
Almon,
Barefield,
Beavers,
Browne,
Burnett,
Burns,
Cobb,
Coleman, of Greene,
Duke,
Eley,
Eyster,
Ferguson,
Foster,
Glover,
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,
Jones, of Wilcox,
Kirk,
Locklin,
Lomax,
Long, of Walker,
Lowe, of Jefferson,
Macdonald,
Martin,
Norwood,
O'Neal, of Lauderdale,
O'Neill (Jefferson),
Opp,
O'Rear,
Parker, of Cullman,
Pillans,
Reese,
Rogers, of Lowndes,
Samford,
Sanford,
Searcy,
Selheimer,
Sentell,
Smith, Morgan M.,
Stewart,
Waddell,
Williams, of Barbour,
Wilson, of Clarke,
Wilson, of Washington

TOTAL—58

ABSENT OR NOT VOTING

Case,	Leigh,	Robinson,
Espy,	Long, of Butler,	Rogers, of Sumter,
Gilmore,	Morrisette,	Sollie,
King,	Pearce,	Willet,
Kirkland,	Renfro,	
Ledbetter,	Reynolds (Henry),	

PAIRS

AYES	NOES
Carnathon,	Chapman,
Cornwall,	Carmichael, of Colbert,
Fitts,	deGraffenreid,
Cardon,	Graham, of Montgomery,
Miller, of Marengo,	Knight,
Mulkey,	Coleman, of Walker,
Oates,	Weatherly,
Porter,	Proctor,
Smith, of Mobile,	Williams, of Marengo,
Thompson,	Carmichael, of Coffee,
McMillan, of Wilcox,	Williams, of Elmore,
Jones, of Hale,	Winn.

So the motion to table the substitute offered by the committee was lost.

THE PRESIDENT—The question will recur upon the adoption of the resolution reported by the committee as a substitute.

MR. HEFLIN—On that I move the previous question.

THE PRESIDENT—The previous question has been ordered.

MR. PETTUS—I call for the ayes and noes on the adoption of the resolution as amended. The motion to table failed and the question was submitted on the resolution of the substitute. Now it is on the adoption of the resolution as amended, and I call for the ayes and noes.

A DELEGATE—Too late.

THE PRESIDENT—It is the opinion of the chair that the call is in time. The question will be upon the adoption of the substitute reported by the Committee on Rules to the resolution offered by the gentleman from Greene, and the ayes and noes have been called for. Is the call sustained?

The call was sustained.

THE PRESIDENT—As many as favor the adoption of the substitute reported by the Committee on Rules to the resolution

offered by the gentleman from Greene, will say aye and those opposed no, as their names are called.

During roll call, while some confusion prevailed:

MR. SAMSON (Pike)—I make the point of order that the gentlemen are not in their seats.

MR. ASHCRAFT—I rise to a point of order. We have a special rule in this house, which authorizes gentlemen to exchange seats.

THE PRESIDENT—The rule only applies when reports of Committees are being considered. To allow members of the Committee to consult.

MR. PETTUS—I rise to a question of privilege. The gentleman from Chambers was in my seat, and we both could not occupy it at the same time.

THE PRESIDENT—The gentleman from Chambers will resume his seat and the gentleman from Limestone will resume his.

The vote resulted as follows:

AYES

Messrs. President,	Handley,	O'Neill (Jefferson),
Almon,	Harrison,	Opp,
Barefield,	Heflin, of Chambers,	O'Rear,
Beavers,	Heflin, of Randolph,	Palmer,
Browne,	Hinson,	Parker (Cullman),
Burnett,	Howze,	Pillans,
Burns,	Inge,	Reese,
Cofer,	Jackson,	Rogers (Lowndes),
Coleman, of Greene,	Jenkins,	Samford,
Duke,	Jones, of Wilcox,	Sanford,
Eley,	Jones, of Montgomery,	Searcy,
Eyster,	Kirk,	Selheimer,
Ferguson,	Locklin,	Sentell,
Foster,	Lomax,	Smith, Morgan M.,
Glover,	Long (Walker),	Stewart,
Grant,	Lowe (Jefferson),	Waddell,
Grayson,	Macdonald,	Williams (Barbour),
Greer, of Calhoun,	Martin,	Wilson (Clarke),
Greer, of Perry,	Norwood,	Wilson (Washington),
Haley,	O'Neal (Lauderdale),	

TOTAL—59

NOES

Altman,	Bartlett,	Blackwell,
Ashcraft,	Beddow,	Boone,
Banks,	Bethune,	Brooks,

Bulger,	Jones, of Bibb,	Reynolds (Chilton),
Byars,	Kyle,	Sanders,
Cobb,	Lowe (Lawrence),	Sloan,
Craig,	McMillan (Baldwin),	Smith, Mac. A.,
Cunningham,	Malone,	Sorrell,
Davis, of DeKalb,	Maxwell,	Spears,
Davis, of Etowah,	Merrill,	Spragins,
Dent,	Miller (Wilcox),	Stu[illegible],
Fletcher,	Moody,	Tayloe,
Foshee,	Murphree,	Vaughan,
Freeman,	NeSmith,	Walker,
Graham, of Talladega,	Norman,	Watts,
Henderson,	Parker (Elmore),	Weakley,
Hodges,	Pettus,	White,
Hood,	Phillips,	Whiteside,
Howell,	Pitts,	

TOTAL—56

ABSENT OR NOT VOTING

Carmichael, of Colbert,	Kirkland,	Renfro,
Case,	Ledbetter,	Reynolds (Henry),
Cornwall,	Leigh,	Robinson,
Espy,	Long (Butler),	Rogers (Sumter),
Gilmore,	Morrisette,	Sollie,
King,	Pearce,	Willet,

PAIRED

AYES	NOES
Carnathon,	Chapman,
deGraffenreid,	Fitts,
Graham, of Montgomery,	Cardon,
Knight,	Miller (Marengo),
Coleman, of Walker,	Mulkey,
Weatherly,	Oates,
Proctor,	Porter,
Williams (Marengo),	Smith (Mobile),
Carmichael, of Coffee,	Thompson,
Williams (Elmore),	McMillan (Wilcox),
Winn,	Jones, of Hale,

So the substitute reported by the Committee was adopted.

The question then recurred upon the adoption of the original resolution as amended, and upon a further vote being taken the resolution as amended was adopted.

THE PRESIDENT—The special order will be the consideration of the motion to take from the table the report of the Committee on Judiciary.

MR. GRAHAM (Talladega)—I make the point of order that was made the special order was for 11 o'clock today, and that hour has long since passed, and now the special order is the report of the Committee on Education.

MR. REESE—I desire to make an inquiry. If when this resolution is adopted, at the time it is adopted, it does not immediately relate back to the time the consideration of it was presented to this Convention, and having gone over before the hour of eleven, would not the special order be to continue the order until it was disposed of?

THE PRESIDENT—It seems to the Chair that it would. The Chair ruled so the other day with reference to a motion to reconsider, which was brought forward by the gentleman from Walker. The motion to reconsider was the special order to be taken up during the morning hour. Another motion to be considered that had precedence of it, consumed the morning hour, and part of the afternoon session, and so soon as consideration of that question was disposed of, the Chair ruled that the motion to reconsider made by the gentleman from Walker would be in order, and in the opinion of the Chair the special order was merely temporarily displaced by a privileged report from the Committee on Rules. Therefore the question would be upon the consideration of this motion to take from the table. It is competent for the Convention, if it desires to do so, to set it for another time.

MR. GRAHAM (Talladega)—I would like to know if the special order at this time is not privileged over the special order which was set by the Convention at 11 o'clock.

THE PRESIDENT—The Chair will rule that the matter before the Convention unless the Convention sees fit to order otherwise, will be the consideration of the motion made by the gentleman from Dallas to take from the table the report of the Committee on Judiciary. Is the Convention ready for the question? As many as favor the motion to take the Article reported by the Committee on Judiciary from the table will say aye and those opposed no.

A vote was taken and the motion to take the Article reported by the Committee on Judiciary from the table was carried.

MR. WATTS—I move that the report of the Judiciary Committee be ordered to a third reading, and upon that I call for the question.

MR. REESE—I move to lay the motion upon the table.

MR. COLEMAN—I have an amendment to offer.

MR. PETTUS—I call for the ayes and noes——

MR. COLEMLAN (Greene)—I had the floor.

THE PRESIDENT — The Chair recognized the gentleman from Montgomery and the gentleman from Montgomery moves that the report of the Committee on Judiciary be ordered to a third reading.

MR. REESE—I move that the motion of the gentleman from Montgomery be laid upon the table.

MR. GRAHAM (Talladega)—I make the point of order that there is a motion for the previous question and the motion to table cannot be made.

THE PRESIDENT—The motion to table relates to the motion to order it to a third reading.

MR. WATTS—I called for the previous question on it.

MR. COLEMAN (Greene)—Not the first time.

THE PRESIDENT—The Chair thoroughly understands the question, and a motion to table has precedence of a motion for the previous question, and must be first submitted to the Convention.

MR. WATTS—And I call for the ayes and noes.

The call was sustained.

THE PRESIDENT—The question is on the motion of the gentleman from Montgomery to order the Article on Judiciary to a third reading, and the gentleman from Dallas moves to lay that motion upon the table. As many as favor tabling the motion of the gentleman from Montgomery will say aye and those opposed no, as their names are called:

During the call of the roll:

MR. SANDERS—I make the point of order that the gentleman from Greene is out of his seat.

THE PRESIDENT—The point of order is well taken.

AYES

Messrs. President,	Duke,	Greer, of Perry,
Almon,	Eley,	Haley,
Barefield,	Eyster,	Handley,
Beavers,	Ferguson,	Harrison,
Browne,	Foster,	Heflin, of Chambers,
Burnett,	Glover,	Heflin, of Randolph,
Burns,	Grant,	Hinson,
Cobb,	Grayson,	Howze,
Coleman, of Greene,	Greer, of Calhoun,	Inge,

Jackson,
Jenkins,
Jones, of Wilcox,
Jones, of Montgomery,
Kirk,
Locklin,
Lomax,
Long, of Walker,
Lowe, of Jefferson,
Macdonald,
Martin,
Norwood,
O'Neal (Lauderdale),
O'Neill, of Jefferson,
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Pillans,
Pitts,
Reese,
Rogers (Lowndes),
Samford,
Sanford,
Searcy,
Selheimer,
Sentell,
Smith, Morgan M.,
Stewart,
Williams (Barbour),
Wilson (Clarke),
Wilson (Washington),

TOTAL—59

NOES

Altman,
Ashcraft,
Banks,
Bartlett,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Bulger,
Byars,
Cofer,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Fletcher,
Foshee,
Freeman,
Graham, of Talladega,
Henderson,
Hodges,
Hood,
Howell,
Jones, of Bibb,
Kyle,
Lowe, of Lawrence,
McMillan, of Baldwin,
Malone,
Maxwell,
Merrill,
Miller (Wilcox),
Moody,
Murphree,
NeSmith,
Norman,
Parker (Elmore),
Pettus,
Phillips,
Reynolds (Chilton),
Sanders,
Sloan,
Smith, Mac. A.,
Sorrell,
Spears,
Spragins,
Stoddard,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
White,
Whiteside,

TOTAL—57

ABSENT OR NOT VOTING

Carmichael, of Colbert,
Carmichael, of Coffee,
Case,
Coleman, of Walker,
Cornwall,
Espy,
Gilmore,
King,
Kirkland,
Ledbetter,
Leigh,
Long, of Butler,
McMillan (Winston),
Morrisette,
Mulkey,
Pearce,
Renfro,
Reynolds, of Henry,
Robinson,
Rogers (Sumter),
Sollie,
Willet,
Williams (Elmore),

PAIRS

AYES	NOES
Carnathon,	Chapman,
deGraffenreid,	Fitts,
Graham, of Montgomery,	Cardon,
Knight,	Miller (Marengo),
Weatherly,	Oates,
Proctor,	Porter,
Williams (Marengo),	Smith (Mobile),
Winn,	Jones, of Hale.

MR. THOMPSON—On the former vote I announced a pair with Mr. Carnathon. That pair was not arranged between Carnathon and myself, and since that time I have arranged with the gentleman with whom I arranged the pair to transfer the pair to Mr. Leigh. He takes my place and I vote no.

So the motion was laid upon the table.

MR. COLEMAN (Greene)—I desire to offer a substitute for Section 28.

MR. SMITH (Mobile)—I rise to a question of inquiry. What is before the Convention? Is it a motion to adopt the article, or is it upon some section?

THE PRESIDENT—There is a motion now to amend Section 28.

MR. SMITH—Upon what is that based. What is before the Convention upon which that is based?

THE PRESIDENT—The article on judiciary is before the Convention, having been taken from the table by the action of this Convention.

The Secretary will read the substitute.

The Secretary read as follows:

Amend Section 28. A Solicitor for each judicial circuit, prescribed by the Legislature, shall be elected by the qualified electors of such circuit, who shall be learned in the law, and who shall at the time of his election and during his continuance in office, reside in the circuit for which he is elected, and whose term of office shall be for four years, and who shall receive no other compensation than a salary to be prescribed by law, which shall not be increased during the term for which he was elected; 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; and provided further, that

the Legislature may provide by law for the appointment by the Governor or the election by the qualified electors of a County Solicitor for any county or any sub-division of a county.

MR. WATTS—I rise to a question of inquiry.

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

MR. WATTS—I want to know whether or not that substitute is in order without reconsidering the vote by which Section 28 was adopted?

THE PRESIDENT—It seems to the Chair under the new rule which the Convention has adopted, it would be in order. The Chair recognizes the gentleman from Greene.

MR. COLEMAN—Mr. President——

MR. WILSON (Washington)—I have an amendment which the gentleman from Greene has agreed to accept, and I will ask to be allowed to send it up now.

THE PRESIDENT—The gentleman from Washington offers an amendment to the amendment.

The Secretary read the amendment as follows:

"Strike out residing in the circuit, and insert in lieu thereof the words 'reside in a county in the circuit in which he prosecutes criminal cases.'"

MR. PILLANS—I rise to a point of inquiry.

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

MR. PILLANS—Is it the rule of this Convention that when a gentleman offers an amendment and yields the floor, and other gentleman have amendments which they desire to offer, that the gentleman can continue to hold the floor, and other gentlemen rise and offer amendments while the gentleman is on the floor? I waited for my friend to yield the floor which he has never done. I wanted to try and obtain the recognition of the Chair.

THE PRESIDENT—The gentleman from Greene has the floor, and it would be perfectly competent to yield as he did to the gentleman from Washington, and it would be competent for the gentleman from Greene to yield to the gentleman from Montgomery, if he desires to do so.

MR. PILLANS—Did he yield? Was it an intrusion upon his time, because I by courtesy kept my seat? I understand when a gentleman yields the floor that he yields it——

MR. WILSON (Washington)—I understand as a matter of courtesy the gentleman from Greene yielded to the gentleman from Washington.

MR. PILLANS—It was not so announced.

MR. COLEMAN—I wish to state to the delegates that so far as I am concerned I am not wedded to either of the propositions authorizing the election of Circuit Solicitors by the people or by the Legislature. I know very well that there are men on this floor who voted for the adoption of this resolution for the purpose of having an opportunity to have the Circuit Solicitors elected by the people, and I know there are others upon this floor who oppose that, and prefer the old rule. I have desired from the very beginning—any other motive attributed to me to the contrary notwithstanding—simply to present to the people of Alabama that which would be satisfactory to them, and in accordance with the old Democratic proposition that Democrats should rule in this State. My whole purpose has been from beginning to end without any personal consideration, to stand by the Democrats of twelve or thirteen counties who have been with the party for fifteen or twenty years. I thought it was bad policy, un-democratic and ungrateful to turn them over, to bind them hand and foot, from which they could never extricate themselves. Let the Convention adopt either plan it sees proper, provided you allow the Legislature to prescribe who shall be elected in the counties or subdivisions of a county where these true and tried Democrats have lived so long. My own experience has been that the rule we have been acting under has worked well. No man has risen during this heated controversy and pointed out a single instance where there has been an incapable prosecuting attorney elected by the legislature, and I have no doubt in my own mind that if the people see proper, or are permitted to elect the solicitor that they will also elect one competent to fill that office. Mr. President and delegates of the Convention, no such question as this was before the people when we were elected as delegates to the Convention. No such question was intruded into the Democratic platform, nor has it arisen elsewhere than in this Convention. I think we should be very careful about the innovations we make especially when a rule has been tried so long, and proven so successful, but, Mr. President, it is apparent from local legislation which has been going on in this State so long that there are criminal courts established and necessarily there must be prosecuting attorneys. Elect them as may be prescribed by the legislature. I have no doubt in the world that a Democratic legislature will consult the wishes of the county, and where the legislature should intervene and select the solicitor it will do so, and where the people of the county prefer to elect their own solicitor, I have not a particle of doubt but that the legislature will permit them to do it.

MR. WALKER (Madison) — Will the gentleman permit a question? If a county in a circuit already had a circuit solicitor, why should that county participate in the election of a circuit solicitor?

MR. COLEMAN—The county should not participate, provided the circuit court is not kept there, and there is no criminal prosecution, but there are many counties in the State where there are criminal courts with jurisdiction co-extensive with the boundaries of the county in which a circuit court is held, for criminal prosecutions. In those counties the people should be authorized, if you adopt the substitute or the amendment offered, to vote as they do in other counties. If the gentleman desires to provide that where there is no circuit court held, and only county courts or city courts held, I see no objection to such an amendment. I would not make an objection myself. What I desire is to have the wishes of the people consulted in that matter, and that we do no injustice to that faithful band of Democrats who have stood by us so long, and been so true, I am not made any other way. I cannot get my consent at this time of our power, when we are in convention assembled, to do any act by which they will be deprived of all participation in their county affairs, in the election of a county solicitor. It is unjust to them, and I appeal to the Convention that we should not go before the people with any such provision as that. The gentleman has asked me about subdivisions. I have no objection in the world. All I desire in this matter is, that we do fair and right by all the Democrats, and for the best interests of the State. I know of no other rule by which this Convention can be harmonized, except in this manner, which I have intimated, but whatever is done, above all things, retain that provision in there which authorizes the legislature to prescribe how the solicitor for a county or subdivision of a county shall be elected, whether by appointment of the Governor, or whether by election of the people—they will without any doubt in the world secure that plan which is best for the interest of the people. Now Mr. President, I have been requested by those who are much wiser than I am in these matters that as there has been so much discussion on this question, that I move the previous question upon the adoption of the amendment, or substitute as offered.

MR. GRAHAM (Talladega)—I desire to know, if a gentleman has a right to hold the floor after his ten minutes have expired, and shut off amendments?

THE PRESIDENT—The Chair thinks not.

MR. REESE—Will the Chair inform me how many amendments are already pending?

THE PRESIDENT—Two.

MR. WALKER—Mr. President and gentlemen of the Convention, I understand that while the gentleman from Greene had the floor the matter was put in such a situation that it is not open now for me to offer an amendment or substitute for these provisions, but I desire to call the attention of this Convention——

MR. LOWE (Jefferson)—I rise to a point of information. Has the gentleman from Greene the floor, or the gentleman from Madison?

THE PRESIDENT—The gentleman from Madison has the floor.

MR. LOWE — Has the gentleman from Greene yielded the floor?

THE PRESIDENT—The gentleman from Greene took his seat and the Chair recognized the gentleman from Madison.

MR. LOWE—I understand that the statement of the gentleman from Madison was that the gentleman from Greene had yielded.

THE PRESIDENT—The statement was that while the gentleman was on the floor it was put in such a shape that he could not offer an amendment. That happened from the fact that the gentleman from Washington offered an amendment to the amendment.

MR. COLEMAN—Mr. President, the Convention of course has——

THE PRESIDENT—The gentleman is not in order.

MR. COLEMAN—I am going to explain to the Convention and take the responsibility——

THE PRESIDENT—Will the gentleman from Madison yield to the gentleman from Greene?

Mr. Coleman (Greene), and Walker held a conference.

MR. WALKER—If it is not taken out of my time.

MR. LOWE—I rise to offer a resolution, Mr. President——

THE PRESIDENT—The gentleman from Madison has the floor, and the Chair cannot recognize the gentleman from Jefferson at this time.

MR. FITTS—Then I move the gentleman from Madison go ahead and use the floor.

THE PRESIDENT—The gentleman from Madison will proceed until he yields to the gentleman from Greene.

MR. WALKER—I desire to call the attention of the Convention to the attitude that the substitute presented by the gentleman from Greene as amended by the gentleman from Washington, would put this matter in. It would require the election in every circuit in this State of a Solicitor, although every county in that circuit was provided with a county solicitor. Now is this Convention ready to do that thing? There are counties in this State now parts of judicial circuits, they have separate and distinct solicitors, and in those counties the Circuit Solicitor has no more to do with the public prosecution than the man in the moon. Now is that right, will this Convention undertake to perpetuate upon the people of this State the necessity of electing in every circuit, although in every county of that circuit there is a separate Solicitor, so that there is absolutely no necessity for a Circuit Solicitor there. The question is, could he be abolished in such a case? He could not and obey the provision of the gentleman from Greene. You must continue to elect Circuit Solicitors. Counties which have no more to do with that Circuit Solicitor than with the man in the moon, must continue to vote upon it. Is it right? Are you ready to do that? Why are the words stricken out from the report as put in here by the majority authorizing the selection by the people of solicitors for each Judicial Circuit, or other territorial subdivisions prescribed by the Legislature?

MR. PILLANS—Will the gentleman suffer an interruption?

MR. WALKER—Yes, sir.

MR. PILLANS—I would ask if in many places as in the Thirteenth Circuit, it is not a fact that the Solicitor is a resident of a county in which he practically never tried a case?

MR. WALKER—I do not know about the Thirteenth Circuit, but I do know about the Eighth Circuit, and that is the fact. Is that the kind of thing that is going to be perpetuated here by this Convention?

MR. SAMFORD (Pike)—Will the gentleman permit an interruption? I would like to know if the substitute you propose to offer, in case you should get an opportunity, provides for the contingency you are addressing yourself to?

MR. WALKER—Yes, sir.

MR. SAMFORD—I for one would like to know what it is.

MR. WALKER—I would state to the gentleman from Pike that the substitute that I propose to offer is this: 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 territory 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 four years, and who shall receive no other compensation than a salary to be prescribed by law, which shall not be increased during the term for which he is elected; provided, this Article shall not operate to abridge the term of any Solicitor now in office, and provided, further, that Solicitors elected in the year 1904 shall hold office six years and until their successors are elected and qualified; and provided, further, that the Legislature may provide by law for the appointment by the Governor or election by the qualified electors of the county for solicitors for any county.

MR. COLEMAN—That meets my views.

THE PRESIDENT—Does the gentleman from Greene accept the substitute offered by the gentleman from Walker?

MR. COLEMAN—Yes, sir.

THE PRESIDENT—The gentleman from Greene asks unanimous consent to accept the substitute of the gentleman from Walker. Is there objection? The Chair hears none.

MR. SAMFORD (Pike)—I desire to ask the gentleman one further question, and that is, if he will not consent to have an amendment added there as offered by the gentleman from Washington, so as to provide that the Solicitor shall live in the county or counties in which he prosecutes.

MR. WALKER—I think that is already provided for, but if it is not, I am willing to accept that.

MR. SAMFORD—The gentleman states that it is already incorporated in there, and the gentleman from Washington states that he is satisfied.

MR. WILSON (Washington)—Hold on, I think the gentleman from Madison is in error. I do not think it is in there.

MR. MALONE—I move that the Convention remain in session until ten minutes after 1 o'clock.

The motion was carried.

MR. LOMAX—A question of parliamentary inquiry. I would like to know what the status of the amendment is and how many amendments are pending before the Convention?

MR. WALKER—I will call the attention of the Convention to the fact that this provision as written provides: "Who shall reside in the circuit or other territorial subdivision for which he is elected." In other words, this provision is so written that——

THE PRESIDENT—Does the gentleman from Washington withdraw his amendment?

MR. WILSON—No sir, I don't. It does not touch the question.

MR. SAMFORD—An illustration: In the Second Judicial District, composed of the counties of Montgomery, and other counties, the prosecuting officer of the county of Montgomery has nothing to do with the prosecution outside of Montgomery, and the Solicitor has nothing to do with the prosecution in Montgomery.

MR. WALKER—Yes, it provides for contingency by this provision. The Solicitor for Montgomery is the Solicitor for the territorial subdivision of Montgomery county, and he must reside there, another Solicitor is for some other territorial subdivision, and must reside there. I think this matter is fully covered by this provision.

MR. WILSON—Is it not a fact that the same provision is in the present Constitution?

MR. WALKER—No, sir, it is very different. This provision as written prevents any overlapping of the territory over which a Solicitor is to have jurisdiction, and by requiring him to reside in that circuit or territorial subdivision, it certainly provides for that. I offer the substitute.

THE PRESIDENT—The time of the gentleman from Madison has expired. Does the gentleman from Madison decline to accept the substitute of the gentleman from Washington?

MR. WALKER—Yes, sir.

MR. LOWE (Jefferson)—I rise to a question of inquiry. We got into some confusion on yesterday, and I do not understand that the amendment of the gentleman from Madison was accepted by the gentleman from Greene.

THE PRESIDENT—It was by unanimous consent.

MR. LOWE—At what time?

THE PRESIDENT—While the gentleman from Madison was on the floor, the Chair submitted the question to the Convention and it was accepted.

MR. WILSON—There has been so much confusion I would like to have the amendment of the gentleman from Madison read.

THE PRESIDENT—The Secretary will read it, and also the amendment of the gentleman from Washington.

MR. WALKER—It is simply a question of language, I have no objection to it going in there.

THE PRESIDENT—To be accepted by unanimous consent?

MR. WALKER—Yes.

THE PRESIDENT—The Chair submitted the question by the gentleman from Madison, and he withdraws that and the question will be upon the adoption of the original amendment. The Secretary will read the amendment as it stands.

The Secretary read as follows: Section 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 a county in the circuit in which he prosecutes criminal cases.

MR. LOMAX—I desire to offer a substitute.

THE SECRETARY (resuming reading)—"Provided that this article shall not operate to abridge the term of any solicitor now in office, and provided further than the solicitors elected in the year 1904 shall hold office for six years and until their successors are elected and qualified; and provided further, that the Legislature may provide by law for the appointment by the Governor for the election by the qualified electors of a county solicitor for any county."

MR. GREENE (Coleman)—I move the previous question upon the adoption of the resolution as amended.

MR. LOMAX—I caught the eye of the Chair.

THE PRESIDENT — The gentleman from Montgomery is recognized.

MR. WILSON—I ask unanimous consent to be allowed to amend my amendment by making it circuit or other territorial subdivisions, so as to conform to the substitute offered by the gentleman from Madison.

MR. COLEMAN—It is in there now.

MR. WILSON—I withdraw it then.

MR. LOMAX—I have an amendment.

The Secretary read the amendment as follows:

A solicitor for each judicial circuit and for such inferior courts and lesser subdivisions of the State as may be provided, shall be elected in such manner and for such time, and at such salary as

the Legislature may by law prescribe, provided that this section shall not effect the term of any solicitor now in office."

MR. HEFLIN (Chambers)—I move the previous question upon all the amendments.

THE PRESIDENT — The gentleman moves the previous question upon all the amendments. The question is shall the main question be now put?

A vote being taken the main question was ordered.

MR. GRAHAM (Talladega)—I move to lay the amendment of the gentleman from Montgomery on the table.

MR. LOMAX—I submit I have a right to the floor, when the previous question is ordered, on my amendment, and the gentleman from Talladega cannot move to lay on the table while I am entitled to the floor.

THE PRESIDENT—The previous question has been ordered. Under the former rulings of the Chair the mover of the original proposition would have the right to reply, unless he yields to the gentleman from Montgomery.

MR. COLEMAN—I will give him half my time.

MR. LOMAX—I do not care to address the Convention at any length, but I want to insist on my rights in the matter. I sat down while my substitute was read, and being a little slow in getting up the previous question was submitted. I do not care to take any part in the discussion on account of the position I occupy. The question of how the solicitors are elected is a matter of perfect indifference to me personally.

MR. DUKE—I move that this Convention remain in session ten minutes longer.

MR. PETTUS—It requires a suspension of the rules.

THE PRESIDENT—The gentleman from Chambers moves that the Convention remain in session ten minutes longer.

MR. LOMAX—I move that the Convention do now adjourn.

MR. GRAHAM (Talladega)—I rise to a point of order.

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

MR. GRAHAM—That the Convention cannot adjourn when the previous question has been ordered.

MR. DUKE—I call for a vote on my motion.

THE PRESIDENT—The gentleman from Montgomery will proceed.

MR. LOMAX—I cannot proceed with two or three on the floor. As I understand, Mr. President, the point of order made by the gentleman from Talladega applies both to my motion to adjourn and to the motion of the gentleman from Chambers to remain in session ten minutes longer.

MR. PETTUS—I rise to a point of order. That the ten minutes provided for has expired, it is now ten minutes past one o'clock.

MR. HEFLIN—The previous question having been called for, the house cannot adjourn until that is disposed of.

THE PRESIDENT—The previous question having been ordered, a motion to adjourn will not be in order, the previous question is in order.

MR. LOWE—The previous question has not been ordered. It was only demanded.

THE PRESIDENT—It was ordered.

MR. LOWE (Jefferson)—A vote has not been taken.

THE PRESIDENT—The Chair submitted the question of ordering the previous question, and it was ordered. The gentleman from Montgomery will please proceed with the discussion of the subject, he has one minute left.

MR. LOMAX—Does the Chair rule that notwithstanding the house has been in session ten minutes after its regular time for adjournment, that it must remain in session until a vote is taken, because the previous question has been ordered?

THE PRESIDENT—The Chair has not ruled on that point.

MR. PETTUS—I made that point that the ten minutes have expired and that the Convention ipso facto stands adjourned.

MR. HEFLIN (Chambers)—If I am in order I move we remain in session fifteen minutes longer.

MR. LOMAX—I am not liable to interruptions except on points of order, and because the gentleman from Limestone was making points of order is the reason I have been quiet.

THE PRESIDENT—The gentleman's time has expired.

MR. GRAHAM—I renew my motion to lay the amendment on the table.

MR. LOWE (Jefferson)—The time has passed which the Convention fixed to adjourn.

MR. SAMFORD (Pike)—I move we remain in session fifteen minutes longer.

THE PRESIDENT—It is moved that the Convention remain in session fifteen minutes, those in favor of the motion will say aye; those opposed, no.

MR. LOWE (Jefferson)—I rise to a question of parliamentary inquiry.

THE PRESIDENT—The ayes have it. The gentleman will state his parliamentary inquiry.

MR. LOWE—A motion had passed that this Convention remain in session until ten minutes past one, and ten minutes past one having expired, and the fact having been called to the attention of the Chair, I ask as a matter of parliamentary inquiry if it is in order, after the expiration of the ten minutes for a motion to be made and entertained to remain in session ten minutes longer?

THE PRESIDENT—The Chair recognized the gentleman to make a motion, and the motion was made. During the confusion the gentleman from Montgomery was on the floor and the Chair recognized the gentleman to make a motion, and felt it his duty to submit to the Convention in order that the majority of the Convention might do what it pleased, and the Convention decided that it would remain in session fifteen minutes longer.

MR. LOWE—I wish to suggest in that connection as a part of my question of inquiry, if the point of order having been made that the ten minutes had expired, under the rules by which the Convention should adjourn if after the expiration of that time a motion to continue longer in session could be entertained.

THE PRESIDENT—The Chair would have to decide when the hour of adjournment has arrived, the Chair cannot leave that question to be decided by delegates on the floor. The Chair decided that the motion was in order and the Chair will overrule the point of order and the Convention will proceed with its business.

MR. GRAHAM—I move to lay the amendment of the gentleman from Montgomery on the table.

THE PRESIDENT—It is moved that the amendment of the gentleman from Montgomery be laid upon the table.

Mr. Jenkins and Mr. Lowe (Jefferson) called for the ayes and noes.

The call was not sustained.

THE PRESIDENT—As many as favor the motion to table the amendment of the gentleman from Montgomery will say aye. It appears to the Chair that the ayes have it——

MR. JENKINS—Division.

THE PRESIDENT—The ayes have it and the motion to table is adopted.

MR. JENKINS—I rise to a point of order. I called for a division. I would like to have a division.

THE PRESIDENT—The Chair has announced the result. The question will be upon the original resolution as amended by unanimous consent. As many as favor the adoption of that amendment will please say aye.

A vote being taken, the amendment was adopted.

THE PRESIDENT—The question is on the original section as reported by the Committee as amended. As many as favor the adoption will say aye, and those opposed no——

MR. EYSTER—I call for the ayes and noes.

MR. LOWE—Mr. President, a point of order.

THE PRESIDENT—The ayes have it and the section as amended is adopted.

MR. LOWE—I rise to a point of order. I called for the ayes and noes.

MR. HOOD—I move that the Article be ordered engrossed and to a third reading.

THE PRESIDENT—Those in favor of that motion will make it known by saying aye, and those opposed no. The ayes have it and it is so ordered.

MR. LOWE—Mr. President.

MR. HANDLEY—I move we adjourn.

THE PRESIDENT—It is moved that this Convention do now adjourn. The ayes have it and the Convention stands adjourned.

AFTERNOON SESSION

The Convention met pursuant to adjournment, there being 103 delegates present upon the call of the roll.

Leaves of absence were granted as follows: To Mr. Browne for this afternoon and tomorrow; indefinite leave of absence to Mr. Cornwall on account of sickness.

MR. SAMFORD (Pike)—I desire to have unanimous consent to make a report from the Committee on Engrossment.

Consent was given.

The Secretary read the Article as follows:

AN ORDINANCE

Be it ordained by the People of Alabama, in Convention Assembled, That Article VII of the Constitution by Stricken out, and the following Article inserted in lieu thereof:

ARTICLE ——

Impeachments.

Section 1. The Governor, Lieutenant-Governor, Secretary of State, Auditor, 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.

Sec. 2. The Chancellors, Judges of the Circuit Court, Judges of the Probate Court, Sheriffs, 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.

Sec. 3. The Clerks of the Circuit or courts of like jurisdiction, of Criminal Courts, Tax Collectors, Tax Assessors, County Treasurers, County Superintendents of Education, Coroners, Notaries Public, Constables and all other county officers, Mayors, Intendants 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 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.

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. Grant of Calhoun took the chair.

THE PRESIDENT PRO TEM—The question will be upon the passage of the ordinance. All those favoring its passage will say aye and those opposed no, as their names are called.

The roll call resulted as follows:

AYES.

Messrs. President,	Handley,	Palmer,
Almon,	Harrison,	Parker (Cullman),
Altman,	Heflin, of Randolph,	Pettus,
Ashcraft,	Henderson,	Pillans,
Banks,	Hodges,	Pitts,
Barefield,	Hood,	Reese,
Beavers,	Howell,	Samford,
Beddow,	Howze,	Sanders,
Bethune,	Inge,	Sanford,
Blackwell,	Jackson,	Searcy,
Boone,	Jenkins,	Selheimer,
Brooks,	Jones, of Bibb,	Sentell,
Bulger,	Jones, of Montgomery,	Smith (Mobile),
Burns,	Kirk,	Smith, Mac. A.,
Chapman,	Knight,	Smith, Morgan M.,
Cobb,	Kyle,	Sorrell,
Cornwall,	Lowe (Lawrence),	Spears,
Cunningham,	Macdonald,	Spragins,
Davis, of Etowah,	McMillan (Baldwin),	Stewart,
Duke,	Malone,	Tayloe,
Eley,	Martin,	Vaughan,
Ferguson,	Maxwell,	Waddell,
Fitts,	Merrill,	Walker,
Fletcher,	Miller (Wilcox),	Watts,
Foster,	Moody,	Weakley,
Glover,	Murphree,	White,
Graham, of Talladega,	NeSmith,	Williams (Barbour),
Grant,	Norman,	Williams (Elmore),
Grayson,	Norwood,	Wilson (Clarke),
Greer, of Calhoun,	Oates,	Wilson (Wash'gton),
Greer, of Perry,	Opp,	Winn,
Haley,	O'Rear,	

Total—95.

NOES.

Bartlett,	Freeman,	Studdard,
Byars,	Phillips,	Thompson,

Total—6.

ABSENT OR NOT VOTING.

Browne,
Burnett,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Case,
Cofer,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Davis, of DeKalb,
Dent,
deGraffenreid,
Eyster,
Espy,
Foshee,
Gilmore,
Graham, of Montgomery,
Heflin, of Chambers,
Hinson,
Jones, of Hale,
Jones, of Wilcox,
King,
Kirkland,
Ledbetter,
Leigh,
Locklin,
Lomax,
Long (Butler),
Long (Walker),
Lowe (Jefferson),
McMillan (Wilcox),
Miller (Marengo),
Morrisette,
Mulkey,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Parker (Elmore),
Pearce,
Porter,
Proctor,
Renfro,
Reynolds (Chilton),
Reynolds (Henry),
Robinson,
Rogers (Lowndes),
Rogers (Sumter),
Sloan,
Sollie,
Weatherly,
Whiteside,
Willet,
Williams (Marengo).

And so the Article was adopted.

MR. KNOX—I ask unanimous consent to introduce a resolution. Some time ago the question of admitting Hon. J. W. Taylor to the privileges of the floor was raised, and it was stated that leave had been granted. Upon an investigation of the record, it is found that that was a mistake and the privilege was never granted. I also wish to include Hon. Oscar W. Underwood, member of Congress from the Ninth District of this State.

The consent was given.

Resolution No. 307 by Mr. Knox was read as follows:

Resolved, That the privileges of the floor be and are hereby extended to the Hon. G. W. Taylor, member of Congress from the First District, and Hon. Oscar W. Underwood, member of Congress from the Ninth District of this State."

MR. KNOX—I move that the resolution be adopted.

Upon a vote being taken, the resolution was adopted.

MR. OPP—I ask unanimous consent to introduce a resolution extending the privileges of the floor to the Hon. D. M. Powell.

The consent was given.

Resolution No. 309, by Mr. Opp, was read as follows:

"Resolved that the privileges of the floor be extended to the Hon. D. M. Powell, Senator from the 17th District."

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

Upon a vote being taken the resolution was adopted.

Ordinance No. 404, reported from the Committee on Engrossment, was read as follows:

Ordinance 404.

Whereas ample provisions is made by law for the impeachment of officers, and whereas it is contrary to the policy of this government that any part of the powers of 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 impeachment proceedings are decided."

THE PRESIDENT PRO TEM.—The ordinance is on its final passage, as many as favor the passage of the ordinance will say aye and those opposed no as their names are called.

Upon a call of the roll the vote resulted as follows:

AYES.

Altman,	Graham, of Talladega,	Macdonald,
Almon,	Grant,	McMillan (Baldwin),
Barefield,	Grayson,	Malone,
Beavers,	Greer, of Calhoun,	Martin,
Beddow,	Greer, of Perry,	Maxwell,
Bethune,	Haley,	Merrill,
Blackwell,	Handley,	Miller, of Wilcox,
Boone,	Heflin, of Chambers,	Moody,
Brooks,	Heflin, of Randolph,	Murphree,
Bulger,	Henderson,	NeSmith,
Burns,	Hodges,	Norman,
Chapman,	Hood,	Norwood,
Cobb,	Howze,	O'Rear,
Craig,	Inge,	Palmer,
Davis, of DeKalb,	Jackson,	Parker, of Cullman,
Davis, of Etowah,	Jenkins,	Pettus,
Dent,	Jones, of Bibb,	Pitts,
Duke,	Jones, of Wilcox,	Reese,
Eley,	Knight,	Samford,
Ferguson,	Kyle,	Sanford,
Fletcher,	Locklin,	Searcy,
Foster,	Long, of Walker,	Selheimer,
Glover,	Lowe, of Lawrence,	Sentell,

Smith, of Mobile,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spears,
Spragins,
Stewart,
Tayloe,
Thompson,
Vaughan,
Walker,
Watts,
Weakley,
Williams, of Barbour,
Wilson, of Washington,
Winn.

Total—87.

NOES.

Ashcraft,
Banks,
Byars,
Cofer,
Cunningham,
Fitts,
Freeman,
Harrison,
Howell,
Jones, of Montgomery,
Lomax,
Oates,
O'Neal, of Lauderdale,
Phillips,
Pillans,
Studdard,
Waddell,
White,
Whiteside,

Total—18.

ABSENT OR NOT VOTING.

Messrs. President,
Bartlett,
Browne,
Burnett,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Case,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
deGraffenreid,
Espy,
Foshee,
Eyster,
Gilmore,
Graham, of Montgomery,
Jones, of Hale,
King,
Kirk,
Kirkland,
Ledbetter,
Leigh,
Long, of Butler,
Lowe, of Jefferson,
Hinson,
McMillan, of Wilcox,
Miller, of Marengo,
Morrissette,
Mulkey,
O'Neill (Jefferson),
Opp,
Pearce,
Parker, of Elmore,
Porter,
Proctor,
Renfro,
Reynolds, of Chilton,
Reynolds (Henry),
Robinson,
Rogers, of Lowndes,
Rogers, of Sumter,
Sanders,
Sloan,
Sollie,
Weatherly,
Willet,
Williams, of Marengo,
Williams, of Elmore,
Wilson, of Clarke.

THE PRESIDENT PRO TEM.—The next regular order is report of Committee on Education, Section 13.

Section 13 was read as follows:

Sec. 13. The provisions of this article and of any act of the General Assembly passed in pursuance thereof to establish, organize and maintain a system of public schools throughout the State, shall apply to Mobile county only so far as to authorize and require the authorities designated by law to draw the portions of the funds to which said county shall be entitled for school purposes, and to make reports to the Superintendent of Education as

may be prescribed by law. And all special incomes and powers of taxation, as now authorized by law for the benefit of public schools in said county shall remain undisturbed until otherwise provided by the General Assembly; provided, that separate schools for each race shall always be maintained by said school authorities.

The President here resumed the Chair.

MR. REESE—This is the same as Section 11 of the present Constitution. There is no change made in it and I move its adoption.

MR. GREER (Calhoun)—I have an amendment.

The amendment by Mr. Greer was read as follows:

Amend Section 13 of the article on education by adding at the end of said section the following, to wit:

"Provided Calhoun county shall possess and enjoy the same privileges as are now enjoyed by Mobile county, and that said special incomes and powers of taxation for public schools shall remain undisturbed until otherwise provided by the General Assembly; provided that separate schools for each race shall always be maintained by said school authorities."

MR. WADDELL—I ask that the gentleman will allow me to introduce an amendment along the same line.

THE PRESIDENT—The gentleman from Jefferson caught the eye of the Chair.

MR. SAMFORD (Pike)—I desire to ask the gentleman to yield to me a moment to offer an amendment.

The amendment was read as follows:

"Amend by adding Pike county."

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

MR. WHITE—I dislike very much to antagonize my friend from Mobile. I have always had a fondness for that city, even before I moved to the State. It was the first city I ever visited in my life, and our people now feel a great interest and have great pride and great hope for Mobile. Mobile is a great city now and in the years to come will be a much greater one, and I dislike because of the fact that my section of the State is linked commercially and industrially with that great city to antagonize it.

We expect eventually, when our water connections have been made complete, to find with our products, through the gates of that city, the markets of the world. We are proud of Mobile, but I do not feel that I can discharge my duty and be true to myself

without opposing the adoption of this Section. There may be a good reason for it. If there is I have never heard it. If there is a good reason for it I know that the distinguished gentlemen who represent Mobile upon the floor of this Convention can give us that reason and give it to the people of the State just why Mobile, the richest city in the State, has more wealth per capita than any other city in the State; just why it is allowed to withhold from the public treasury its license tax for the sale of vinous, spirituous and malt liquors amounting to $44,000 last year. I am unable to understand, and in addition to that the county of Mobile does not only withhold this $44,000 for last year, but it has been withholding that from the State Treasury since 1852, and if it received only one-half as much per annum in the past or rather if it withheld half as much per annum in the past as it did last year, the State of Alabama has already contributed to it in round numbers $1,000,000. Is that right? Is it right that every city or every other county in the State to pay the license derived from the sale of spirituous liquors into the State Treasury and yet it be withheld by the county of Mobile?

MR. PILLANS—I know the gentleman wishes to be fair in his statement. Mobile County procured this authority to put a license on liquor dealers in 1852, many years before the State put license on them for any purpose, and therefore did not withhold from the State Treasury, but taxed her own people for the schools.

MR. WHITE—That I suspect is no doubt true, but it was about that time that the different States of the Union commenced to tax or impose a license tax as a matter of police regulations upon the sale of vinous, spirituous and malt liquors. How long Mobile imposed the tax before it was imposed by the balance of the State, I do not know, but I do know that it has been imposed for a long time since the State has been imposing it upon other counties, or upon that industry in other counties. Now I say I hope there is some good reason for this, something that will satisfy the people of Alabama and make them feel that it is right. I can not believe that Mobile will want anything that is wrong. I feel that that great county wants to be fair and just. And when we see the interior counties struggling for education where education has been denied them for nearly a half century, how can it be fair for Mobile to withhold from the public treasury $44,000 which ought to be distributed, and allowed to flow to the public schools in all the counties of the State. That is not the worst of it, either. Mobile does not only withhold from the public treasury this amount of money, but this very Section provides that the only way upon which the public school system of Alabama shall bear upon the county of Mobile save that superintendents shall make report and that there shall be a separate school district for the two races is that Mobile shall be allowed to withdraw from the Treasury its

share of the public school fund. Last year it withdrew from the Treasury its share of the public school fund the sum of $19,000, and this year I am informed it will withdraw from the public fund for the schools in this State $25,000. Now if this is right, if this can be defended, I want to know it, and I know that her distinguished sons upon the floor of this Convention can make it plain if it can be made plain. I am not in favor of the amendment offered by the gentleman from Calhoun. I do not believe that another county ought to be added to that of Mobile. If it is wrong for Mobile to have it, then it is wrong for Calhoun to have it.

MR. GREER (Calhoun)—If it is right for Mobile to have it, is it not also right for Calhoun to have it?

MR. WHITE—Yes sir, then I will answer that it is right for every other county in Alabama to have it. I have an amendment I am going to offer. It is not an amendment to this, it is true, but I am going to offer it as a separate Section, that every county in Alabama will have a right to withhold all monies derived from the license of retailing for the purpose of applying it exclusively to the schools of the counties from which it is derived. I believe then that would be nearer right.

MR. BAREFIELD—I would like to ask the gentleman if we have too many amendments here this afternoon, if it does not virtually mean that the prohibition counties have got to go into the liquor business?

MR. WHITE—No, I understand not. They would have the distinction of being prohibition counties and they might very willingly part with the revenue in order to get rid of the vice and evil, but even these little dispensary counties, as I understand it, over the State where the towns or the school districts whatever they are that are operating these little dispensaries have to contribute to the public treasury their share. Of course the great county of Mobile shares in that with them when the very purpose was the main purpose of the dispensary of course is to regulate the sale or regulate this evil and then to save the money derived from it and apply it to the public schools of the towns or district. Now I say, Mr. President, it pains me to have to make this fight. These delegates upon the floor are my friends, but I feel that it is my duty and I feel that I would not be discharging my duty to the people of Alabama to allow this Section to go unchallenged into the new Constitution. They tell us that the Legislature may regulate it, but how long have we waited for the Legislature to do it. We have waited since 1852. How long may we expect to wait? If we must wait upon the Legislature to take action in the premises, and if this body, the sovereign body of the people assembled as such a body cannot do it, and will not do it, how can we expect the Legislature to do that which we ourselves refuse to do?

MR. SAMFORD—I desire unanimous consent to withdraw the amendment I offered a while ago.

There was objection.

MR. SAMFORD—I hope no one will object to that.

Consent was given and the amendment was withdrawn.

MR. SMITH (Mobile)—The gentleman from Jefferson stated he presumed that if there was any good reason why Mobile County should be exempt from the operation of this general law that her representatives ought to be able to state it. Mr. President there has been for some reason a concensus of opinion among the representatives of the various sections of Alabama, since 1854 at least, in the fact that there was some good reason why the county of Mobile should enjoy this exemption and if I knew nothing of the history of the surrounding circumstances of the matter I should be inclined to think, after so many men of ability, representing the people of the State through so long a period of years had assented to its propriety, that there must be some justice or some equity in the claim or it would not have been so universally conceded, but, Mr. President, the Mobile school system, which is separate and distinct from any other school system in the State of Alabama, has its birth long before there was any such thing as a school system in any other portion of the State. It was originated as a public school system before any other such system was known to the State. Money was expended by her people in the erection of buildings and in the creation of the system that has acted as a stimulant and as an object lesson to the rest of the State.

Mobile erected at very considerable expense, which was wholly independent of any contribution from the State, buildings of considerable magnitude and has instituted and created a system that has done credit to our State from its inception. In 1854, my recollection is, when, as said by my colleague, there was no such thing as a liquor license known to the laws of this State she, for the purpose of building up a free school system of education for the citizens in her confines obtained permission from the State of Alabama to levy a liquor license for the benefit of that school system and it is that liquor license that was levied and used by the county until the State also levied a liquor license throughout the State and it has been allowed to stay in the county's hands until the present time. With the encouragement she has received from the State, Mobile has built up a school system which I believe exceeds in perfection and beneficial results any other school system in the State. She has had it and had the benefits of it since 1854. It has been attacked from time to time but Mobile County has successfully maintained her position, and if there was no other reason than the fact that the system has stood as an educational

monument for this length of time and been approved of by the people of the State we should feel that it was a piece of vandalism to tear down the system and render absolutely useless the expensive buildings Mobile has erected; but, Mr. President, I have taken occasion since I came here to look into this question of inequalities between the contributions made by the County of Mobile and the contributions made by the other portions of the State to the maintenance of public schools. I have heard for years that Mobile did not contribute her fair share to the funds of this State and I was perfectly astounded upon looking into the facts to find that Mobile after retaining her liquor licenses contributes more per capita to the support and maintenance of the State of Alabama than any county in Alabama, not excluding the great county of Jefferson. I find, Mr. President, that there is a property tax, not including licenses, in this State of $1,467,972.92; that there is a population of something over one million eight hundred thousand, making an average tax paid by each citizen of this State of 80 cents per annum. I find that Mobile pays a property tax irrespective of all questions of license, of $114,784.68 according to the Auditor's report of 1900. She has a population of 62,740, making a payment, upon property tax alone, of $1.82 per capita against an average payment of eighty cents. So that Mobile County contributes per capita more than twice as much to the support and maintenance of the State, general fund and school fund, than the average amount contributed by an individual of the State.

MR. WHITE—I want to ask you if that does not show that Mobile had more property per capita than any other county in the State.

MR. SMITH—I am coming to that in a minute. This is the largest per capita tax in the State. Now, Mr. President, the city of Mobile constitutes about one-fourth of the wealth and population of the entire County. The city of Mobile in area is about the size of the city of Birmingham. She has a population almost the same as Birmingham. The real estate in Birmingham is at least fifty per cent higher—I speak of the market value of real estate—than real estate in the city of Mobile. Outside of the city of Mobile there are no cities and no towns of any considerable size and no urban property. In the county of Jefferson there are a number of other towns of great prosperity and hence having property of considerable value. The outlying property in the county of Mobile is of no value for farm purposes. In the county itself there is but little timber, so that there is but little value to anything but the urban property, while in the county of Jefferson there is not only farming lands but there are stores of wealth beyond that in any other portion of the State. Now, Mr. President, in addition to that there are more railroads in the county of Jefferson than in the

county of Mobile. There are more large institutions in that county. There are institutions there worth millions against institutions of hundreds of thousands in Mobile. In fact there are no great institutions in Mobile, and yet the city of Mobile equal in size and population to the city of Birmingham contributes to the State's fund more than the city of Birmingham. Now, Mr. President, my friend says, is that not because she has more property. Every man within the sound of my voice knows that it is not true that values of property in the city of Mobile exceeds the value of property in the city of Birmingham, and I can come to but one conclusion and that is that the city of Mobile simply pays more upon an equal amount of property, I will say by way of concession, more than does the city of Birmingham.

MR. REESE—Will the gentleman allow me to make a motion to extend time ten minutes?

Upon a vote the time was extended ten minutes.

MR. SMITH—Now, Mr. President and gentlemen of the Convention, Jefferson County pays a property tax on $217,412.33 and has a population of one hundred and forty thousand four hundred and twenty, making the payment per capita $1.34 against a payment by Mobile of $1.82 per capita.

MR. WHITE—I wish to ask the gentleman if he is not mistaken. If Jefferson does not pay tax to the extent of $269,000?

MR. SMITH—She does not on property. She does on her license and special taxes, but not on property tax.

MR. WHITE—Against $118,000 for Mobile?

MR. SMITH—I beg your pardon. This license tax is taken out while Jefferson's is included in these figures of yours. If my friend will look on page 18 of the Auditor's report, he will find the figures I am giving him, making Jefferson's payment $1.54 against $1.82 by Mobile, or a difference of 28 cents. If she paid at the same rate as Mobile, she would have to pay $39,317.60 more than she now pays, while her liquor license tax is only $34,800. So that, if the County of Jefferson paid on the same basis as the County of Mobile, and took out her license tax, she would find herself obligated to pay $5,000 into the State Treasury more than she now pays. Montgomery is the next closest to Mobile. Montgomery pays a property tax of $110,054.74, and has a population of 72,047 making a payment of $1.40 per capita or 42 cents per capita less than Mobile. If she paid at the same rate as Mobile, she would pay $30,259.04 more than she now pays in, and her liquor licenses only $24,700, so that Montgomery, if she went on on the same basis per capita and kept her licenses she would have to pay in $5,000 more than she now pays in. There is another county (which I shall not mention by name, because there is no discussion as to that county at the present, but it is one that I understood was going

to make an amendment), whose tax is $21,567.82. Her population is 26,559, making a payment of 80 cents, which is the average per capita all over the State, or $1.02 less than Mobile. If she paid at the rate Mobile pays, it would cost her $27,090 more than she now pays, and her liquor licenses is only $3,050, and, besides that, she gets the benefit of $7,500 on her Normal School, so if she came in on the same basis as Mobile County, she would pay more than twice the amount of taxes she now pays into the State. Now, then on the question of property tax and license tax, both put together, the total property tax of the State is $1,467,972.92. The total license paid in is $205,288.09, making in all $1,673,261.01, or an average of 93 cents per capita. Mobile County pays on property, as stated, $114,724.68. She pays on licenses of $60,510.58, part of which she retains, however, making $175,235.26, which is an average payment of $2.62 per capita. Now, she actually pays in out of that license only $15,987.58, making her actual contributions to the State upon property and licenses $130,712.43, or a per capita of $2.08 paid in upon property and license tax. Without going into the figures, which I have here, but to economize time, I will simply say that I find that Jefferson pays on the same basis at the rate of $1.97. That is upon property and license, 65 cents per capita less than Mobile, and that if she paid on both licenses and property upon the same basis that Mobile pays, then took out her license, as Mobile does, she would pay in $46,463 more than she now pays Montgomery, upon the same basis, would be out $24,300 besides $7,500 in her Normal School. Now, I have not called attention to these figures and comparisons with Jefferson and Montgomery because of any hostility to those two counties, but only because they are the only two counties in the State of Alabama that anything like approximate the per capita paid by the County of Mobile.

On the contrary, every other county would pay more than 100 per cent more than their present contribution if put upon the same basis with Mobile. I cite these two counties, as I said before, not in hostility to them, but to show that each of these three counties contribute more, not only a lump sum, but per capita, than any other county in the State, and that Mobile, after taking out her licenses, absolutely pays per capital into the treasury more than any other county in the State.

This Convention has determined that the whole tax upon property shall be 6.5 mills; that of that 3 mills shall be applied to school purposes, making six-thirteenths of the entire property tax applicable to school purposes, and seven-thirteenths applicable to general purposes. If her property tax averages 80 cents, as it does, that will make about an average of 37 cents per capita for school purposes and 43 cents for general purposes, Now, Mobile pays $1.82 upon property alone, and, taking from it the average of 43

cents for general purposes, would leave her paying $1.39 over and above her fair proportion for general purposes, which is almost four times as much per capita as is paid by any other counties, save Jefferson and Montgomery, for purposes other than for general State purposes. But if you take the average, with the licenses included, you will find that there is 56 cents that would be applied to general purposes, and, on that basis, Mobile would pay an excess of $1.52, she paying on license and property $2.02, or almost five times as much as is contributed by any other county, save the two I have mentioned, to purposes other than the general purposes.

So, Mr. President I say that when you take the figures, you will find that Mobile does not shirk her proportion of the general burdens, and that while this is owing to the high assessments in Mobile, she does, in fact, after retaining her required license for her school fund, contribute more than her full share to the maintenance of the State and her public schools. I think, therefore, that there is no reason in equity—no just reason—why her system——

MR. HOWZE—If this section were left out of the Constitution, would it affect the right of Mobile to retain the license under the act authorizing it?

MR. SMITH—Undoubtedly.

MR. HOWZE—It would?

MR. SMITH—I think so; but there is something more in it than that license money. Her entire school system is different. It was formed under the act of 1854, and is upon an entirely different basis.

MR. HOWE—Has that act been repealed in any way?

MR. SMITH—Never.

MR. HOWZE—Would not you be entitled to keep that money under the act if it were not in the Constitution?

MR. SMITH—I think not. Your present article creates a school system and provides for the regulation of public schools and provides how the funds for that school system shall be applied, and it is with reference to that that the act was passed.

MR. JONES (Montgomery)—Isn't it a fact that Mobile county, owing to the worthless character of its land, gets less benefit from the 16th section fund than any other county in the State?

MR. SMITH—Yes, sir, gets hardly any benefit, practically none.

MR. JONES—Isn't it a fact that a great many people in the surrounding counties send their children and are admitted into Mobile schools?

MR. SMITH—Yes, sir, we have a primary department and a high school department and the high school department is a good educational department and that is practically the normal school for that section of the country. Under our rules anybody in the State of Alabama, I don't care where they come from, I don't care whether they reside in Mobile permanently or board there, are allowed to attend the high school and receive an education just as the school children of Mobile county.

MR. JONES (Montgomery)—Will you kindly inform us what the tax rate is in the city of Mobile and Mobile county?

MR. SMITH—Two and seven-tenths this year, and besides I would say, there is an indebtedness upon property there of thirty per cent. upon its entire value.

MR. GREER (Calhoun)—I believe you said that Mobile had less of the 16th section fund than any of the counties. Is it not also true that that amount is made good out of the general appropriation of Alabama and that she receives as much as any county in the State?

MR. SMITH—I don't think she does, I haven't figured that, but I will say that Montgomery got $23,000 against Mobile's $19,569 and that Mobile has a population of sixty-two thousand against Montgomery's seventy-two thousand, I believe.

THE PRESIDENT—The time of the gentleman has expired.

MR. LONG (Walker)—Section 13 of the article as reported favorably by the Committee on Education is an exact counterpart of Section 11, Article XIII, of our present Constitution. I want to state in the presence of all the members of this floor that I come from a county that has not a roof in the county but what sheds it rain upon one side or the other so that it finds its home at Mobile. I want to state further that I remember well, and my father remembers, when there was no market for coal in the State of Alabama except by transporting it in flat boats, when we had to wait for a rise in the river that would give us a market at Mobile. That was way back yonder in the fifties. Now I am willing to admit that the principle is wrong, but I am willing here to state on the floor of this Convention that there is nobody, not even the delegates from Mobile, who will more gladly vote for sustaining the schools of Mobile than will your humble servant who represents the county of Walker. I want to tell you that I love Mobile as our Gulf port. I want to tell you that there is nothing more in Section 13 than is in Section 11, Article XI, of our present Constitution. It is a copy verbatim. I want to say with all fairness

that the mineral region of Alabama, which I have the honor in part to represent on this floor, has never made any kick against Mobile. I want to tell you that in simple fairness, we are willing to give Mobile that which in her position she has a right to retain. Why, sir, you must remember that a squatter on 160 acres of land, after twenty years, is entitled to the land. All lawyers will admit that. They have had this, Mr. President, for forty years.

We look to the time when the Alabama River and the Warrior River will deliver coal at a less rate at Mobile than coal can be delivered at any seaport on earth. We look for that time and we believe it is near at hand. We are not here to take away from Mobile the right given her in the past and which she has by the Constitution of 1875—I plead with the delegates on this floor, not as an advocate of a principle that is right I tell you that we have no right to set back a movement that will give us the grandest seaport town in this State, and I tell you that our people in the hills have never dreamed of such thing. I pause for a man to get up here on this floor and say that he advocated such a thing when he advocated the calling of the Constitutional Convention. I want to look at him. Nobody rises, Mr. President. We never met here for that purpose. It is not a question of sustaining the magnificent public schools in Mobile, but it is a question of tearing down that system and putting it in the Constitution of our State that Mobile shall not be entitled to certain privileges that have been given to her and which have existed since 1852. I am not a partizan of Mobile, but when in my house at eleven, twelve, or two o'clock at night I hear the drippings of the rain that falls upon its roof, I know the natural drain of that water is towards the Gulf; I know that Mobile is the natural port that water will flow to; I know that no State can be great without a seaport, and I know further than that that Mobile is our only port, and I am the last man in the world that would do anything detrimental to Mobile. It has a lovely face, it has a lovely countenance. Mobile! the prettiest word in the English language. I am not seeking it as a home, but it is a great seaport, and it is a great and beautiful city. Are we here to destroy its magnificent system of public schools? Do we object to the public schools because our fathers didn't have them? Have we got so low that when we compare the city upon a hill with the one that sets at the mouth of the Alabama River, that we cannot give them justice which they have had since 1852. If it comes to that, as one of the men who has no commercial interest in Mobile, who does not own one of her bonds, which, thank God, stand as high as those of any city in the world. I am the last man that would cry out against Mobile. I am the last man that would stand upon this floor and say it is right to take away from Mobile that principle of self government, that property and license tax that she has had since 1852, because we don't have it.

THE PRESIDENT—The time of the gentleman has expired.

The Chair recognized Mr. Graham of Talladega.

MR. WALKER (Madison)—I move that his time be extended.

MR. LONG—Just one word.

THE PRESIDENT—The Chair recognized the gentleman from Talladega.

MR. GRAHAM—I will yield to the gentleman to make one statement.

MR. LONG—The only statement that I have to make is deliberately and soberly to say that Mobile, our Gulf City, with all of its public schools, is open and that a free education is offered to every citizen in the State of Alabama. I make that point, and that is all I desire to say. Remember that when you vote to destroy it.

MR. GRAHAM (Talladega)—The Committee of which I am Chairman has had its report before this Convention for several days, and I believe that this intelligent body is fully informed upon this matter, and I therefore move the previous question upon the amendments and upon the Section.

THE PRESIDENT—The previous question is moved upon the amendments and upon the Section. The question is shall the main question be now put.

MR. KYLE—I call for the ayes and noes on the previous question.

The call was not sustained.

The main question was ordered.

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Calhoun.

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

MR. GREER (Calhoun)—Upon that I demand the ayes and noes.

The call was not sustained.

Upon a vote being taken the amendment offered by the gentleman from Calhoun was tabled.

THE PRESIDENT—The question recurs upon the adoption of the original Section as reported by the Committee, and upon that the ayes and noes are demanded. Is the call sustained?

The call was sustained.

THE PRESIDENT—As many as favor the adoption of the Section as reported by the Committee, relating to the Mobile

schools, will say aye and those opposed no as your names are called.

Upon a call of the roll the vote resulted as follows:

AYES.

Messrs. President,
Almon,
Altman,
Ashcraft,
Banks,
Barefield,
Beavers,
Bethune,
Blackwell,
Boone,
Brooks,
Bulger,
Chapman,
Cobb,
Coleman, of Greene,
Craig,
Cunningham,
Davis, of Etowah,
Dent,
Eyster,
Fitts,
Foster,
Glover,
Graham, of Talladega,
Grant,
Greer, of Perry,
Haley,
Handley,
Howze,
Inge,
Jenkins,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Knight,
Locklin,
Lomax,
Long (Walker),
Lowe (Jefferson),
Macdonald,
McMillan (Baldwin),
Malone,
Martin,
Maxwell,
Merrill,
Miller (Wilcox),
Murphree,
NeSmith,
Norman,
Norwood,
Oates,
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pettus,
Pillans,
Pitts,
Proctor,
Reese,
Rogers (Lowndes),
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Stewart,
Tayloe,
Thompson,
Vaughan,
Walker,
Watts,
Weakley,
Whiteside,
Williams (Barbour),
Williams (Elmore),
Wilson (Clarke),
Wilson (Wash'gton),
Winn.

Total—84.

NOES.

Bartlett,
Beddow,
Byars,
Davis, of DeKalb,
Duke,
Eley,
Fletcher,
Freeman,
Graham, of Montgomery,
Grayson,
Greer, of Calhoun,
Harrison,
Heflin, of Randolph,
Henderson,
Hodges,
Jackson,
Kyle,
Lowe (Lawrence),
Moody,
Phillips,
Sentell,
Sorrell,
Spears,
Spragins,
Stoddard,
Waddell.

Total—26.

ABSENT OR NOT VOTING.

Browne,	Foshee,	Mulkey,
Burnett,	Gilmore,	O'Neill (Jefferson),
Burns,	Heflin, of Chambers,	Pearce,
Cardon,	Hinson,	Porter,
Carmichael, of Colbert,	Hood,	Renfro,
Carmichael, of Coffee,	Howell,	Reynolds (Chilton),
Carnathon,	Jones, of Hale,	Reynolds (Henry),
Case,	King,	Robinson,
Cofer,	Kirkland,	Rogers (Sumter),
Coleman, of Walker,	Ledbetter,	Sloan,
Cornwall,	Leigh,	Sollie,
deGraffenreid,	Long (Butler),	Weatherly,
Espy,	McMillan (Wilcox),	Willet.
Ferguson,	Morrisette,	

PAIRS

AYES.	NOES.
Miller (Marengo),	O'Neal (Lauderdale),
Williams (Marengo),	White.

During roll call:

MR. SANFORD (Montgomery)—I ask leave to explain my vote.

Leave was given.

MR. SANFORD (Montgomery)—I would say that Mobile has for nearly half a century enjoyed the generosity of the State; that today she is under the cloud and shadow of a great calamity; that the Section No. 13 is a temporary one and can be changed when the General Assembly deems it proper to change it, therefore I shall vote aye.

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

Leave was given.

MR. WHITESIDES—I vote for it because it is temporary and the Legislature can change it. I am against the principle, but I vote aye.

And the Section was adopted.

MR. LOMAX—I desire to offer an amendment in the nature of an additional Section.

The amendment was read as follows:

"Amend the ordinance as reported by the Committee by adding thereto the following Section:

"Section —. After the ratification of this Constitution there shall be paid out of the Treasury of this State at the time and in the manner provided by law, the sum of not less than $36,000 per annum, as interest on the funds of the University of Alabama heretofore converted into the Treasury, for the maintenance and support of said institution; provided that the Trustees of said University at any time they may deem it proper for the best interests of the University may abolish the military system or reduce said system to a department of instruction, and that said action on the part of said Trustees shall not cause any diminution of the amount of the annual interest payable out of the Treasury for the support and maintenance of said University.

MR. LOMAX—I desire to say to the Convention that the purpose of this Section is to fix in the Constitution the minimum income of the University. The Section provides that there shall be paid annually not less than $36,000. Under the law, as it stands today, the University receives and has received since 1896, $34,000 from the State, $24,000 being the interest on the debt that the State acknowledges that it owes the University, and $10,000 being included in the annual appropriation bill since that year, making $34,000, and the purpose of this amendment is to make it so that hereafter the University shall not have to come to this Capitol every two years or every four years, as the case may be, and beg and lobby for an appropriation of $10,000 in order to prevent two or three chairs of that institution from being destroyed by reason of the withdrawal of that appropriation. For seventy years in Alabama the State University has been the shuttle-cock of legislation, and the time has come, as we believe who love the University, that it should be removed from that position and placed upon a permanent and a firm foundation, although most of them are perhaps familiar with it, and I do not ask this thing to be done on behalf of that institution of charity. If any man will study the history of the University, the origin of its endowment, he will see at once that it ought not to be the subject of legislative caprice. When the State of Georgia ceded to the United States the territory of Mississippi, there was reserved in the act of cession one entire township of land to be devoted to the erection of a seminary of learning. When the State of Alabama was admitted into the Union, the enabling act of Congress which permitted her admission, reserved not only the township which the territorial grant had reserved, but another township of land to be devoted to the erection of a seminary of learning. Two entire townships, seventy-two sections, in round numbers, forty-six thousand acres of land, were reserved for the establishment of what is now the University of Alabama. The State of Alabama, in its Constitution accepted this provision of the act of Congress and prescribed that two townships of land should be reserved for the establishment of that institution and by an act of the Legis-

lature thereafter, these lands were authorized to be sold at the price of $17 per acre. A simple calculation will show to this Convention that if that forty-six thousand acres of land had been sold at $17 an acre (and much of it was sold for more) there would have been realized from that sale the enormous sum of seven hundred thousand dollars. After that was done, after this land had been granted, after it had been reserved and the reservation accepted by the people of this State and the attempt made to sell it, the men who bought the land, many of them, failed to meet their deferred payments. Under any rule of law which has ever existed, the payments which had been made upon the land and the land itself would have reverted to the seller, but under acts of the Legislature of Alabama, those men who had purchased that land and had failed to make their payments, were excused from the payment of the deferred payments, and the land was authorized to be revalued, and was revalued at $9 an acre, and more than $150,000 taken from the funds of the University.

After that had been done; after this fund had been scaled down by that means, the State went into the banking business. It had no capital to establish a bank. It authorized books of subscription to be opened in every prominent town in Alabama, and the people of Alabama refused to subscribe to the stock of that bank, but the State had the money of the University in its hand, and by the use of more than one hundred thousand dollars of the funds of the University, they established their bank. For a number of years that bank prospered and grew rich. It earned more than 12 per cent. upon its invested capital, but by an act of the General Assembly of Alabama only 6 per cent of that what was earned by the bank was paid to the University and 6 per cent. of what was earned on the University money was charged to the credit and loss account of the bank.

MR. FITTS—I move that the time of the gentleman from Montgomery be extended so that he will have half an hour in all to make his argument, which will require some time.

THE PRESIDENT—It is moved that the time of the gentleman from Montgomery be extended twenty minutes.

Upon a vote being taken the motion was carried.

MR. LOMAX—Now, Mr. President, I am not without authority in making that statement. I desire to say to this Convention that subsequently to the appointment of the commission to investigate the condition of affairs between the University and the State. Dr. Wyman, the President of the University, recently found among some old papers in a deserted building in Tuscaloosa a report of the President of the State Bank, and that report shows (and I have a copy of it here) that during one of the year that bank prospered, and during several years prior to its dissolution,

while the funds of the University earned twelve per cent., only six per cent. of the amount was paid to the trustees thereof. Taking one hundred thousand dollars as the amount of the University fund invested in that bank, and calculating the interest on it at twelve per cent., and deducting one-half of that as the money paid to the University, and taking the balance that is left, the State of Alabama, on that item alone, from 1837 up to now, owes the University more, a great deal more, than it acknowledged in the statute which pays eight per cent., or $24,000.

Now the bank finally failed. The University funds were lost in the failure of that bank. A number of years elapsed, and they had what they were pleased to call a settlement with the University. In the acts of 1843, I believe it is, that settlement went into an act of the Legislature and the Legislature enacted that the State owed the University $250,000, and agreed to pay the University six per cent. interest on $250,000. This trustee, which had sold the lands of the University of $17 per acre, aggregating more than $700,000; this trustee which by its own act had wiped out the debts of the people of this State to the University of more than one-half or at least $150,000; this Legislature said to the Board of Trustees of the University, by its act, you must accept this or nothing, and yet men stand here and talk about a settlement that you would make with a highwayman who at the point of a pistol had demanded your goods and your money. It was denounced at the time by that splendid man and patriot Isham W. Garrott, who gave up his life for the State in the great war for Southern independence, as the boldest and most unheard of robbery that had ever occurred. Was it a settlement? Let us see what subsequent legislation has done. In 1859 or 60 another act was passed. There was still a controversy between the State and its University. The University still contended that the State owed it money, and in 1859 or 1860 (and I have the acts here) another act was passed in which the State of Alabama by the solemn enactment of its Legislature decreed that it owed the University $300,000 and would pay eight per cent. per annum on that amount so long as the military discipline was maintained there. If the settlement of 1843 was fair, why did the State in 1859 raise its debt from $250,000 to $300,000?

Let us go further. In 1896, a lot of gentlemen interested in the University came to the Legislature. They came with the appeal of the alumni of that institution, which was proposed by that old Roman, James H. Fitts, and asked the Legislature of Alabama to right the wrongs of her great institution. Mr. Fitts, in that appeal, demonstrated the fact that the State of Alabama in all justice and all equity and all right, owed the University more than $2,000,000. A bill was passed by the House of Representatives, by a vote of 50 to 31, which acknowledged that debt and agreed to

pay the University three per cent. upon that amount. That bill was killed in the Legislature by executive interference, and the miserable pittance of ten thousand dollars a year was put in the appropriation bill by reason of the defeat of that measure. Then a commission was appointed. The legislature, the agent of the State, which had made two settlements already with the University, and which, by their own action, they acknowledged to be wrong, appointed a commission to investigate affairs. That commission met. A majority and a minority report were made from it. I do not question the integrity or the purpose of the gentlemen who composed the majority of that commission. They believed they were right, but they acted upon the principle that the State of Alabama was not the trustee of this fund, but that the University was one arm of the government of the State, and that any losses that might have come by reason of the funds being deposited in the State treasury, could not be charged against the State, because she was not a trustee. And upon the theory that the University was an arm of the State government, the majority of that commission decided that no debt was due. Call an institution an arm of the State government when for seventy years the State government has crippled and injured and impaired the usefulness of that arm by strapping it down and holding it fast by meagre appropriations? But the majority of that Committee, a man who stands as high as any man that ever lived in Alabama, Dr. Eugene A. Smith of the University of Alabama, reported and demonstrated by his figures, that, taking the report of the majority of this commission as true, and upon their own figures, the State of Alabama then was indebted to the University in the sum of more than eight hundred thousand dollars. Those reports went to the legislature; they were printed and laid upon the desk of every member and were referred to the Committee on Education of the Senate and House, and those Committees reported to the Senate and House as follows:

"Your Committee on Education to which was referred the majority and minority reports of the Commissioners appointed in pursuance to the joint resolution of the two houses of the General Assembly approved Feb. 18th, 1897, beg to

"Report that they have had the same under consideration in connection with the reply to the majority report, which was filed with the Committee by the Executive Committee on the Board of Trustees of the University and representatives of the Society of the Alumni, which accompanies the report. And your Committee further

"Report, that, owing to other duties, it has not had time to investigate the matters of law and facts contained in said reports and reply sufficiently to come to any conclusion that is satisfactory to your Committee.

"Your Committee (the Committee on Education of the Senate concurring) recommend that the said majority and minority reports and reply, be spread upon the journal of the house for the information and consideration of any future legislature."

So that legislature, following what had been done, admitted that the question of the indebtedness of the State to the University was still an open question. The friends of the University contend that the State owes that vast amount of money, but we do not ask you, gentlemen of this Convention, to acknowledge that debt. We ask you simply to put us in a position where we will be removed from politics; where we will not have to come every two or four years to the legislature and beg for ten thousand dollars to prevent three chairs of the University from being overturned and destroyed. I know men have said that the University is nothing more than a high school. It is no more a high school now than it was in the past. You must judge an institution by its results. Look at the men who have come from it; Clement C. Clay and Jerry Clemens, and Governor Roberts of Texas, and Herbert, of the present day. Look upon the floor of this Convention, and leaving myself out of the calculation, there sit upon the floor of this Convention thirty graduates of the University of Alabama, and I say to you, without fear of contradiction, that in all the elements that go to make up a perfect manhood, they measure man for man with any thirty delegates upon this floor. In all the walks of life, in Congress, at the bar, in the pulpit, in commercial and business and agricultural life, the sons of the University are the prominent men of their section and their counties. An institution that has done so much good work will do good work in the future.

Now, it has been said that it is under the influence of politics. It has become a catch phrase in the politics of Alabama to say that the University is controlled by politics. When has it been so controlled? Was it controlled by politics when the distinguished gentleman from Wilcox was elected President of it, because of the high character that he had maintained in the State? Was it controlled by politics when James K. Powers, who had all his life been devoted to normal education, was elected? Was it controlled by politics when that grand old man, William S. Wyman, was selected for its President in June?

So far as I am concerned, I want to say that I have been on the Board of Trustees of the University since 1897, and, so help me God, if I ever cast a vote there that was controlled by political influence, I did it without my knowledge and without my consent, and I want to say in addition to that, that, of the member of that Board, as I have seen them and as I have known them, every vote that they have taken have been for the best interest of the University as they saw it and without regard to politics or to the preferences or choice of any man on earth.

Now, I say, Mr. President, that this University ought to be put beyond the pale of politics. On yesterday you did something which removes the possibility of politics in one direction, because you adopted a proposition which prevents even a lobby upon the question of who shall be its trustee. Put it in that position where it does not have to come here every four years and beg for money, and you still further remove it from politics. Why, take the thing as it stands today: You have provided for quadrennial sessions of the legislature; therefore an appropriation bill covering the $10,000 that is due and ought to come to the University, must have in it $40,000 for the State University. Take a demagogue upon the floor of the House of Representatives, and let him get up here and talk about the barefoot boys and all that sort of stuff, and question the Legislature and say, are you going to give $40,000 to educate the sons of rich men? and the $40,000 appropriation falls to the ground and the University is crippled and destroyed. Now, what I ask of this Convention is to put the University upon such a plane that she will not have to come here year after year and beg for that which belongs to her of right.

I have recently received a letter from Dr. Wyman, the President of the University, in which he reviews the income of the different colleges which are dependent upon land grants by Congress, and he states in that letter, and the figures show it, and I ask leave to have it read and printed as a part of my remarks, that the State of Alabama stands at the very foot, or almost at the very foot, of the list in reference to her great institution of learning. Now, Mr. President, that ought not to be so. I have not voted against any appropriation for the common schools. If I know my own heart, I would be willing to grant millions to the common schools, if we had it to grant.

I don't believe that this State ought to take one backward step in its appropriation for the benefit of its Confederate soldiers. They ought to be maintained in comfort, aye, in luxury, until they join the grand army up yonder where Lee is now in command.

But I appeal to this Convention to look to higher things. You need a capstone to your educational system; you need a great institution where men can go and qualify themselves to occupy any position in the world. Great educators have said to me in the recent past that there is one need of the South; that need is a great Central University, like Harvard and Yale and Princeton and the University of Chicago. They have said to me, in addition to that, that the University of Alabama is the ideal place for the founding of such an institution but can you hope to found it; can you hope to lay even the bed rock of such an institution when, year after year, and day after day, the University is put to the necessity of coming to the Legislature and begging for the very staff of life? You cannot do it. The University is and should be

the great central sun around which revolve the educational and intellectual life of the State, and I appeal to this Convention, not simply because I am a Trustee of that institution, but because I am an alumnus of it. The best influences that have ever come in my life, save those that came from my home, are those which came to me from her classic halls. I have done all that I could in the years that are gone for her prosperity and her advancement and her power, and I propose to do all that I can in the future years that are left to me to make her an institution that shall reflect credit upon the State of my birth and of my love. I ask this Convention for this small pittance. It does not amount to much. It will not take a dollar from the common schools. It won't take a cent from the Confederate veterans. It won't account to a row of pins in the payment of the State's debt, but it makes the University safe and sound, and if you do it, gentlemen of the Convention; if you put her upon high ground, where politics can not enter, and where the sole purpose will be her advancement and her progress, she will rally to her aid her sons from the Tennessee Valley and the Gulf, and they will do the rest.

I ask the reading clerk to read this letter from Dr. Wyman already referred to in my remarks.

Mr. Wilson (Clarke) took the chair.

The letter was read as follows:

University, Ala., Aug. 12, 1901.

Hon. Tennent Lomax, Montgomery, Ala.:

Dear Mr. Lomax—I send you enclosed some statistics compiled from the "World Almanac" for 1901, showing (1) the amount of productive funds of all the land grant colleges in the United States (that is, endowment from sale of lands granted by Congress); (2) the amount of annual income of the same from all sources, including interest on endowment, appropriations by the Legislatures and by Congress, special taxes, tuition fees, etc. In many of the Western States, there is a special tax levied on all personal and real property for the benefit of the State University. The very large income of the Universities of the following States, viz.: Missouri, Iowa, Wisconsin, Kansas, Nebraska, and some others is derived from a very small special tax levied on all the real and personal property in the State for the benefit of the State University. In some there are perhaps regular appropriations by the Legislature also.

I send you these statistics, not with the hope or expectation that any taxation of this sort can be incorporated in our new Constitution, but only to show what royal benefactions these Universities receive from the people through their Legislature, by comparing them with the small sum that you are asking for from

the people for the University of Alabama; also to show, by comparison, what a small annual income we have.

In point of fact so far as State liberality is concerned, we are at the foot of the list. We receive from the State only $24,000 interest on the endowment, and appropriation by the Legislature of $10,000; total, $34,000. Or, if you count our total income, including royalty on our coal lands, tuition and incidentals, we are still near the foot of the list. Idaho, $46,000; Mississippi, $42,696; Oregon, $42,000; Montana (lands unsold), $22,790; South Dakota, $45,000, are the only Universities that receive less, all told, than we get.

Large sums received by many of the universities and colleges are derived from the proceeds of the sales of the public lands given by Congress to the so-called land grand agricultural colleges. This accounts for the large incomes of the agricultural colleges of Alabama and Mississippi—$67,000 and $66,000, by comparison with the income of the State Universities of these two States.

In many States the State University embraces the Agricultural College and gets the benefit of all these funds.

Yours truly,

(Signed) W. S. Wyman.

LAND GRANT UNIVERSITIES AND COLLEGES.

NAME.	STATE.	Productive Fund.	Total annual income, endowment and appropriation and State and National taxation, tuition, fees, etc.
*Clemson College	South Carolina	$ 80,000	$ 87,000
*Cornell University	New York	6,756,370	810,562
Indiana University	Indiana	600,000	137,797
Iowa State University	Iowa	682,333	107,063
*Louisiana State University	Louisiana		47,333
Massachusetts Agricultural College	Massachusetts	360,575	49,157
*Alabama Polytechnic Institute	Alabama	250,000	67,245
*Michigan Agricultural College	Michigan	694,000	180,000
*Mississippi Agricultural College	Mississippi	98,575	66,115
Ohio State University	Ohio	553,893	268,000
*Pennsylvania State College	Pennsylvania	517,000	118,626
State University of Iowa	Iowa	235,000	256,684
University of Alabama	Alabama	300,000	47,425
University of Arizona	Arizona		50,000
*University of Arkansas	Arkansas	135,000	68,703
University of California	California	2,823,254	475,254

*University of Colorado	Colorado	.....	80,000
University of Idaho	Idaho	7,500,000	46,000
University of Illinois	Illinois	501,902	483,148
University of North Dakota	North Dakota	.....	51,139
University of South Dakota	South Dakota	.....	45,000
*University of Tennessee	Tennessee	425,000	83,859
University of Texas	Texas	.....	169,145
University of Utah	Utah	185,000	53,000
*University of Vermont	Vermont	317,682	75,243
State University of Washington	Washington	||	55,000
University of Wisconsin	Wisconsin	500,000	400,874
University of Wyoming	Wyoming	.....	50,000
University of Kansas	Kansas	142,000	160,000
University of Maine	Maine	1,044,901	103,681
University of Michigan	Michigan	830,000	555,623
University of Minnesota	Minnesota	1,307,219	428,678
University of Mississippi	Mississippi	540,000	42,696
University of Missouri	Missouri	1,185,000	230,000
University of Montana	Montana	**	22,790
University of Nebraska	Nebraska	175,000	248,000
University of Oregon	Oregon	185,000	41,320

MR. SANFORD (Montgomery)—The amendment which I hold in my hand has been accepted by my colleague from Montgomery.

The amendment was read as follows:

"Amend by striking out the words 'the Trustees of the University,' and insert in lieu thereof the words, 'the Legislature shall have the power.'"

MR. LOMAX—With the consent of the Convention I will accept that amendment.

MR. COFER—I desire to offer an amendment.

THE PRESIDENT—An amendment is not in order at this time.

MR. HEFLIN—I desire to have the amendment offered by the gentleman from Montgomery.

THE PRESIDENT PRO TEM.—The gentleman is not in order at this time.

All those marked thus * received the moneys derived from the proceeds of the sale of public lands according to the Acts of Congress. Probably those also that I have not marked, because I am not sure.

- 2,000,000 acres in land and $579,000 in bonds.

|| Lands unsold.

**Seventy-two sections of land not yet sold.

MR. LOWE (Jefferson) — I will state in reference to the amendment. The amendment simply strikes out the word "Trustees" where it applies to the abolishment of the military, and leaves it to the Legislature to abolish the military. It takes away from the Trustees the power to abolish the military and leaves that power with the Legislature.

MR. LOMAX—I rise to move the previous question on the adoption of the amendment of the Section.

THE PRESIDENT PRO TEM.—The gentleman from Montgomery (Mr. Lomax) asks unanimous consent to accept the amendment proposed by the gentleman from Montgomery, (Mr. Sanford.)

MR. LONG (Walker)—I object.

MR. COFER—I rise to a point of order. This is introduced as an original Section to the Article. I received recognition from the Chair for the purpose of introducing an amendment——

THE PRESIDENT PRO TEM.—The gentleman is in error. The Chair recognized the gentleman from Talladega, and the question was on unanimous consent.

The question is on the amendment.

The gentleman from Talladega has the floor.

MR. OATES—I rise for the purpose of speaking to this matter. Some of the delegates here know something about it besides my colleague from Montgomery, and I would like to be heard on it.

THE PRESIDENT PRO TEM.—The gentleman is not in order for that purpose at this time.

MR. GRAHAM (Talladega)—I yield to the gentleman at his urgent request. I am anxious I say, though, to get through, and I hope there will be no more extensions of time of any speaker in this matter.

MR. OATES—It is impossible, Mr. President and delegates of the Convention, to discuss this matter as I believe it ought to be, in ten minutes time. It is therefore with great reluctance that I enter upon it. There is much more in it than has been brought out by my colleague, who is one of the Trustees.

MR. KYLE—I move that the gentleman be allowed twenty minutes.

The time was extended ten minutes.

MR. OATES—Mr. President, I do not wish to bore any man or delegate by anything that I will say, and I am not chargeable,

I believe, with useless consumption of time, with what I may undertake to utter. It is quite true, sir, that the endowment of the University by the lands of the United States is very great. It is quite true that those lands were disposed of, and that the endowment treated as endowments of other institutions of the State, with perfect recklessness. But there was a settlement made several years ago by the authorities of the University of the State of Alabama by which they agreed to consider $300,000 the debt from the State, and the appropriation on that sum of 8 per cent, $24,000, I think is the way they got that amount.

MR. FITTS—Will you permit an inquiry?

MR. OATES—I have not much time. What is it? Let me hear it?

MR. FITTS—You do not mean to say that the University ever recognized that as the true amount of indebtedness due to it, do you?

MR. OATES—I was informed by the representative of that institution that they agreed on that.

MR. FITTS—You were misinformed.

MR. OATES—I did not say that they stood on that. They have been working on it ever since.

MR. FITTS—They never did accept the $300,000 as any true settlement.

MR. OATES—Those who represented it, I was informed, did agree to it. If you will let me alone I will go on. I thought myself when I was informed of it that it was too small a sum, and that the State ought to have acknowledged a greater one. Now it is in keeping as said with the other actions of the State. You take the 50,000 acres of land script that were given to found the Agricultural and Mechanical College. It was a live question when I was a member of the House of Representatives in 1870 and 1871, as to what we would do with that, and it was practicable at that time to have located that script on the rich lands of Nebraska, but they declined to do it, and it was sold at $1.25 an acre, and covered into the Treasury and used for State purposes, and consequently the State owes that amount of money. That is the measure of the appropriation on the part of the Legislature for the support of the Auburn College.

MR. LOMAX—Is it not a fact that the State of Alabama pays to the Agricultural and Mechanical College 8 per cent. on every dollar that was received from the sale of the lands of the Agricultural and Mechanical College?

MR. OATES—No lands were sold—they sold the script at $1.25 an acre.

MR. LOMAX—Does not Auburn get $60,000 from various resources.

MR. OATES—Now, sir, while I never did believe that that was as large a sum as the State of Alabama ought to have acknowledged itself owing to the University, yet I stated that I understood that. It went on until in the winter of 1896 and 1897 about the time I went out of the Executive Office. I remember the agitation, which finally culminated in the acknowledgment of a much larger sum, my colleague states about $2,000,000, and I am informed that measure was vetoed by the then Governor Johnston.

MR. LOMAX—It was not vetoed by the Governor. It did not pass——

MR. OATES—Well, I do not know. I may have been incorrectly informed, but they passed a measure appropriating $10,000 a year to aid the University, and that has gone along ever since. Now, sir, this proposition of my colleague is to put it $36,000 a year. Now, sir, is it right and fair to appropriate out of the Treasury $36,000 a year to the University. Let's look a minute and see. The University was endowed as my colleague stated, but during the war, and at the time when the Federal troops came there some of the boys in the University, gallant young fellows, went out to meet them, and shot some of them, and they came in and took possession of the building and burned a good many of them, and occupied the others for a considerable time. In order to make that loss good our senior Senator, the able Morgan, conceived the idea of originating a bill, and passed it through the Senate, to give the University 46,080 acres of the mineral lands of the State of Alabama. It came to the House and I got it referred to the Judiciary Committee, of which I was a member. I engineered it through and it was passed through the House of Representatives on my statement out of its order. Now sir, of those lands remained a considerable number of acres not sold. They have not been utilized in that way. If the sale that was made by Governor Johnston would stand it would leave the University with 30,000 acres of rich mineral lands still. That was over 4,000 acres. There is an attempt made, and I do not know anything about the negotiations, to return that land and to repay the money which would make nearly thirty-five thousand acres of mineral lands the State owns today. Now without attempting to go into that transaction at all, because it will take considerable time to do it, and I do not know that it is material to consider it here, yet the sale of that land, there was evidence to show that (whether there was fraud or not I do no undertake to say) there is plenty

of evidence extant, to show that the sale of that land at $12.50 an acre was the market price. No lands could be sold, and Eugene Smith and his assistant in geology afterwards examined and so certified. Now, sir, $56,000 was paid into the treasury on that purchase and that money has been lying there all the time, that tax-payers have been paying $10,000 a year to run the University. No man is a greater friend of the University than I am, although I never had the benefit of a college education, I delved by night and worked as a hireling and got all the education that I possess, which is limited, I am sorry to say, but I know a good thing when I see it. The University has a future, which it is not yet on the road to reach at all. It has a splendid location, a good climate, a beautiful situation, and it ought to rise to an equal footing with the very best universities in the United States, and the road is open to it, if it will only pursue it. In the first place they ought to abolish the military system. There never was a genuine University that had it. That does for a second class college, and people send their boys there to have them disciplined, and to keep them out of mischief. Instead of doing this, there should be sent young men who are better qualified than those received now, elevate the standard of qualification, and put them on their honor, and there is no reason why, properly endowed and properly conducted, the University of Alabama cannot equal Yale or Harvard before many years roll by. That is one step in the right direction, to abolish the military system and to elevate the qualifications of the young men who are matriculated there. Then to move on, money is necessary. Now you are going to adopt this measure, and drag out of the people more than ten thousand dollars a year than now.

MR. LOMAX—Not ten thousand—two thousand.

MR. OATES—Thirty-six thousand dollars is two thousand dollars a year more than the State is now giving them. Are you going to do that, with the facilities it has for giving money? Would any man acquainted with finances make this proposition. This Convention could pass an ordinance providing for the issuance of bonds for a million dollars of bonds, and with the security of all that land, that mineral land to back them, and get the friendship of men in financial circles to float them at 4 per cent and you can get all the money you want to elevate that University up and put it on a higher plane, and you will go along without any drain on the treasury, and taxes of the people. It seems to me that the road is plain, and easy to it. I desire to say it, why gentlemen, we want a University equal to any State in the Union. Why not have it, with all of that rich mineral wealth belonging to the State for the benefit of the University. With this splendid location, with an excellent climate, why not utilize what is in our grasp? We can provide, or ask the legislature to provide for the issuance of any quantity of bonds that may be sold at a low

rate of interest. Some of the lands have been leased and others can be leased, and have a sufficient income to pay the interest on the bonds. Let them run for fifty years, and I tell you fifty years hence the young men coming on and seeing that institution will bless the men of this age, the Convention, if it takes such action and the trustees of the University, and all connected with it, for establishing such an institution of learning as that, and instead of going away to the North to institutions there in which to seek a diploma, we will soon have men from those cold regions up there seeking the University of Alabama, in which a certificate of graduation will be as great an honor as it is in one of the old institutions of the North. There is nothing to prevent it. If we go to work right. I do not think this ought to become a part of the Constitution. I think that my friend in his enthusiasm or the University is making a wrong step. I wish he had prepared an ordinance and presented it here for authorizing the trustees to issue bonds for and in behalf of the University secured by the mineral lands. I would take great pleasure in aiding him to pass that, because it would have the force of law by a body here that makes all departments of the government and I believe that it would redound to the benefit of that institution, and make it one of the greatest, the greatest in the South. It would reach a greatness and elevation that it could never reach in any other way. You continue to draft on the treasury for little appropriations, and while he says that is not much—it is not in a certain sense—but why do it when it is wholly unnecessary. My opinion was that they had better take the $56,000 lying up there, because thirty thousand acres of land is still left. It seems they are trying to do that and hold onto the lands. Is that good policy. I think it against the interest of the tax-payers, against the interests of the people, and against the interest of the University, and the other course in my mind is better and by it we will build up an institution that our people will be proud of, and all those who succeed us for one hundred years, and as long as time endures, will grow prouder and prouder.

MR. FITTS—Mr. President and gentlemen of the Convention, the distinguished gentleman who has taken his seat, I have no doubt, is deeply interested in the University of Alabama, and in the future usefulness of that institution, but this is a business matter that is before you, and in the ten minutes that is alloted me, I shall not go off on side issues about whether or not that $56,000 sale was good or bad. I probably know more about whether it was a good or bad sale than any living man, for I was at that time commissioner of endowment. I shall not discuss whether or not this great University should be made a bond-ridden institution as he would have you believe. I shall not discuss matters that are not before the Convention. Those propositions are not

before the Convention. That $56,000 sale is over. The land is gone, the money is left; I hope it will be well spent, and that the interest on it will do good. On the other hand the proposition will never be seriously entertained in this State of making the University of Alabama a bond-ridden corporation to be weighted down with debt probably pass into the hands of a receiver, and that its lands and income held in constant jeopardy, and under the acts of the court. But the question before you is a simple one if you have time to go into it. There is no candid man. I make the statement without fear of any contradiction, there is no honest man, who can add up figures and subtract them, who can take the history of the University of Alabama, and the history of its dealings with the State bank, and fail to be convinced that the State of Alabama is justly indebted to the University of Alabama in at least the sum of $900,000. I do not care to discuss at any length the various attempts by which the State of Alabama when conscience-stricken, has endeavored to make a settlement with her child, an institution of learning, but I do say that the Board of Trustees of the University of Alabama, and the friends of the University have never accepted any one of the acts which have been passed as any final settlement of the indebtedness of this State to the University. This State saw fit to pass an act saying that she fixed that indebtedness arbitrarily at $250,000. The University did not accept that, but she kept on knocking at the doors here until this legislature said that it fixed it at $300,000 and the University did not accept that, but she continued to agitate her right and justice in the matter until it was raised to $300,000 and the act of 1896 was passed here and she continued to agitate it, and the House of Representatives here solemnly by a vote of more than fifty to thirty, passed an act showing that the indebtedness was fixed at two million dollars, and gentlemen, that was about true. These figures can be viewed by different men of different ideas, and you can arrange this indebtedness anywhere from $900,000 to $2,000,000, and that act, which was passed, fixing it at $2,000,000, was interfered with, compromised and adjusted, by which the income of the University was increased $10,000, so as to make it $34,000; but the friends of the University and Trustees never agreed to stop the agitation, and until right and justice is given, the agitation will go on until the crack of doom. In regard to the money that was taken out of the hands of the trustees for the purpose of organizing a bank. The money of the University conducted the government of this State for eleven years, and the people went Scott free of all taxation during that time.

MR. OATES—I would like to ask the gentleman a question. Don't you think that this Convention ought to settle permanently the amount due?

MR. FITTS—I do, and I say you have put the income of the public schools permanently on a solid basis, to grow with the

State, so that the public schools will not have to come here and log-roll with every Legislature, and we ask you, on behalf of the University to fix the annual income at the sum of $36,000, so that we, and that great institution, the child of the State, will not have to come to every Legislature and ask for its rights; and we say to you, if you will fix the annual income at the pitiful sum of $36,000, which will be less than 2 per cent annually, that you justly owe her, that would, with what Congress has done for her, and what her sons, by a voluntary contribution, are doing for her, more than sustain her, and she will be able to go on and accomplish the great object for which she was erected, and be able to fulfill the mission of instruction and education which is her just course and career, shedding, as she will, beautiful results and multiplied returns, for anything and everything that you can or will do for her; but I say, that after you have done this, you will only have done what an honest man should have done towards a fund that he appropriated. The fact does remain that the State took all her money because she had it in her hands, and erected a bank with it, went into a business venture with it, lost all of it, and then turned around and said we will settle with you at our terms. Honorable men have looked at the history of this transaction from every standpoint, and these men have all arrived at the conclusion that this debt is anywhere from $2,000,000 down to $900,000. The man who rejected the debt and failed to fix the income and interest upon it did so upon the technical ground that the University was part of the State, and, therefore, the State had appropriated only what was its own. In view of the history of the debt, in view of the simple justice of the transaction, and, as the simple request that it be put upon a permanent basis, so as to be out of politics, I move for the previous question upon the amendment offered by the gentleman from Montgomery.

The President resumed the chair.

MR. LONG (Walker)—I hope the gentleman will withdraw that a moment. I ask the members on this floor to vote that down. It is unjust and unfair.

MR. COFER—I call for the ayes and noes.

The call was not sustained.

Upon a vote being taken, a division was called for.

By a vote of 48 ayes and 35 noes, the previous question was ordered.

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Montgomery (Mr. Sanford) to the amendment offered by the gentleman from Montgomery (Mr. Lomax).

MR. LONG (Walker)—I ask for the reading of the amendment.

The Secretary again read the amendment.

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

MR. LONG (Walker)—I call for the ayes and noes on that proposition, that increases by $12,000——

THE PRESIDENT—The gentleman is out of order; the previous question has been ordered.

MR. LONG—I demand the ayes and noes.

The call was not sustained.

Upon a vote being taken, the amendment to the amendment was adopted.

THE PRESIDENT—The question is on the adoption of the amendment as amended.

MR. WILLIAMS (Elmore)—I call for the ayes and noes.

The call was not sustained.

Upon a vote being taken, a division was called for.

MR. LONG (Walker)—I make the point of order that there is no quorum voting.

MR. LOMAX—The Chair can count a quorum.

MR. LONG—I rise to another point of order.

THE PRESIDENT—Seventy——

MR. LONG (Walker)—Before announcing the result, I rise to a point of order, and respectfully ask the attention of the chair. If this is to provide for an appropriation of $12,000, it requires an aye and no vote.

MR. LOMAX—I desire to say it does not increase the annual appropriation to the University $12,000, but $2,000. I am perfectly willing to have an aye and no vote.

MR. REESE—I make a point of order. This is an amendment to an Article which, when put on its final passage, will have to be an aye and no vote.

MR. LOMAX—I demand an aye and no vote.

MR. LOMAX—I withdraw the demand, with the consent of the Convention.

By a vote of 62 ayes and 15 noes, the amendment was declared adopted.

MR. LONG (Walker)—I make the point of no quorum.

THE PRESIDENT — The Chair is present. That makes seventy-eight, which would show a quorum.

MR. LONG—The Chair has not voted.

THE PRESIDENT—The Chair is present, though. (Applause.)

MR. LOMAX—I do not care to have any question about this matter, and, for that reason, I ask for an aye and no vote.

The call was sustained.

MR. LONG—I rise to a question of personal privilege. As one of the one hundred and fifty-five delegates that represent the State of Alabama, as the representative from the Fifth Congressional District, I ask that my protest be filed there, on record, against the previous question that has been ordered by the gentleman from Tuscaloosa, in favor of the $12,000 increase in the annual appropriation to the State University.

THE PRESIDENT—The question will be upon the adoption of the amendment as amended.

Upon a call of the roll, the vote resulted as follows:

AYES

Messrs. President,
Almon,
Barefield,
Beddow,
Blackwell,
Boone,
Brooks,
Burnett,
Burns,
Coleman, of Greene,
Cunningham,
Davis, of Etowah,
Eley,
Eyster,
Ferguson,
Fitts,
Fletcher,
Foster,
Glover,
Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hodges,
Hood,
Howell,
Jenkins,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Knight,
Lomax,
Lowe, of Jefferson,
Lowe, of Lawrence,
Macdonald,
McMillan, of Baldwin,
Malone,
Maxwell,
Merrill,
Miller (Wilcox),
Murphree,
NeSmith,
Norman,
Norwood,
O'Neal (Lauderdale),
O'Neill, of Jefferson,
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pettus,
Pillans,
Pitts,
Reese,
Rogers (Lowndes),
Samford,
Sanders,

Sanford,
Searcy,
Selheimer,
Smith (Mobile),
Spragins,
Stewart,
Stoddard,
Thompson,
Waddell,
Watts,
Weakley,
White,
Williams (Elmore),
Wilson (Clarke),

TOTAL—77

NOES

Altman,
Bartlett,
Bethune,
Byars,
Chapman,
Cobb,
Cofer,
Dent,
Haley,
Harrison,
Howze,
Inge,
Jones, of Bibb,
Kyle,
Locklin,
Long, of Walker,
Moody,
Oates,
Phillips,
Smith, Mac. A.,
Spears,
Walker,
Whiteside,
Williams (Barbour),
Wilson (Washington).

TOTAL—25

ABSENT OR NOT VOTING

Ashcraft,
Banks,
Beavers,
Browne,
Bulger,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Case,
Coleman, of Walker,
Cornwall,
Craig,
Davis, of DeKalb,
deGraffenreid,
Duke,
Espy,
Foshee,
Freeman,
Gilmore,
Graham, of Talladega,
Hinson,
Jackson,
Jones, of Hale,
King,
Kirkland,
Ledbetter,
Leigh,
Long, of Butler,
Martin,
McMillan (Wilcox),
Miller (Marengo),
Morrisette,
Mulkey,
Pearce,
Porter,
Proctor,
Renfro,
Reynolds (Chilton),
Reynolds, of Henry,
Robinson,
Rogers (Sumter),
Sentell,
Sloan,
Smith, Morgan M.,
Sollie,
Sorrell,
Tayloe,
Vaughan,
Weatherly,
Willet,
Williams (Marengo),
Winn.

And the section as amended was adopted.

Mr. Cofer, I have an amendment.

The amendment was read as follows, Section ——. Be it further enacted that all appropriations made by the State to the University shall be credited in favor of the State upon the indebtedness of the State as heretofore fixed and ascertained by an act of the General Assembly of Alabama, and the interest now paid by the State upon said indebtedness shall be reduced in proportion to the amount paid upon said indebtedness.

MR. COFER—I regret to come in contact with the very distinguished gentlemen who are referred to here as being the offspring of the University of Alabama, and possibly I regret more to come in contact with the vote of the Convention just passed adopting this appropriation, but it strikes me, Mr. President, when we take into consideration the number of students that attended the University of Alabama last year and the amount of direct appropriations made by the State of Alabama that you will come to the conclusion that it is not because it is such a small and insignificant sum that they do not desire to have attention called to it at each meeting of the Legislature. There were at the University last year two hundred and fifty students and there was a direct appropriation——

MR. LOWE (Jefferson)—Mr. President, I rise to a point of order.

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

MR. LOWE (Jefferson)—I think the gentleman's amendment and speech is directed to overthrowing what the Convention has just done.

THE PRESIDENT—The amendment may be somewhat inconsistent with the section just adopted, but the rule is, as the Chair understands it, that these matters are to be submitted to the Convention, and the Chair would not rule out an amendment merely because ..... already adopted. It is a matter for the Convention to decide whether they will accept or reject the amendment that is ordered. The Convention will proceed.

MR. COFER—The suggestion I desire to make is, that if this amount is to be appropriated and paid to the University, it ought to be credited upon the indebtedness of the State to the University. There ought to be some time in the history of the State when the State could pay that indebtedness.

MR. FITTS—Will the gentleman permit a question——

MR. COFER—No, sir, the gentleman moved the previous question and refused to withdraw it, and I decline to yield.

MR. LONG (Walker)—Will the gentleman from Cullman answer one question?

MR. COFER—Yes, sir.

MR. LONG (Walker)—Did not the representatives of the University agree on a three hundred thousand dollar basis, and eight per cent., or twenty-four thousand dollars per annum, and did not they agree to that and has not it been agreed on as an hon-

est and satisfactory settlement of the indebtedness of the State of Alabama of the debt due by the State to the University?

MR. FITTS—No, they did not.

MR. LONG (Walker)—Yes, they did.

MR. COFER—They did, Mr. President, and upon that agreement made by the State they have drawn out the immense sum of a million and eight thousand dollars in interest upon this agreed indebtedness. I heard four years ago the distinguished gentleman from Tuscaloosa (Mr. Fitts) in the Legislature——

MR. LONG (Walker)—Is it not a fact that there are many men who were rich before the war, who lost their slaves and property and never got any pay for them, and is it not a fact that the State University for all of the funds that it surrendered to the State of Alabama agreed to an honest compromise after the war, upon a basis of three hundred thousand dollars, upon which was to be paid eight per cent.——

MR. COFER—That is my understanding of the history of the affair. I know I was a member of the Legislature in 1896 when Mr. Fitts attempted to force this indebtedness up to two millions of dollars. It was then resisted and a commission was formed, and as has been stated a majority of that commission reported that the State was not indebted to the University a single cent over and above the amount that they acknowledged.

But, Mr. President, to go back to this "small" amount of direct appropriation that they state they have to come here and receive year by year, and compare it with the number of students at that school, and then compare with the appropriation made for common schools and the number of children in Alabama, and you will find that there is a wide difference. There was appropriated, on the basis of two hundred and fifty students attending that school, each year since 1896, my recollection is, the first year, twenty thousand dollars, and since that time it has been ten thousand dollars, there was appropriated forty dollars to each student attending the school. Take that in connection with the twenty-four thousand dollars appropriated, and it makes the immense sum of one hundred and forty-four dollars a year for each student attending that school. You come here and talk about its being so poor that three chairs in the University must not be filled if you cut down this appropriation, when in fact it is the richest concern in the State of Alabama. They have got lands so valuable that they will not sell them, and yet you are talking about putting a fixed appropriation in the fundamental law of Alabama, a gratuitous donation of thousands of dollars, without the State having an opportunity to receive any benefit from it in liquidation of the debt, because they say they are poverty stricken and the University must go down unless these appropriations are made.

MR. CUNNINGHAM (Jefferson)—Does the gentleman from Cullman believe in a higher education for the poor boys of the State?

MR. COFER—No, sir. I believe in giving the poor boys of the State an opportunity to go to the common schools of the State and obtain a good education and a poor boy that is worth anything with such an education will make a man of himself without going to the University of Alabama.

MR. REESE—I rise to a point of order. The gentleman is making the children cry in the gallery. (Laughter.)

MR. LONG (Walker)—I ask the gentleman to yield a minute. My object in that is this, have not more people in Alabama children to send to the village and country schools than there are to send their children to the State University to wear brass buttons, the only brass buttons we have seen in this country since the Yankees were here.

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

MR. GRAHAM (Talladega) — I am very anxious to finish this article tonight and therefore I move to lay the amendment upon the table.

MR. LONG (Walker)—And on that I call for the ayes and noes.

The call was not sustained, and upon a vote being taken the amendment was tabled.

MR. WHITE—I have an amendment. It is a separate section I wish to offer.

The amendment was read as follows: "Amend by adding Section 15. All funds derived from licensing the sale vinous, spirituous or malt liquor shall be applied exclusively to the support of the public schools in the counties wherein the same are collected.

MR. WHITE—Now if it is right that one county should appropriate the funds arising from the licensing of the sale of vinous, spirituous and malt liquor, it is right in my judgment that every county should have the same privilege. I want to pay to the different counties, and my amendment appropriates to the several counties the moneys received in those counties from licensing the sale of vinous, spirituous and malt liquors. Now, if it is right for Mobile to retain this fund, then it is right that the other counties should do so. By this amendment I wish to put all the counties in Alabama upon terms of equality. I do not wish to discuss the question any further.

MR. GRAHAM (Talladega)—I move the previous question upon the amendment and on the article.

Upon a vote being taken the main question was ordered.

MR. LONG (Walker)—I move to lay the amendment of the gentleman from Jefferson on the table.

MR. BEDDOW—I call for the ayes and noes.

The call was not sustained, and upon a vote being taken the amendment was tabled.

MR. GRAHAM (Talladega)—I now move the adoption of the Article—that the Article be ordered to a third reading and engrossment.

MR. SAMFORD (Pike)—I have an amendment.

THE PRESIDENT—The Chair does not understand that the previous question has been ordered upon the Article.

MR. GRAHAM (Talladega)—The previous question was ordered on the amendment of the gentleman from Jefferson and the Article.

THE PRESIDENT—The Journal does not show it.

MR. GRAHAM (Talladega)—I certainly made the motion. I moved the previous question on the Article and on the amendment.

MR. HARRISON—I rise to a point of order. Is it proper to adopt an Article before it is engrossed?

MR. GRAHAM (Talladega)—I am not going to make that motion.

MR. HARRISON—But you did make it.

MR. GRAHAM—I withdrew it.

THE PRESIDENT—It seems to the Chair that the previous question was only ordered on the amendment.

MR. GRAHAM (Talladega)—If I made that motion, have I not a right to know it? I certainly made the motion.

THE PRESIDENT—The Chair would rule that the Chair understood the gentleman to move the previous question upon an amendment. If the gentleman had moved the previous question upon the Article the Chair would have been compelled to have ruled it out of order, as it has not been our custom to adopt the Article as a whole.

MR. GRAHAM (Talladega)—It is not on the adoption of the Article, but on the adoption of the amendment, and on ordering the Article on a third reading and engrossment.

THE PRESIDENT—The Chair would have entertained the motion but it did not understand the motion for the previous question to be on the entire Article.

The amendment offered by Mr. Samford (Pike) is as follows:

Revenues derived from the sale of fertilizer tags, in excess of 10 cents per ton, shall be appropriated to the maintenance of the public schools in the counties in which such fertilizers are used, in proportion to the amount of fertilizer used in such counties.

MR. SAMFORD (Pike)—Mr. President, you have this afternoon provided for the maintenance of the public schools of the city of Mobile, by allowing that city to retain all license taxes which they collect for the sale of spirituous, vinous and malt liquors. You have also provided for the maintenance of the University of the State of Alabama, both of which measures I heartily approve, and I simply ask in behalf of the people who pay taxes unjustly taken from them by the laws of this State, that it be given back to them in the way of the education of their children. It is fairness that I ask for, I have no other object in view of offering this amendment. Upon other occasions I have requested this Convention to relieve the citizens of this State from what I conceive to be unjust taxation, and as they have refused to do it, I now ask that the same courtesy and the same privilege be extended to the poor children of the State, and to these people in the agricultural districts that have been extended to others. I do not desire to discuss this matter further and I therefore move the previous question upon the amendment.

MR. LONG (Walker)—I move to lay the amendment on the table.

THE PRESIDENT—The question is on the motion for the previous question.

Upon a vote being taken the main question was ordered on the amendment.

MR. LONG (Walker)—I move to lay the amendment on the table.

MR. SAMFORD (Pike)—I demand the ayes and noes.

The call was not sustained, and upon a vote being taken the motion to table prevailed.

MR. GRAHAM (Talladega)—I now move that the Article be engrossed and ordered to a third reading, and upon that I demand the previous question.

The main question was ordered, and upon a vote being taken the motion was carried.

MR. GRAHAM (Talladega)—I now move that we be adjourned.

MR. KIRK—I ask permission to offer a short resolution.

The resolution was read as follows:

Whereas, Two of our colleagues, Messrs. A. H. Carmichael and M. S. Carmichael, are under serious affliction, by the loss of their brother, therefore be it

Resolved, That the sympathy of this Convention is hereby extended to our brother delegate, and to the family of the deceased.

Be it further resolved, That a copy of these resolutions be furnished to each of these delegates and to their father, the Hon. J. M. Carmichael.

MR. KIRK—I move that the rules of the House be suspended, and that the resolution be put upon its passage.

MR. LONG (Walker)—I move that the resolution be adopted by a rising vote.

Upon a rising vote being taken the resolution was unanimously adopted.

Leaves of absence were granted to Mr. Mulkey, for this afternoon, tomorrow and Monday; Mr. Malone for tomorrow, Mr. Norwood for tomorrow.

MR. GRAHAM (Talladega)—I move that we adjourn.

Upon a vote being taken the Convention adjourned.

CORRECTION

In proceedings of seventy-second day, fourth page, sixth column, in remarks of Mr. Brooks, eighteenth line, omit word "of" before "education;" in fifty-seventh line insert word "to" before the word "him"; on 153d line strike out word "that" before word "within"; on 163d line after word "immortalized" read, "The fight of a Tartar Tribe"; on 168th line, after the word "ours," read: "No Moses will arise from among them to lead him to the promised land, this is his promised land."

SEVENTY-FOURTH DAY

MONTGOMERY, ALA.,
Saturday, August 17, 1901.

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

O, Lord, our Heavenly Father, we again thank Thee for Thy kindness to us. We thank Thee that Thou hast always watched over our every interest, and we ask Thee this morning, O Lord, for Thy presence. We pray Thy blessings upon us in the work that lies before us asking that our human weakness may be supplanted by divine wisdom and strength aiding that our own shortsightedness may be more than supplied by Thy divine and kind oversight, praying Thee, O Lord, that where we may make mistakes that Thou wouldst guard us against them, and where we may err in our judgment that God may so direct and so guide us that it may all work together for good. We feel dependent upon Thee, O Lord, we feel weak and helpless this morning, realizing that in ourselves we can do nothing, and we look unto Thee from whence cometh all of of our help, praying that help divine may be given to us, and that we may be assisted in the work we have to do today. Especially do we pray Thy blessings upon this body, asking Thee, our gracious Heavenly Father, that the health and physical welfare of Thy servants may be dear in Thy sight, praying Thy blessings upon their families and loved ones at home, praying Thee to especially bless them in the great work that has called them together, praying Thee, O Lord God Almighty, that they may be endued with wisdom from on high, so that the work they may have to do may be well done, and may serve to the advantage of the people whom they represent. May the Lord bless them in the deliberations of this day. Give Thy servant, the presiding officer, wisdom and strength. And may the Lord help each one of the delegates, and bless them, and may today's work, our Father, be such work as will be pleasing to the people, and that will redound to the glory of God and to the good of our commonwealth. We pray for the poor and distressed everywhere. Lead us by Thy spirit today and bless our people in all the walks of life. Give prosperity to the people of our beloved commonwealth. Bless all those who are in authority over us. Continue to smile upon us and bless us and prosper us, our Father, as long as we shall live, and when we die may we die in the faith of our fathers, and having served our day and generation, and sleep with the dead, grant us an abundant entrance into the home of the good, we pray, through Christ, our Lord and Redeemer. Amen.

Mr. Parker of Cullman took the Chair.

Upon a call of the roll 106 delegates responded to their names.

MR. SAMFORD (Pike)—I ask unanimous consent to make the report for the Committee on Engrossment.

The Clerk read Ordinance No. 390 as follows:

Ordinance 390.

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 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. And also to establish a court house and jail for Shelby County at some point on the Central of Georgia Railroad in Shelby county to be determined by an election by the qualified voters of that portion of Shelby county lying in precincts numbered 8, 9, 10, 11, 13, 14, 15, 16 and 18 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 upon the selection of a place within the territory embraced in said precincts, at which a court house and jail shall be erected and maintained. Officers for such election shall be appointed, and the election, in all things in accordance with the law governing general elections. Upon the ballot to be used at such election, the 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 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 of said county until changed by a vote of the qualified electors residing in that part of St. Clair

county which lies north and northwest of said Back Bone Mountain. That it shall be the duty of the Judge of Shelby county to order an election to be held in precincts numbered 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 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 votes 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, 15, 16 and 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 precincts numbered 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 Shelby county.

Second — The Court of County Commissioners of St. Clair county and the Court of County Commissioners of Shelby county, respectively, shall at its first regular meeting after the election provided for in Section 1 of this ordinance, take all necessary steps and make all necessary orders to issue and sell bonds of St. Clair county and Shelby county, respectively, in the amount of $10,000, the proceeds to be used only for the erection and equipment of such court house and jail, or to provide by other means a sufficient amount of money to erect a suitable court house and jail at the place which shall have been selected in accordance with said Section 1, and to properly equip and furnish the same with record books and other necessary equipments, provided, however, that if said Court of County Commissioners shall levy a tax for such purpose, such tax shall be levied on all taxable property in said County, but all of such tax shall not be levied and collected in one year.

And provided, further, that such Court House and Jail for St. Clair County 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, and such Court House and Jail for Shelby County shall be completed in every way and ready for the hold-

ing of Courts and the transaction of legal business on or before the first day of September, 1903.

3d. 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, 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.

Fourth—The General Assembly, at its first meeting, after the ratification of the Constitution to be submitted to the people by this Convention, shall enact laws regulating the holding of court at the court house or court houses provided for in this ordinance.

Fifth—This ordinance shall be valid and effective if the Constitution, which shall be framed by this Convention is ratified by the people, otherwise it shall be void.

The vote upon the passage of the ordinance resulted as follows:

AYES

Messrs. President,
Almon,
Altman,
Ashcraft,
Banks,
Barefield,
Beavers,
Beddow,
Bethune,
Blackwell,
Boone,
Bulger,
Burns,
Byars,
Chapman,
Cobb,
Cofer,
Coleman, of Greene,
Cunningham,
Davis, of Etowah,
Dent,
Duke,
Eley,
Eyster,
Ferguson,
Fletcher,
Freeman,
Glover,
Graham, of Talladega,
Grant,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hodges,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Lemax,
Lowe (Lawrence),
Macdonald,
McMillan (Baldwin),
Martin,
Miller (Wilcox),
Moody,
Murphree,
O'Neal (Lauderdale),
Opp,
O'Rear,
Parker (Cullman),
Parker (Elmore),
Pettus,
Pillans,
Pitts,
Reese,
Rogers (Lowndes),
Sanders,
Sloan,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Spears,
Spragins,
Stewart,
Vaughan,

Waddell,	Weakley,	Wilson (Clarke),
Walker,	White,	Wilson (Washington),
Watts,	Williams (Elmore),	

TOTAL—83

NOES

Grayson, Merrill,

TOTAL—2

ABSENT OR NOT VOTING

Bartlett,	King,	Proctor,
Brooks,	Kirk,	Renfro,
Browne,	Kirkland,	Reynolds (Chilton),
Burnett,	Ledbetter,	Reynolds (Henry),
Cardon,	Leigh,	Robinson,
Carmichael, of Colbert,	Locklin,	Rogers (Sumter),
Carmichael, of Coffee,	Long (Butler),	Samford,
Carnathon,	Long (Walker),	Sanford,
Case,	Lowe (Jefferson),	Searcy,
Coleman, of Walker,	McMillan (Wilcox),	Selheimer,
Cornwall,	Malone,	Sentell,
Craig,	Maxwell,	Sollie,
Davis, of DeKalb,	Miller (Marengo),	Sorrell,
deGraffenreid,	Morrisette,	Studdard,
Espy,	Mulkey,	Tayloe,
Fitts,	NeSmith,	Thompson,
Foster,	Norman	Weatherly,
Foshee,	Norwood,	Whiteside,
Gilmore,	Oates,	Willet,
Graham, of Montgomery,	O'Neill (Jefferson),	Williams (Barbour),
Handley,	Palmer,	Williams (Marengo),
Hinson,	Pearce,	Winn.
Jenkins,	Phillips,	
Jones, of Hale,	Porter,	

The ordinance was ordered printed and referred to the Committee on Order, Consistency and Harmony of the whole Constitution.

MR. KNIGHT—I have a resolution.

Resolution No. 310, by Mr. Knight, was read as follows:

"Be it resolved, That when this Convention adjourn today at 1 o'clock, that it adjourn until Monday morning at 12 o'clock."

MR. WHITE—Before a vote is taken on that, I wish to send up a short resolution, and ask for a suspension of the rules, and that it be put upon its immediate passage. It is one that relates to the final adjournment of this Convention.

Resolution No. 311 by Mr. White was read as follows:

Resolution 311, by Mr. White:

Whereas, It appears that the final adjournment of this Convention is likely to be delayed by the failure of the printer to properly furnish for the use of the Committee on Harmony, printed copies of the Articles adopted by this Convention; and,

Whereas, It is to the interest of the people of this State that this Convention complete its labors as soon as possible, now therefore be it

Resolved, That the Chairman of the Committee on Printing be, and he is hereby instructed to interview the printer and ascertain the cause of the delay, and if, in his opinion, the printing can not be done promptly by said printer, then he is hereby authorized to cancel the contract for such printing and to have the same done elsewhere.

MR. WHITE—I move that the rules be suspended and that the resolution be put upon its immediate passage.

Upon a vote being taken the rules were suspended.

MR. WHITE—I move its adoption.

Upon a further vote being taken the resolution was adopted.

MR. COBB—I rise to a question of personal privilege. Yesterday on the vote on the motion for the adoption of the substitute reported by the Committee on Rules to the resolution offered by the gentleman from Greene, I am reported as voting no. I voted on the other side and I ask that the Journal and the stenographic report be corrected.

MR. WILSON (Washington)—I am reported in the stenographic report as having voted against the University appropriation. If there is any question that has been before this Convention that I am in favor of, and decidedly in favor of, and want to go on record correctly in regard to, it is that debt that the State owes the University of Alabama, and I desire to be recorded as voting aye.

MR. DENT—I desire to have a correction made in the stenographic report. I am reported as being absent and not voting on the final passage of the Article on Impeachments. I was present and voted aye, and if the journal does not so show, I desire to have it corrected.

MR. SANDERS—I am reported in the proceedings of yesterday as not voting on Ordinance 404. I was present and voted and desire that the correction be made.

MR. COFER—On the passage of the amendment offered by the gentleman from Montgomery (Mr. Lomax) to the article on education I was paired with Mr. Weatherly of Jefferson. At the time I did not state the pair because I forgot it, and I desire to state it this morning in order that it may be recorded on the journal in justice to Mr. Weatherly. He would vote aye and I would vote no.

MR. REESE—There is present here a distinguished private citizen of Alabama, the father of two distinguished delegates to this Convention. For the first time since this Convention met, I move to extend the privileges of the floor to a private soverign citizen of Alabama, Dr. Heflin.

Upon a vote being taken, the privileges of the floor were extended to Dr. Heflin.

MR. GRAHAM (Talladega)—I move that the rules be suspended and that the privileges of the floor be extended to the Hon. Carson Whitson, a member of the Legislature.

MR. WILSON (Clarke)—I move to amend by extending the privileges of the floor to the Hon. Mr. Baldwin of Bullock and the Hon. H. S. Doster of Autauga.

Upon a vote being taken, the privileges of the floor were extended to the gentleman named.

MR. PETTUS—I would like to add Mr. Greene of Morgan, a member of the House, and move that the privileges of the floor be also extended to him.

Upon a vote being taken, the privileges of the floor were extended to Mr. Greene of Morgan.

MR. FOSTER — There was referred to the Committee on Amending the Constitution, an ordinance which properly goes to the Committee on County and County Boundaries. I ask that it be referred to that committee.

THE PRESIDENT—There is a resolution on the Secretary's desk which the Chair will request the Secretary to read again.

Resolution No. 310 by Mr. Knight was read as follows:

"Be it resolved that when the Convention adjourn today at 1 o'clock, that it adjourn until Monday morning at 12 o'clock."

MR. PILLANS—Before that is voted on, I hope the gentlemen present will remember that if we sit during a long session today, we will probably finish the articles and have everything ready for the Committee on Order, Consistency and Harmony to go forward with its work, and I move as an amendment, that this

Convention adjourn at 1 o'clock and meet again at half past three and adjourn at 6 o'clock.

Upon a vote being taken the motion to amend resolution 310 was carried.

MR. FOSTER—I ask that an ordinance referred to the Committee on Amending the Constitution be referred to the appropriate committee. It relates to County and County Boundaries.

MR. PARKER (Cullman)—The article was asked to be referred to the Committee on Amending the Constitution when it was introduced.

THE PRESIDENT—Does the gentleman object to the reference?

MR. PARKER (Cullman)—No, I do not object to it.

THE PRESIDENT—The ordinance will be referred to the Committee on State and County Boundaries, as one chairman seems anxious to let it go and another to take hold of it.

MR. FOSTER—I ask unanimous consent to introduce a short resolution from my committee.

Resolution No. 246 by Mr. Samford of Pike was read as follows:

Resolution 246, by Mr. Samford:

Resolved, That the General Assembly of this State is hereby instructed, at its next session, to reduce the tag tax on fertilizers to an amount not to exceed 10 cents per ton.

Referred to Committee on Amending Constitution and Miscellaneous Provisions.

Substitute for Resolution 246, by Mr. Samford, by Commitmittee:

Be it resolved by the people of Alabama in convention assembled, That it is the sense of this Convention that the Legislature, at its next meeting, should reduce the tag tax on fertilizers to an amount not to exceed the reasonable cost for the inspection thereof.

THE PRESIDENT—The question will be upon the passage of the resolution.

MR. BEDDOW—I make the point of order that under the rules of the House, that must be placed upon the calendar and called up in its regular order.

MR. JACKSON—I ask that it be placed upon the calendar and be called up.

THE PRESIDENT—The Chair will state that the ruling of the Chair heretofore upon resolutions is that the rule only applies to ordinances, and it is competent for the Convention——

MR. GRAHAM (Talladega)—I move to lay the resolution on the table.

The motion was withdrawn.

THE PRESIDENT—The motion is that the resolution be laid on the table.

MR. GREER (Calhoun)—It has been withdrawn.

MR. OPP—I renew it.

MR. GREER (Calhoun)—Upon that, I demand an aye and no vote.

The call was not sustained.

THE PRESIDENT—The question is upon the resolution relating to the tag tax, which has just been read in your hearing, and reported favorably by the Committee on Amending the Constitution and Miscellaneous Provisions. Thereupon it is moved to lay the resolution upon the table.

A vote being taken, a division was called for and by a vote of 44 ayes and 43 noes, the resolution was tabled.

MR. HEFLIN (Chambers)—I call for a verification of the vote.

THE PRESIDENT—A verification is asked for. It is a practice of the Chair to accord a verification where it is demanded. Delegates are requested to vote on this question. As many as favor the motion to table this resolution will please rise and remain standing until counted.

A vote being taken, there were 44 ayes and 44 noes.

MR. PETTUS—I rise to a point of order. The delegate who did not vote before was not entitled to vote upon the verification —it appears from the casting up of the vote that some delegate has come in.

MR. HEFLIN—No record is kept of the vote——

MR. GRAHAM (Talladega)—There were the same number of ayes, and the increase came to the noes.

THE PRESIDENT—The object of the verification of the vote was to correct any error, and the fact that the vote is not exactly the same as before would not be a ground of objection.

MR. WILSON (Clarke)—How does the Chair vote?

THE PRESIDENT—The Chair will vote no. The result is the motion to table is lost.

MR. HEFLIN—I move that the resolution be adopted.

MR. OPP—I call for the ayes and noes.

The call was sustained.

THE PRESIDENT—The Secretary will read the substitute as reported by the committee.

The Secretary read as follows:

Substitute for resolution 246, by Mr. Samford of Pike:

Be it resolved by the people of Alabama in Convention assembled, that it is the sense of this Convention that the Legislature at its next meeting should reduce the tag tax on fertilizers to an amount not to exceed the reasonable cost for the inspection thereof.

MR. FOSTER—I desire to call the attention of the Convention to the fact that the substitute which the committee instructed me to report not in the shape of an instruction to the Legislature as was the original resolution, but simply that it is the sense of this Convention that the Legislature should reduce it—something like the resolution passed with reference to the Governor's salary, as the committee conceived not binding upon the Legislature, but simply in the nature of a letter to the Legislature, that it is the sense of this Convention that it should be done.

THE PRESIDENT — The question is upon the passage of the resolution, the ayes and noes were demanded, and the call sustained.

MR. WILSON (Clarke)—There are only two remaining articles to be disposed of and the Convention is anxious to dispose of them. This matter has come up out of its regular order, many of the members were not paying attention, I had difficulty in hearing what it was either the original resolution or the substitute. I don't think it is right to take up this proposition at this time.

MR. FOSTER—I rise to a point of order. The Convention has already taken it up, and the objection comes too late.

MR. WILSON—We should not consume the time of the Convention in preference to ordinances which have been on the calendar for weeks. These matters should be considered in the order in which they may appear, and I move that the consideration be postponed.

MR. DUKE—I move to lay that upon the table.

THE PRESIDENT—It seems to the Chair after the Convention took the matter up and proceeded to vote the ayes and noes called for and the call sustained, it is too late to make a motion.

MR. WILSON—I refer the Chair to rule 25, a motion to postpone to a day certain has precedence to a motion for the main question.

MR. SAMFORD (Pike)—Not after the vote has been ordered, and ayes and noes ordered on it.

THE PRESIDENT—The gentleman did not move the previous question.

MR. COLEMAN—I have an amendment.

MR. HEFLIN — The gentleman from Chambers moves to table.

THE PRESIDENT—The question is to postpone to a day certain, which takes precedence of a motion to amend under rule 25. The question is that the consideration of this resolution be postponed until after the Convention has finished the consideration of the reports of Committees on Corporations and Militia.

MR. DUKE—I move to table that motion.

Upon a vote being taken a division was called for, and a further vote being taken, by a vote of 54 ayes and 44 noes, the motion to table prevailed.

MR. COLEMAN—I have an amendment.

The Secretary read the amendment as follows:

Amend the resolution by striking out ten and inserting in lieu thereof twenty-five.

MR. BURNS—There is no ten in there.

MR. COLEMAN—I have the floor, and I ask the reading of the resolution.

The Secretary read as follows:

Be it resolved by the people of Alabama, in Convention assembled, that it is the sense of this Convention that the Legislature at its next meeting should reduce the tag tax on fertilizers to an amount not to exceed the reasonable cost of inspection thereof.

MR. COLEMAN (Greene)—I move to amend the amendment by striking out that and inserting 25 cents, not to exceed the reasonable cost thereof.

MR. FOSTER—I move the amendment be laid upon the table.

A vote being taken, the motion to table prevailed.

MR. HEFLIN (Chambers)—I move the previous question upon the adoption of the substitute and original resolution.

THE PRESIDENT—The question is on the demand for the previous question.

A vote being taken, the previous question was ordered.

THE PRESIDENT—The question will be upon the adoption of the substitute reported by the committee.

MR. PETTUS—I call for the ayes and noes upon the final passage.

MR. GREER (Calhoun)—The ayes and noes have been called and the call sustained.

MR. BURNS—Not upon the proposition.

THE PRESIDENT—The Chair has sustained that point of order. As many as favor the adoption of the substitute report by the committee for the original resolution introduced by the gentleman from Pike will say aye and those opposed no, as your names are called.

The roll call resulted as follows:

AYES

Messrs. President,	Davis, of DeKalb,	Lowe (Lawrence),
Almon,	Dent,	Macdonald,
Altman,	Duke,	McMillan (Baldwin),
Ashcraft,	Eley,	Martin,
Banks,	Foster,	Maxwell,
Barefield,	Freeman,	Merrill,
Bartlett,	Glover,	Miller (Wilcox),
Beavers,	Graham, of Montgomery,	Moody,
Bethune,	Grayson,	Murphree,
Blackwell,	Greer, of Calhoun,	NeSmith,
Brooks,	Haley,	Oates,
Bulger,	Handley,	O'Neal (Lauderdale),
Burns,	Heflin, of Chambers,	Opp,
Byars,	Heflin, of Randolph,	O'Rear,
Chapman,	Henderson,	Palmer,
Cobb,	Howell,	Pettus,
Cofer,	Jackson,	Phillips,
Coleman, of Greene,	Jones, of Bibb,	Pillans,
Craig,	Jones, of Montgomery,	Proctor,
Cunningham,	Knight,	Reese,

Rogers (Lowndes),	Smith, Mac. A.,	Tayloe,
Samford,	Smith, Morgan M.,	Thompson,
Sanford,	Sorrell,	Weakley,
Searcy,	Spears,	White,
Sentell,	Spragins,	Whiteside,
Sloan,	Stewart,	Williams (Barbour),
Smith (Mobile),	Studdard,	Winn,

TOTAL—81

NOES

Beddow,	Hodges,	Parker (Cullman),
Davis, of Etowah,	Hood,	Sanders,
Eyster,	Howze,	Selheimer,
Ferguson,	Inge,	Vaughan,
Fletcher,	Jones, of Wilcox,	Waddell,
Graham, of Talladega,	Kyle,	Walker,
Grant,	Ledbetter,	Williams (Elmore),
Greer, of Perry,	Lomax,	Wilson (Clarke),
Harrison,	Norman,	Wilson (Washington),

TOTAL—27

ABSENT OR NOT VOTING

Boone,	Jenkins,	O'Neill (Jefferson),
Browne,	Jones, of Hale,	Parker (Elmore),
Burnett,	King,	Pearce,
Cardon,	Kirk,	Pitts,
Carmichael, of Colbert,	Kirkland,	Porter,
Carmichael, of Coffee,	Leigh,	Renfro,
Carnathon,	Locklin,	Reynolds (Chilton),
Case,	Long (Butler),	Reynolds (Henry),
Coleman, of Walker,	Long (Walker),	Robinson,
Cornwall,	Lowe (Jefferson),	Rogers (Sumter),
deGraffenreid,	McMillan (Wilcox),	Sollie,
Espy,	Malone,	Watts,
Fitts,	Miller (Marengo),	Weatherly,
Foshee,	Morrisette,	Willet,
Gilmore,	Mulkey,	Williams (Marengo),
Hinson,	Norwood,	

MR. PETTUS (during roll call)—I vote aye for the purpose of moving a reconsideration.

MR. JACKSON (Lee)—I have consumed very little time of the Convention. I now ask unanimous consent to explain my vote. I had an amendment reducing it to 25 cents, but as the gentleman from Greene offered the same amendment, and it was voted down, rather than have no relief given to the farmers, I vote aye.

And by a vote of 78 ayes and 27 noes, the substitute was adopted.

THE PRESIDENT—The question recurs upon the adoption of the resolution as amended.

Upon a vote being taken, the resolution as amended was adopted.

MR. GRAHAM (Montgomery)—I rise to a question of privilege. I notice the aye and no vote as shown in the stenographic report, on Section 13, of the Mobile school matter, in the report of the Committee on Education, shows that I voted in the negative. This was an error. I voted aye and desire to be so recorded.

THE PRESIDENT—The stenographer will take notice of the correction.

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

Leaves of absence were granted to Mr. Inge for Monday and Tuesday; to Mr. Foshee yesterday evening and today; to Mr. Hinson for today; to Mr. Coleman of Walker for yesterday and today.

THE PRESIDENT—The regular order at this hour will be the call of roll of delegates for the introduction of ordinances, unless there is some motion to dispense with it.

MR. WADDELL—I move that the regular call of the roll of delegates be dispensed with.

The motion was carried.

MR. HEFLIN (Randolph)—I desire to ask unanimous consent to be permitted to make a report from the Committee on Schedules some time during the morning session, when the Convention is ready.

THE PRESIDENT—When the gentleman is ready he may call it to the attention of the Convention.

MR. BURNS—I desire to offer a short resolution.

The Clerk read resolution No. 312 as follows:

Resolution 312, by Mr. Burns:

Whereas, Mixed bloods seldom inherit even the impaired virtues of their progenitors, and in every section of our country are always found among the most vicious and vindictive class of citizens; and, whereas, this Convention was called with the understanding and for the purpose that white boys of Alabama should not be forced to compete with any others, whose only qualification for suffrage lies in their ability to memorize.

Resolved, That the following ordinance be referred to the Committee on Harmony, and that said Committee be authorized to embrace it or any portion in the Article on Suffrage and elections:

ORDINANCE

Be it ordained by the people of Alabama, in convention assembled, That all bastards whose disabilities as such have not been removed by the Governor or some Chancellor, or Circuit or City Judge, shall not be allowed to register or vote in this State.

Referred to Committee on Harmony.

THE PRESIDENT—To what Committee does the gentleman desire that ordinance referred?

MR. BURNS—To the Committee on Harmony.

The resolution was so referred.

MR. MURPHREE (Pike)—I would like to send up a short ordinance and have it read and referred.

Unanimous consent was given.

Resolution No. 457 was read as follows:

Ordinance 457, by Mr. Murphree:

Be it ordained by the people of Alabama, in convention assembled, That the Legislature that shall be held after the ratification of the Constitution of 1901, shall, and they are hereby directed, to appropriate out of the State Treasury, for the benefit of indigent Confederate Soldiers and indigent widows of Confederate Soldiers, such amounts as they may deem just and proper, and that the sums appropriated shall have precedence of all other expenditures except for current expenses and for the maintenance of the State's credit.

Referred to Committee on Legislation.

Referred to the Committee on Legislative Department.

MR. WILSON (Clarke) — I now call up the report of the Committee on Militia, which is the regular order for this hour.

THE PRESIDENT—Do you desire it taken up section by section?

MR. WILSON (Clarke)—No sir, I will ask the Secretary to read the entire report, then I will ask the adoption of the entire report, and if any gentleman desires to offer an amendment, he can offer it to any section he chooses.

MR. JONES—That would require the suspension of the rule. It is bound to be taken up section by section.

THE PRESIDENT — We have no rule requiring it to be so taken up.

MR. BEDDOW—I rise to a point of inquiry. Is the report of the Committee on Militia the next order of business?

THE PRESIDENT—The Secretary informs me that there is a resolution on the desk reported prior to this, by the gentleman from Jefferson. Does the gentleman desire to call it up at this time?

MR. BEDDOW—Yes, sir.

Resolution No. 219 was read as follows:

Resolution No. 219, by Mr. Beddow of Jefferson:

Whereas, Various resolutions have been adopted throughout the State requesting that this Convention patronize union labor by having its printing done by members of the Typographical Union, and that the union label be printed thereon; and,

Whereas, The union of labor should be encouraged by the people of Alabama, in convention assembled, therefore be it

Resolved, That the Committee on Schedule, Printing and Incidental Expenses be, and they are hereby, instructed to patronize the printing establishments having in their employment union labor and have the union label printed thereon.

Referred to Committee on Schedule, Printing and Incidental Expenses.

MR. BEDDOW—On account of the fact that a large delegation of the International Typographical Union requested me to introduce this resolution, I did so. For some reason, this resolution, unlike other resolutions that have been offered in the Convention, was placed upon the calendar, and it is now taken up during the last days of the Convention, when, if the Convention should see fit to pass it, it would be of no particular benefit to those to whom it was intended to do good. But in all seriousness, I call upon this Convention to consider well before they turn down this resolution, although it may not be of much practical benefit to the people who desire its passage. A number of resolutions and amendments have been offered to this Convention in the interest of those of our voters who organize for the upbuilding of their labor organizations. So far, everyone of them have been turned down almost unanimously by this Convention, so much so that The International American of about three weeks ago, in an article from some correspondent speaking of this Convention, remarked that, so far no leaders had developed in this Convention, and it seemed to be a Convention of independent thought. The correspondent went on to say that he was mistaken

in this, however, that there was one Beddow from Birmingham, who did seem to be a leader of the labor forces, and continued by saying that he also constituted his own following. I hope that this is not true. Dr. Talmage, in a sermon preached in the north, said that, in all great assemblages, nine out of ten of the people who composed them were those who came from this class of people, and it is strange to me that when they ask for some recognition at our hands, we treat their request with contempt and with ridicule. This is a small favor to be asked by this large mass of voters of the State of Alabama. We have received petitions from nearly every organization of this character throughout the State of Alabama. We have received petitions from the United Mine Workers of America, constituting from 6,000 to 10,000 voters in this State. We have received petitions from Trades Councils, which represent every department of labor in the Union, the carpenter and all other classes of labor. We have received petitions from the International Typographical Union throughout the State, from Huntsville, Mobile, Montgomery, Birmingham, and every other place where they are organized. The people who are behind these petitions, represent, as I have said heretofore 25,000 or 30,000 voters of the State of Alabama. They should be recognized. Their petitions should be heard. Their petitions should be considered, and, in my humble judgment, this resolution should be adopted.

Mr. President, there is at this time, at this moment, going forward the greatest battle ever known between capital and labor, with Morgan and his millions on the one side, and united labor on the other, each striving for the mastery. If one side succeed united labor will be for all time a recognized and established institution. Should they fail and success perch upon the banner of wealth and trusts, I predict that in the wake of their victory will follow more pain, poverty and squalor than has ever been witnessed in this country of ours, known as the "land of the free and the home of the brave." Would it not be well for the people ot Alabama, in Convention assembled to perch our banner and draw our sword upon the side of those who are uniting for the purpose of fighting aggregate wealth? They get together for the purpose of making themselves stronger. Day by day the great institutions of our country are consolidating and they are becoming powerful. Unless labor get together and stand as one man, they will be crushed to earth. Their only hope of maintaining themselves, their wives and their families; their only hope of having homes of their own, is the hope of maintaining a wage scale upon which they can live like men and not like beasts. Would it not be a gracious thing for us here, in the last days of this Convention, to say to them, we will give you the balance of the printing we have to do; we will place upon it the union label which shows that the Constitutional Convention of Alabama is in

favor of united labor and that we indorse their efforts and stand up for them and for their families in this great fight. That is all I have to say. Take it for what it is worth. Consider well this proposition before you slap in the face 25,000 or 30,000 of the best white voters in the State of Alabama.

THE PRESIDENT—The Chair was about to state the question, but it occurs to the Chair that there is no motion before the Convention.

MR. BEDDOW—I move the adoption of the resolution, and upon that I call for the ayes and noes.

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

MR. BANKS—I did not expect to make any speech at all on this resolution. In fact, I did not anticipate that the Convention would have to consider it seriously this morning, nor did I think it would be made a question for consideration by this Convention. Personally, my sympathies are with organized labor. It occurs to me that organized capital has necessitated organized labor, and, just as my sympathies go out always to the weak, so my sympathies have gone out to organized labor in its great controversies and contests with capital. But, Mr. President and gentlemen of the Convention, we are not here as partisans; we are not here to give expression to partisan preferences; we are not here to frame a Constitution or to adopt measures or to express sentiments that are partisan in their nature or character. We are to set aside those influences when we come to consider the great questions before us, and we are not to do anything at all that would make the instrument we are are framing partisan in its character and in its coloring. We are not here as Democrats; we are not here as Republicans; we are not here as capitalists; we are not here as laborers; we are not here as religionists of any particular faith or denomination. We are here as citizens of the great State of Alabama, for the purpose of framing an organic law that shall give protection to all classes, to all conditions, to all parties and to all organizations that are legitimate and right in the State of Alabama, and, however much we would like to see the printing of this Convention go into the hands of this great association, we cannot afford to say so, because here are other people who are engaged in this same kind of work and who, at the hands of this Convention, are entitled to just as much consideration as this branch of organized labor, and, for this reason, I cannot support the resolution.

MR. COLEMAN (Greene)—I have no record to make nor any argument to present which I expect to look toward in the future as a source of commendation of me to the popular vote.

What I desire is to complete a Constitution here without showing any partisanship of that character, and I do not think it ought to enter into our deliberations whatever. We have appointed a committee in whom we have confidence, and who are acting for the very best interests of the people of Alabama, and I move that the resolution be laid upon the table.

MR. BEDDOW—I demand the ayes and noes.

The call was not sustained.

Upon a vote being taken the motion to table the resolution was carried.

THE PRESIDENT—The next regular order will be the consideration of the report of the Committee on Militia.

MR. WILSON (Clarke)—I desire to make a brief explanatory statement with reference to this report before the Convention take it up. There is no change from the present Constitution except in Section 1. Otherwise than Section 1, this article is an exact copy of the Constitution of 1875. There are two changes in Section 1 of the article. The first is the restriction of those who may be enlisted in the militia, to white persons. The second change is a provision at the end of Section 1 authorizing the Legislature if it sees proper to establish a State Naval Militia. So far as the first change is concerned, the proposition restricting enlistment to white persons, in the committee, individually, I was opposed to that change, and the reason I was opposed to it was that I feared it might interfere with the appropriation which the Congress of the United States makes for the support of the militia. It was purely as an expedient. I was opposed to the use of negroes in the State militia. But under the system now in force, it is entirely discretionary with the Governor of the State as to what troops he shall receive and what troops he may not receive. I thought under that provision that there would never be any danger of negroes being enlisted in the State militia unless the Governor approved it, and that we were reasonably certain of always having a Governor who would not approve it. For that reason, individually, I opposed the change, but the majority of the committee, after considering that phase of the question, and all other phases of the question which were presented to the committee, decided in favor of making the change, and I yielded my individual judgment to the judgment of the committee, and concurred in the report after a majority of the committee had voted for it.

The second amendment in the section, as it now is in the Constitution, which permits the Legislature if it sees proper to organize a State Naval Militia, does not confer any power on the Legislature which it does not now possess. The Legislature may as the matter now stands organize a State Naval Militia, but has never done it. The Legislature could organize a militia; there-

fore it might be said that there is no need of putting any article in the Constitution about militia at all. The Legislature could certainly do everything about it, as there is nothing here on the subject. But inasmuch as there is an article on that subject, I believe and the committee believed that it would be well for the State to have a State Naval Militia,, and the committee saw fit to engraft the second change named authorizing the State to establish a State Naval Militia. We examined the Constitutions and statutes of nearly all the coast States, and we found in nearly all of them a provision was made for the establishment of State Naval Militias. The Federal Government has general statutes and regulations on that subject. It lends to each State which has organized a State Naval Militia a boat for the purpose of making cruises. It appropriates from the general government a considerable sum of money for the purpose of defraying the expenses of the State Naval Militia; so the committee thought that inasmuch as we could get an appropriation for this purpose from the government and a boat for this purpose from the government, that it would be well to say that the Legislature might provide for it if it saw proper.

Mr. President, I move the adoption of the report of the committee as a whole. The report of course, will be subject to amendment, if any gentleman desires to offer amendments, and I understand that there are some, but before that is done, I ask unanimous consent to offer an amendment. When I drew the report, we had not made the change in the Constitution from the words "General Assembly" to "Legislature." The words "General Assembly" instead of "Legislature" are used in three sections of the report. I ask leave to strike out the words "General Assembly" and insert in lieu thereof "Legislature" in Sections 1, 2 and 7.

THE PRESIDENT—Unanimous consent is asked by the chairman of the committee to strike out the words "General Assembly and insert "Legislature" in Sections 1, 2 and 7. The Chair hears no objection. It is so ordered.

MR. JONES (Montgomery)—As I understand it, amendments are now in order to different sections?

THE PRESIDENT—Yes. The Secretary will read the report, and then the amendment of the gentleman from Montgomery.

The Secretary read the ordinance as follows:

An ordinance on Militia:

1. All able bodied white male inhabitants of the State, between the ages of eighteen years and forty-five years, who are citizens of the United States, or have declared their intentions to become such citizens, shall be liable to military duty in the militia of the State; and the General Assembly may provide for the organization from among such citizens of a State Naval Militia.

2. The General Assembly, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

3. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, they may be appointed by the Governor.

4. Volunteer organizations of infantry, cavalry and artillery may be formed in such manner, and under such restrictions and with such privileges as may be provided by law.

5. The militia and volunteer forces shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters, parades and elections, and in going to and returning from the same.

6. The Governor shall, except as otherwise provided herein, be commander-in-chief of the militia and volunteer forces of the State; except when in the service of the United States, and shall, with the advice and consent of the Senate, appoint all general officers whose term of office shall be for four years. The Governor, the Generals and Regimental and Battalion Commanders shall appoint their own staff, as may be provided by law.

7. The General Assembly shall provide for the safe keeping of the arms, ammunition and accoutrements, military records, banners and relics of the State.

8. The officers and men of the militia and volunteer forces shall not be entitled to or receive any pay, rations or emoluments when not in active service.

The Secretary read the amendment as follows: "Amend Section 1, by striking out the word 'white' where it occurs therein."

The Secretary also read a second amendment offered by the gentleman from Montgomery (Mr. Jones) as follows: "Amend Section 4 by inserting after the word 'artillery,' the words 'naval militia.'"

MR. WILSON (Clarke)—I suggest the second amendment relates to a different subject, and would not be in order until we dispense with the first one.

MR. JONES (Montgomery)—I understood amendments could be sent up now, to different parts of the ordinance, to be acted on at the proper time.

THE PRESIDENT—It will be taken up in the order of sections.

MR. WILSON (Clarke)—I ask unanimous consent to accept the second amendment proposed by the gentleman from Montgomery, which relates to the naval militia.

THE PRESIDENT—The Chairman of the Committee asks unanimous consent to accept the second amendment offered by the gentleman from Montgomery. The Chair hears no objection. It is so ordered. The question is on the other amendment of the gentleman from Montgomery, as read in your hearing.

MR. JONES (Montgomery)—I am a member of the Committee which reported this Article, and without any fault on the part of the Committee or perhaps without any fault of my own, it passed upon this matter in my absence; otherwise, I would have made a minority report. My objection to the word "white," as contained in the Article reported by the Committee is this: The Constitution of the United States, in defining the powers of Congress, declares that it "shall have power to provide for organizing armies, and disciplining the militia, and for organizing such of them as may be employed in the service of the United States, reserving to the States respectively the appointment of officers and the authority of training the militia according to the discipline prescribed by Congress."

Congress, in pursuance of that authority, has defined what the militia is. I read from Section 1625 of the Revised Statutes:

"Every able-bodied male citizen of the respective States, resident therein, who is of the age of 18 years, and under the age of 45 years, shall be enrolled in the militia." At the time that act was passed, it included only white men, because white men only were citizens of the State; but under the force of recent amendments and decisions of the Supreme Court of the United States, the word 'white,' even in a Constitution, would be stricken out. Thus, under the Act of Congress and the law of the land, every able-bodied male citizen of the State, between the ages of 18 and 45, is a member of the militia, and the State is powerless to change that. Congress, going further, has appropriated annually for a number of years, $200,000 to provide arms and equipment for the militia. Recently that has been increased, I believe, to $400,000, and that is divided out among the States, not according to the number of volunteers, or National Guards, as they are called, but in proportion to the number of able-bodied citizens, white and black, in the State, as compared with the whole number in the United States. If we put this provision in which I seek to strike out—admitting that the State can do it—we subtract about 40 per cent of the able-bodied male citizens of this State from enumeration in the militia, and hence this Convention strikes down at once about 40 per cent of the appropriation made by the Federal Government for the Alabama National Guard, as they are now called. That appropriation, if I mistake not, is about $20,000 a

year, and that provides for arms, ammunition, equipment and stores for the Alabama National Guard. If the Constitution provides that only able-bodied white men between 18 and 45 are members of the militia, the effect of it will be to cut down the appropriation about 40 per cent.

Mr. President, there need be no fear of any harm from leaving this matter as it has been in the Constitution from 1819 down to the present time. The day is past when we will have any more "musters," as they used to be called, of the militia when they met with umbrellas, drilled once or twice a year, had a good time for a few days, and then went home. We all know what the old "militia musters" were. All that has passed, the militia keeping pace with the spirit of organization in every department in life, is now, save in a legal sense, confined to the organized volunteers, and those volunteers are organized under a provision in the Constitution under the name of "Volunteer Forces." It would be competent for the Legislature and competent for the Governor, under present Statutes, to determine what classes of men shall be organized. I remember well, Mr. President, in the dark days, when the sun of the Confederacy was setting around us in darkness, while our own troops were in the trenches at Petersburg in 1865, that the Confederate Congress, under the inspiration of Robert E. Lee, passed an act authorizing the employment of negroes in the Confederate army. The time may come in the future when we may desire to employ the negro in the defense of this State. It might be that we might be invaded and desire them, and they might desire, to defend the land, where they are born, and of which they are still citizens. We all remember, that in the Spanish war, when, for some reason, there seemed to be difficulty in getting the requisite quota from Alabama, 1,000 negroes volunteered, which saved 1,000 white men from going. There is no harm in the State of Alabama reserving the power to use them, if it desires to do so. We have now only one company of negroes in the Alabama State troops. They were organized, I think, some twenty years ago. They have never been disbanded. They have been remarkably obedient. I remember on one occasion, when a single policeman arrested a company of forty-five men, and brought them up to the Governor's office, because he thought they had violated a city ordinance in firing a salute. Why should we desire to say to every negro—and some of them are going to be citizens, we are going to allow some of them to vote—we want to put a brand upon you, so you shall never be in the condition, even if the Legislature desired it, to bear arms in defense of Alabama. For these reasons, and because I think it trenches somewhat upon the power of Congress under the Constitution, because it will interfere with our appropriation and strike a blow at the Alabama National Guard, and because I think it unwise, I offer that amendment. I hope it will prevail.

MR. SANDERS—Mr. President, the Committee on Militia held some four or five sessions, at which this matter alone was discussed. The distinguished gentleman from Montgomery, as he has stated, was never present on any of those occasions, and I do recall that the Committee adjourned without acting, perhaps, as often as three times in order that there might be a full attendance of its members, and on one occasion, at least, I remember, that it was said that the gentleman from Montgomery would without doubt, be present and be heard upon this question. He was not present at any session of the Committee, and after frequent and elaborate discussion, the majority of the Committee decided in favor of the insertion of the word "white" before the word "male" in the first line of the report. None of the Committee, Mr. President, favored a negro soldier in this State, a majority of the Committee was opposed to the policy, to the expediency of enlisting the negro in the military system of this State. We thought it tended to promote an equality in which the people of the South do not believe. I think it both unwise and unpatriotic to arm an alien race with which there is always a latent possibility of trouble. We remembered, too, the severe criticism that followed the enlistment of the negroes in the military service during the Spanish War. We were not unmindful, either, of the outrages committed by negro troops stationed notably at Anniston and Huntsville in this State. Owing to the limitation of the Federal Constitution, Mr. President, we have not been able to make as many clear cut race provisions as the majority of the Committee; I believe, would like to make, and as a majority of the white people in Alabama would like to see made. I have heard it suggested this morning for the first time that we are face to face with a provision of the Federal Constitution on this question which forbids the insertion of the word "white" in this report of the Committee. I had thought, Mr. President, that military service was a burden and not an immunity or privilege. The very word, the very language of the report——

MR. JONES (Montgomery)—Will the gentleman pardon me a moment?

MR. SANDERS—Yes, sir.

MR. JONES—My position was, not that it was a privilege or immunity, but that the Article of the Constitution giving Congress power to authorize and equip and arm the militia, left to Congress to determine what should constitute the militia. In the section of the act of Congress from which I read, it says: "Every able bodied male citizen between the ages of 18 and 45."

MR. SANDERS—The gentleman therefore does not think it is a violation of the fourteenth amendment, but merely in conflict with a provision of Congress?

MR. JONES—I am not prepared to express any decided opinion as to that, without investigation.

MR. SANDERS—At any rate a majority of the Committee was in favor of a clear-cut, white military provision in this State. The suggestion is made also that we shall lose a part of the Congressional appropriation annually made to the militia of the several States. In Alabama, we are told that we would lose as much as eight thousand dollars. For my own part, Mr. President, I do not care a snap for that, and I don't believe the majority of the white people of Alabama care a snap for it, I believe the legislature would be upheld and applauded for supplying that deficiency, if the amount of money is needed for the support of the military in Alabama.

MR. OATES—I have but a few words to add to this discussion. I approve in the main what my colleague from Montgomery has stated. My recollection is, sir, that there are two negro companies in the militia of the State, there were the last I knew of them—

MR. JONES—Only one now.

MR. OATES—Here or at Mobile?

MR. JONES—Here; the Mobile company disbanded.

MR. OATES—There were two companies at the close of my executive administration. I undertook under an act of the legislature to reorganize the State militia and I organized those two negro companies into a battalion, and there never was any interference or conflict with the white soldiers, not in the slightest with the white troops; because after the white commands had been in encampment of instruction and passed out the negro battalion was ordered in and they had it all to themselves. There was no conflict, no trouble in the world about it, and however, negro troops may have deported themselves in the late war, and I have heard of several instances of bad conduct on their part in Alabama, and in Florida. I also heard that at the battle of San Juan Hill, one of the most remarkable fights of that war, they displayed much gallantry. It may be, sir, that there is no necessity for it, and I presume that no Governor will ever organize any considerable number of them in the State. Wherever any militia company is organized and attempts to get recognition, it depends upon the officers—the Governor and Adjutant General, whether it is received or not. This of itself leaves it all right, in an acceptable attitude. The innovation at this time of inserting the word "white" in regard to the militia may produce embarrassments and some complications in the future, for we do not know what is coming, we do not know what will occur, ten, twenty, thirty or forty years hence, if this Constitution is ratified, there should be no embarrass-

ment, as is expected to be of force for many years. It is most startling to me, remarkable under the change in public opinion in regard to the status of the negro in our State. Why, sir, thirty years ago, when I was a member of the House of Representatives here, right over there between those two columns, I witnessed a fight between a leading carpet-bag member of the legislature from Montgomery—Strobach and Bob Arrington, a negro employee of the House, and I stood over them myself and kept anybody from interfering until the negro gave him a good beating which he deserved, and I never incurred the disapproval of a single one of the Democratic members of that House. Why, sir, the sentiment is altogether different now, when the negro is doing no harm, why people want to kill him and wipe him from the face of the earth—

MR. BURNS—Will the gentleman pardon me a minute?

MR. OATES—I will yield.

MR. BURNS—I want to ask the distinguished gentleman if he said the negro gave a white man a deserved thrashing?

MR. OATES—Yes, sir.

MR. BURNS—Do you take the position that there is any circumstance when a negro ought to whip a white man?

MR. OATES—Yes, and he did right. Stroback was in favor of social equality, and the negro was a long ways the better man of the two, and everybody will testify to that, who knew both of them.

MR. BURNS—That is Bostonian doctrine.

MR. OATES—Where were you making Bostonian doctrines during the war, when I was at the front, in twenty-seven battles, and have six scars on my body, made by Yankee bullets? I reckon my devotion to the South is as great as that of any other man. No man has ever questioned my loyalty to my people, or my State, and I am glad of what I did on that occasion. My conscience approves it. While I think the negro should remain in his place, and that place a subordinate one to the white people—for this is a white man's government and always will be and always ought to be—but for that reason is it right, when we have a subordinate race here, not responsible for their being among us, to proscribe them and trample them under foot? I do not want them to control the State government any more than any other man does. I have all my life stood up for the right toward all men, and I intend to do it for whatever time God Almighty allows me to breathe, and I don't care who disapproves my action, for my conscience is my guide. I say this is a wholly unnecessary innovation, an improper one that may be embarrassing some time in the future. I do not think it violates the Federal Constitution, but it is contrary to the

Federal Statutes and wholly unnecessary. Why we should make this innovation I cannot see, and I, therefore, think the amendment offered by my colleague ought to be adopted.

MR. SPRAGINS—In the discussion of this matter, in the Convention, there was no division among the members of the Committee as a matter of principle; the question was purely one of policy. We all agreed, as a matter of principle, that it would be better for the white man, and better for the negro, that the troops of the Alabama National Guard in this State should be entirely composed of white people. The only question which divided the Committee at all was a question of policy, whether or not the general government would give to the State of Alabama the appropriation which it is in the habit of giving if we inserted this word "white" in the section of the Constitution. After considering the matter, the majority of the Committee concluded that the appropriation was made upon the available strength in the State; in other words, upon the male inhabitants in the State between the ages of 18 and 45, regardless of whether they were white or whether they were black. The majority of the Committee was of the opinion that that appropriation was based upon the available strength of the National Guard, regardless of the color. That being true, we agreed, as a matter of principle, that the Guard should be composed entirely of white people, otherwise we thought there was a possibility of numberless strikes and discords between the members of the Guard and the officers of the court.

MR. OATES—Will the gentleman allow me to ask a question?

MR. SPRAGINS—Yes.

MR. OATES—It has just been called to my attention by the Adjutant-General, who is our reading clerk here, that the probabilities are that of the $30,000 appropriated by Congress for the use of the militia in Alabama, one-half of it propably, or nearly so, will be withheld, in the event that we adopt the word white so as to exclude the negro, and there is but one negro company now in service. I would like to ask of the gentleman if that is the case?

MR. SPRAGINS—I don't know whether that is true or not, but the judgment of the Committee is that the appropriation was made upon the available strength in the State that was subject to duty in the Alabama National Guard, whether white or black.

MR. HARRISON—The language of the first section here reads, after specifying who shall be, that there shall be liable for militia duty in the State—doesn't that exclude any but white men from being liable?

MR. SPRAGINS—Yes.

MR. HARRISON—Then wouldn't it be taken away from you on your statement? Under this appropriation from Congress, would not you be excluded?

MR. SPRAGINS—The appropriation is not made on who is liable to duty but upon the available strength of the State, that is, the number of male inhabitants in the State between the ages of 18 and 45. That is our judgment of what the law means. The majority of the Committee was of the opinion that even if we lost one-half of the appropriation of the general government, or nearly one-half, as the proportion of whites is more than the proportion of blacks in the State; but if we lost this appropriation, we thought it wise and prudent to lose it.

During the Spanish-American war, there were four negro companies in the Alabama National Guard out of the three regiments. Three of those companies have been disbanded or mustered out under the State authorities, but there is one still existing. Now, the history of any troops, when there are some white and some black, you put a regiment composed of eleven white companies and one negro company in camp at Mobile, and there is constant friction between the members of that regiment, between the white troops and the negro troops, and our judgment was that it would be wise, even in the event that we lost one-half of the appropriation from the National Government, it would be for the best interests of the State of Alabama and the people of Alabama to lose it.

MR. OATES—In encampment, as you put it, they would necessarily be put and kept together, or near together. The Adjutant-General would never allow that. He would put them so there would be no friction. No such thing ever occurs of being encamped together.

MR. SPRAGINS—Well, you do that by authority of office, then, and not by authority of law. If there is a brigade encampment of all troops within the brigade at one place, then the negro troops must necessarily be a part of that brigade encampment.

MR. OATES—Not necessarily at all. I did not construe the law, and during my administration, I had a brigade encampment of all white troops in Mobile, and the next week after they dispersed the negro battalion was encamped on the same ground.

MR. SPRAGINS—Well, you might do it that way, but certainly if there were any trouble, if they do not brigade them together or do not encamp them together in regimental camps, if there were trouble at Birmingham as we once had among the strikers, a mob, then certainly if the troops were all necessary the negro troops would have to come up with the white troops, and they would be brigaded together and encamped together as a

regiment. It was done that way at Tampa, Fla., during the Spanish-American war.

MR. JONES (Montgomery)—No Governor has ever ordered the State troops to come in contact with the negro troops.

MR. SPRAGINS—But some Governor might. We have heard enough on the floor this morning to suspect that the time may come when some Governor might do that. (Applause.) And if it is necessary for us to lose from the National Government that part of the national appropriation the majority of this Committee says that it is to the best interest of the people of Alabama that it should be lost. We had enough of that thing in Huntsville, and I suppose the gentleman from Anniston had enough of it in the winter after the Spanish-American war when the negro troops and the white troops were quartered in and around those respective towns, and I for one think that it is for the best interest of the people of Alabama that our National Guard should be composed exclusively of white people.

MR. ASHCRAFT—It is with great reluctance that I undertake to say anything upon this question because I know that our first sentiments are for the retention of this word "white" in this Section of the Constitution. But there are other matters of expediency than those of accidental or possible association of the white and the negro troops. We not only have to live among ourselves, but we have to live under the view of all the civilized world, and if it is the desire of this Convention to awake up every sentiment agitator in the whole country outside of the State of Alabama, then let them keep this word "white" in this Constitution. Everywhere the agitators will be reminding the negro of the fact that he does not possess the right to enter the military, that he does not possess the right to volunteer to defend his country, that he does not possess the right to exercise any of the higher obligations enjoined upon him by any patriotic sentiment. They would have the best of the sentimental argument. The negro at present does not demand any representation in the State troops. It is true, he has a company that has been here for twenty years and there are very few citizens in Alabama who know that there is such a company, I dare say. He has not been obnoxious; he has not been in the way. He can never get among the troops except in the discretion of the Governor. The white people have kept all the places full, have kept enough there to spend all the appropriation, and so there is no danger if you let them alone, but if you undertake active repression, he will become active, he will be aided, guided and stimulated by people outside of our borders, as he has been in the past, and a state of unrest will set up in the negro as a body of citizens, and they then will be dissatisfied and unhappy and produce a situation which we can easily escape by taking this word "white" out. We will not endanger the situation

of the white people. It is a matter of great policy, so far as our situation relates to the whole country. The United States Government now does not insist on our accepting negroes in the National Guard. They pay no attention to it because there is no demand for it. But let us put this provision in the Constitution, and every agitating politician in the North that has some sentiment about the negro, will be howling about it, stirring up discord, procuring, as far as he can, discrimination against our State.

MR. SANDERS—I would like to ask the gentleman if he does not think we have made enough concessions to the North, to the sentiment of the North?

MR. ASHCRAFT—I do not think, sir, we have made any concessions. We have gone as far as we could to secure our rights under the law, and so far as franchises are concerned, we have left nothing to sentiment. We have demanded all that we could get under the letter and the strict letter of the law, but we are here now undertaking to do something that will accomplish no good for us, it will simply stir up unrest against us and therefore I am in favor of the amendment.

MR. COLEMAN (Greene)—I have a substitute.

The substitute was read as follows:

"The Legislature shall have power to declare who shall constitute the militia of the State and to provide for organizing, arming and disciplining the same."

MR. COLEMAN—Mr. President, I incline to the view that the Section of the Constitution of the United States which has been read would not restrict the State from making this discrimination. I do not wish to be understood as asserting that positively, but the wording of it indicates that who shall constitute the militia shall be left to the States, but we are safe in avoiding all trouble by adopting the substitute. I follow the precise language of the Constitution of the United States in conferring that power upon Congress, that Congress shall have power to provide for organizing, arming and disciplining the militia. So this is that the legislature shall have power to declare who shall constitute the militia to organize, arm and discipline it, and it is a safe solution of the whole trouble, in my mind, and will put us upon a good basis, impregnable, and will give rise to no reflection on account of discriminating one way or the other, and being largely with the legislature, if the emergency should arise such as some apprehend, but which, I hope, are far off, why the power would be there to prevent the evil, unrestrained by organic law, but the law may be applied to the existing conditions and we would move safely on. We lose nothing of the appropriation by that provision. We show no discrimination in our organic law. We leave everything with the

legislature, just as the Constitution of the United States has left it with Congress.

MR. HANDLEY—It leaves the word "white" out.

MR. COLEMAN—The whole thing is out and we have got all we want. I move adoption of the amendment.

MR. BURNS—As a member of the Committee, I desire to say that we had full meetings and that we had no contention, but we all did not agree to insert that word white. It was understood by the Committee that we would make the report, and then each member of the Committee, as each member of the Convention could fight it on the floor if they saw proper. Now I agree with the amendment offered by the gentleman from Montgomery. I think the word "white" should be stricken out. I do not think we need any more argument on that question. I think the arguments are unanswerable. As far as the negro amounted to anything, under that clause, we have proven since 1875 that they have amounted to nothing. As long as we have a good Democratic Governor, or a good any other kind of Governor, a gallant, true Adjutant General, as we have now, we need have no fears in regard to having a few negroes in the militia. Those that we have are all gone except the dribblets of an old company stationed somewhere in the State, and this Convention does not know where they are, and I doubt if the Adjutant General knows where they are.

MR. JONES (Montgomery)—Haven't you been on duty in many very big strikes and never saw anything of negroes in the National Guard in Alabama?

MR. BURNS—Yes, sir; we never had any complaint at all. I don't think we ought to endanger these appropriations. We have to run our hands in our pockets now to pay out a thousand or two dollars. Don't let us depend on the legislature to help the militia. Don't let us throw away these appropriations from Washington and depend on the legislature to help out the militia and encampments. We are behind now, and have to pay it out of our own pockets. Let the old Constitution stand. Do not tear it all to pieces. Let some of it stand. This Committee changed it very little, and the Chairman of the Committee is not satisfied with it himself. Some men prefer it for the sentiment about it and some of us do not prefer it. Give us the benefit of the doubt and let us have the old Constitution back. If everything worked well under the old Constitution, why should we change it?

MR. O'NEAL—You say that under this provision we would endanger our appropriation and that the appropriation is made according to the number of troops?

MR. BURNS—Yes, sir; endangers the Federal appropriation.

MR. O'NEAL—Will the gentleman permit me to call attention to the language of the statute on the subject?

MR. BURNS—I wasn't talking about the statute, I have just heard the gentleman read enough.

MR. O'NEAL—This is the statute, just to the contrary. Here is the last act, Supplement to Revised Statutes, which says that the appropriation shall be apportioned among the several States and Territories under the direction of the Secretary of War according to the number of Senators and Representatives to which each State is entitled in Congress.

MR. BURNS—That is not the law we are working under now.

MR. O'NEAL—Yes, sir; that is the last law of Congress on the subject.

MR. BURNS—I did think I would ask a moment on personal privilege, but I have such high regard and respect for the distinguished gentleman from Montgomery whose record as a soldier will shine long after I am forgotten, and although I am willing to stand on my record during the war, having killed as many of the Yankees as they did of me (laughter), having gone through more than three years and a half of that war, I am perfectly willing to stand on my record. I am sorry that I said what I did to the distinguished gentleman from Montgomery, because I did not know who he was referring to. I made a mistake. He was referring to old Stroback, who was not a white man.

MR. COBB—I am in entire accord with the views of the gentleman from Greene upon this matter, and the only difference between him and myself is that I believe that this whole Section No. 1 should be stricken out from the Constitution. In 1819 when the first Constitution of the State of Alabama was adopted, there was no provision contained in that instrument defining the militia. There was none put in the Constitution of 1861. There was none put in the Constitution of 1865. This matter of defining the militia of the State made its appearance in the Constitution of the State for the first time under the radical rule in 1868. Prior to that time there was not a word in the Constitution of the State of Alabama defining the militia and in 1875 as we all know, it was retained in the instrument simply for the reason that the Constitutional Convention of that year was timid, and did not intend or desire to go any further in making any change in the Constitution then existing than they could reasonably prevent. This is the history of this matter, and the question of who shall constitute the militia is purely legislative and should be stricken from the Constitution altogether. I have no doubt the distinguished gentleman from Greene will agree with me on that proposition. However, if it is insisted that something about the militia and something about defining who

shall constitute the militia should go into the Constitution then his amendment should be adopted. Of course so far as the Constitution of the United States is concerned my own opinion is that it is perfectly clear that we are not prohibited by that instrument from declaring who that is. The Constitution of the United States does not attempt to define the militia. The act of Congress does define the militia.

MR. JONES—Is that not constitutional?

MR. COBB—I think not.

MR. JONES—You think not?

MR. COBB—I do not think so. I say that an act of Congress is not per se an interpretation of the Constitution of the United States. It is only an expression of opinion.

MR. JONES—Does not the gentleman remember. I think in the Houston case, in fifth Wheaton, that the Supreme Court of the United States decided that it was.

MR. COBB—I do not remember any such decision.

MR. O'NEAL—Fifth Weaton Houston against Moore.

MR. COBB—That an act of Congress is a declaration of what the Constitution is?

MR. JONES—No, but that it is the construction of that section of the Constitution, the supreme law of the land.

MR. COBB—About this particular instance?

MR. O'NEAL—About this particular instance.

MR. COBB—Well, if it is true, Mr. President, that the Supreme Court of the United States has by a solemn decision declared that that article of the Constitution does give the power to Congress to define the militia of the States, then I bow to that decision of the court, but independent of it, I would have no sort of hesitation in believing that it was never the intention of the Constitution makers to confer upon Congress the power to say who shall constitute this militia.

If we adopt the amendment proposed by the gentleman from Greene we put this question just where it ought to rest, with the Legislature. I am in hearty accord with him, except that I believe we ought to say nothing about it. I do not believe that the Constitution of the State of Alabama ought to seek to confer power upon Legislatures. The Legislature of Alabama has all power except in matters wherein they are restrained either by the Constitution of the State of Alabama.

MR. JONES (Montgomery)—Mr. President, I desire to withdraw the amendment offered by me, and accept in lieu of it the amendment offered by the gentleman from Greene.

Objection was made.

MR. O'NEAL—As there seems to be some misapprehension of the law on the subject, I desire to briefly call attention of the Convention to a provision of the Constitution of the United States. It is simply this, in defining the power of Congress, it says the Congress "has power to provide for the calling forth of the militia to execute the laws of the Union." Now, the first statute passed on this subject was the act passed in 1792, which is that "every able bodied male citizen of the respective States resident therein who is of the age of 18 and under the age of 45 shall be enrolled in the militia." We all know that meant every able bodied male citizen at that time and under the decision of the court it meant white citizens. The Supreme Court decided in the Dred-Scott case that negroes were not citizens of the United States, and hence the act of Congress carrying out the provision of Congress, confined the militia to white citizens of the United States. Now by the 14th amendment the negro is made a citizen of the United States, and of course if the provision in our Constitution provided that all male citizens should be subject to military duties, it would mean that the negro was subject to military duties. Now another misapprehension arises as to the act of Congress making an appropriation to the States for military. It has been stated here that Congress makes the appropriation according to the number of male citizens in the State liable for military duty. Mr. President, that is untrue, as far as my examination discloses. The last act on the subject, which is the act just read, is the act of February 12, 1887. What does that provide? It amends Section 161 and provides the sum of $400,000 to be annually appropriated. It makes a permanent appropriation for the militia of the States. Section 2 says that appropriation shall be apportioned among the several States and Territories—how? According to the number of citizens? No. "Under the direction of the Secretary of War, according to the number of Senators and Representatives to which each State is respectively entitled in Congress of the United States, and to the Territories and the District of Columbia such proportion as the President may prescribe." Hence it makes no difference what action we take, for the Secretary of War, under the statute is forced to give Alabama the same proportion that she now has of this apropriation unless the number of our Congressmen is reduced in the Congress of the United States. Now, Mr. President, I also wish to call the attention of the Convention to the principles of law that govern this matter. In the case of Houston against Moore, 6 Wheaton, the Supreme Court of the United States decided that Congress did not have the power under the provision of the Constitution I have read to pass the act of 1792. Further it

says on the subject of the State militia the opinion being delivered by Justice Washington, the power of the State government to legislate on the subject having existed prior to the formation of the Federal Union and not having been prohibited by that instrument, remains with the States. The State it says, except where the Constitution of the United States prohibits action, has absolute and sovereign control of this subject. Now, Mr. President, there is nothing in this provision which denies the State the power of calling upon the negroes to volunteer in times of war. Nothing in this section prohibits that. The provision in the section under consideration does not provide that they shall not constitute a part of the State troops. The gentleman from Montgomery called attention to the fact that in the Cuban war the negro troops displayed great gallantry. I do not deny the fact. We know the negro can be made an efficient soldier in time of battle, but the testimony of every officer in Cuba and every newspaper correspondent shows that when the battle was over they went into camp, the negro troops were insubordinate; they had no sense of honor; no esprit de corps; they committed thefts and crimes which reflected disgrace upon the uniform they wore. That was the case at Huntsville, and it was the case at Anniston, so, Mr. President—

MR. GREER (Calhoun)—It was the case multiplied in Anniston. I speak from personal knowledge.

MR. O'NEAL—The settled policy of Alabama is to accord to the negro equal justice and protect him in all his rights of persons and property, and to give him that full measure of justice which the strong owe to the weak, but we never intend to share with him the responsibilities of government, and this is best for the negro and best for the white man. So, Mr. President, there are some misguided but sincere men in the North who say we must elevate the negro and put him in a position where, in the course of time, he can reach the same level, socially and politically, as the white man. Mr. President, I say men who entertain those views are the enemies of the negro race. This race instinct which they are pleased to call race prejudice, is implanted into our bosoms by a higher power than man himself. It is this race instinct, this race prejudice, if you please, which has preserved the purity and integrity of each race and prevented that assimilation and debasement, the very contemplation of which fills our minds with horror and repugnance. Now, when you put the uniform of the State upon the soldier, you incite in his mind aspirations for social equality; you endeavor to elevate him to the position which God and the laws of man never intended he should occupy, viz., that of social equality with the white and superior race. I saw an illustration in Washington, where the negro officer of the day was in charge and the Southern soldier refused to doff his cap in reverence

at the presence of the negro who wore the uniform of the Government, and he was courtmartialed for it, and the Southern man said: "All coons seem alike to me." Mr. President, the races of men are the markers of God's will. This race feeling was implanted in our bosoms by God himself. The white people have governed this country in times of peace. They have fought its battles and carried its banner in triumph in days of war, and they are still prepared to govern it in peace and defend it in war. We do not want to put the negro in a position he cannot occupy. We do not want to break down race barriers. We do not want to elevate him to a position which will degrade and humiliate that race which proposes forever to dominate and control in this State. Now, Mr. President, why should we hesitate? They say we may offend the sentiments of the North, and that we may lose money by it. I am willing to do what I think is right in this matter, "unawed by power and unbribed by gain." I care not what the sentiment of the North may be. We have this problem to deal with. We, ourselves, propose to deal with it justly so that the negro will be protected in his rights of person and property in the courts and before the law, but we do not propose to deal with it so the negro can wear the uniform of the proud Commonwealth of Alabama, and be put on social equality with the white soldiers of this State. Take the 10th regiment. They did brilliant service at the battle of Santiago, and get when they were retired and were brought back to the United States and were sent to Huntsville for encampment, what was the very first act? Before they disembarked from the cars, their first act was to fire into a guard around a saloon, and it cost seven or eight lives. This was an act of lawlessness and insubordination, and the result was that General Wheeler, who was in charge of the camp, sent them four miles into the country and never allowed them to come to Huntsville except by special permit. That shows the character of the negro race. When you put the uniform on him, you say to him, you are as good as the white man; you wear the uniform of the Government and of the State; and I tell you, Mr. President, that the sentiment even of the great Republican party, and I have heard it stated, that even Mr. McKinley himself said he believed that a great mistake had been made in calling upon the negro troops to volunteer in the war with Spain. I move the previous question on the section and pending amendment.

MR. JONES—I appeal to you to allow me to speak.

MR. O'NEAL—I withdraw the motion that the gentleman from Montgomery be allowed to speak.

MR. PETTUS—I object.

THE PRESIDENT—Does the gentleman from Lauderdale withdraw the motion?

MR. O'NEAL—I never decline to extend any courtesy to the distinguished gentleman from Montgomery, and I withdraw it at his request.

MR. JONES—Some of the delegates, in discussing this question, seem to think that all the pride and all the devotion to the white race resides in the breasts of the gentlemen who object to the proposition embodied in the amendment and the substitute.

MR. GREER (Calhoun)—I dislike to do it, but I make the point of order that gentleman has discussed this question once.

THE PRESIDENT—The gentleman is out of order. There has been another amendment offered.

MR. JONES—I was proceeding to say that some of our friends on this floor seem to imagine that they possess all the patriotism and pride of race represented on the floor of this Convention, and that those of us who advocate different views on this measure are unmindful of what we owe to our race. I may therefore be pardoned for saying that from the time I was a little over 16 years of age until Appomattox, where I surrendered, I was risking my life, and baring my body to wounds, suffering and disease, in defense of the white people of Alabama. I have risked my life as often as any man on this floor since the close of the war, in upholding law and white supremacy, and in battling against the hordes which at times threatened to overthrow our civilization. It is untrue and unjustified, but I won't characterise it further—to intimate because some of us think it unwise and wrong to put in the fundamental law of the State of Alabama that it shall never call upon the negro, if the State desires it to uphold its laws, that we are unmindful of what is best for the white race. I recall an instance when there was an insurrection among the black people in Lowndes and Crenshaw counties owing to the mobbing of a negro in jail at Hayneville, I was sent down there with the troops by Governor Seay. The reports of the magnitude of the uprising were alarming, and he did not know what number of troops we would need, or how soon. While I was in the Governor's office, an officer of the negro company here came in, and told the Governor he came to report to him, as he had heard there was trouble. Governor Seay asked him if he could be counted on to fight his own people if they continued to resist the law. The negro replied: "Yes, sir, there is not a man in my company who will not uphold the laws of Alabama. You have treated us as soldiers, we are under your orders, and if you send us down there we will do good service." I have never known an instance in the Alabama State troops, or National Guards, as afterwards called, where there was the slightest disturbance, impropriety or indecency on the part of the negro companies which formed part of the State Troops. These gentlemen seem to think some day in the future the time will come when

some Governor or Legislature will try to oppress the white people with the black. God forbid that that day shall ever come, but if we do have a Legislature that will do that, or a Governor who will do that, it will only be after our civilization is undermined, and the power that will do that will have the power to circumvent or repeal your Constitution. We must have some faith, some confidence, some hope in the future of the State and believe that the good God who has so long preserved it in all of its trails, will in His wisdom continue to give Alabama at least brave and faithful and honest men, in the future as in the past, who will so use the powers confided to them that one race shall not be a disturbing factor or an oppressor of the other.

What is the proposition about which some gentlemen have fanned themselves into a passion. It is simply this: The State of Alabama is providing in her Constitution for a militia. Some members say it ought to provide that no negro shall be called upon for military duty and others say that it ought to be left to the Legislature. That it is unwise to adopt the Article as reported. That is the proposition. And yet some of us are virtually assailed here as not being in favor of our civilization or of our race! Mr. President, on one occasion I had the honor to command the escort of President Jefferson Davis in his last tour through Alabama and Georgia. We came to the little town of Albany in Georgia. While we were there a negro captain of a negro company came up and asked to have the privilege of escorting the carriage of Mr. Davis. I said to him that I would refer his request to Mr. Davis, and I did so. Mr. Davis said he would be glad to have him, "he was glad to see that spirit exhibited on their part towards him and the whites, and that he wanted to encourage it." If Jefferson Davis could take that position, surely it is not a matter of reproach to myself or William C. Oates that we are of the same opinion. I trust, therefore, Mr. President, that if this amendment which I ask to withdraw to accept the substitute offered by the gentleman from Greene is voted down, that the Convention will accept the substitute offered by the gentleman from Greene.

MR. HARRISON—I desire to ask the delegate from Montgomery if it is not a fact that the Congress of the Confederate States itself provided for the enlistment of negro troops.

MR. JONES—Yes sir. I alluded to that in my first speech. It was done at the urging of no less a man than Robert E. Lee, and Gen. Pat Cleburne advocated it early in the war.

MR. PETTUS—I think there has been enough discussion on the question and I move the previous question.

MR. WILSON (Clarke)—Before the gentleman does that I ask unanimous consent to add an amendment to Judge Coleman's amendment. The Committee agreed to it.

The amendment was read as follows:

Amend by adding the following: "The Legislature may provide for an organization of a State Naval Militia."

There was no objection and the amendment was allowed.

MR. PETTUS—I now move the previous question on the adoption of the Article and pending amendments.

Upon a vote being taken the main question was ordered.

MR. PETTUS—I move to table the pending amendments.

MR. SANDERS—Upon that I call for the ayes and noes.

The call was sustained.

MR. DENT—I call for a division of the question.

MR. WILSON—Is there but one amendment pending? Did not the gentleman from Montgomery accept an amendment from the gentleman from Greene?

THE PRESIDENT—There was objection and both amendments are pending.

MR. JONES—Now I ask to withdraw my amendment to same time.

Leave was granted.

THE PRESIDENT—The question is upon the motion to table the amendment offered by the gentleman from Greene as amended by unanimous consent.

Upon a call of the roll the result of the vote was as follows:

AYES.

Bethune,	Merrill,	Sanders,
Blackwell,	Moody,	Spragins,
Chapman,	O'Neal, of Lauderdale.	Stewart,
Grayson,	O'Rear,	Tayloe,
Hodges,	Palmer,	Thompson,
Jones, of Bibb,	Pettus,	Vaughan,
Macdonald,	Reese,	Wilson, of Clarke.

Total—21.

NOES.

Messrs. President,	Beddow,	Byars,
Almon,	Boone,	Cofer,
Ashcraft,	Brooks,	Cobb,
Banks,	Bulger,	Coleman, of Greene,
Barefield,	Burns,	Davis, of Etowah,

Dent,	Inge,	Parker, of Elmore,
Duke,	Jackson,	Phillips,
Eley,	Jenkins,	Pillans,
Eyster,	Jones, of Wilcox,	Pitts,
Fletcher,	Jones, of Montgomery,	Proctor,
Glover,	Knight,	Rogers, of Lowndes,
Graham, of Montgomery,	Kyle,	Sentell,
Graham, of Talladega,	Ledbetter,	Sloan,
Grant,	Lomax,	Smith, of Mobile,
Greer, of Calhoun,	Lowe, of Jefferson,	Smith, Mac. A.,
Greer, of Perry,	McMillan (Baldwin),	Smith, Morgan M.,
Haley,	Martin,	Spears,
Handley,	Maxwell,	Waddell,
Harrison,	Miller, of Wilcox,	Walker,
Heflin, of Chambers,	Murphree,	Watts,
Heflin, of Randolph,	NeSmith,	Whiteside,
Henderson,	Oates,	Williams, of Barbour,
Hood,	O'Neill (Jefferson),	Williams, of Elmore,
Howell,	Opp,	Wilson, of Washington,
Howze,	Parker, of Cullman,	Winn,

Total—75.

ABSENT OR NOT VOTING.

Altman,	Foster,	Pearce,
Bartlett,	Freeman,	Porter,
Beavers,	Gilmore,	Renfro,
Browne,	Hinson,	Reynolds, of Chilton,
Burnett,	Jones, of Hale,	Reynolds (Henry),
Cardon,	King,	Robinson,
Carmichael, of Colbert,	Kirk,	Rogers, of Sumter,
Carmichael, of Coffee,	Kirkland,	Samford,
Carnathon,	Leigh,	Sanford,
Case,	Locklin,	Searcy,
Coleman, of Walker,	Long, of Butler,	Selheimer,
Cornwall,	Long, of Walker,	Sollie,
Craig,	Lowe, of Lawrence,	Sorrell,
Cunningham,	McMillan, of Wilcox,	Studdard,
Davis, of DeKalb,	Malone,	Weakley,
deGraffenreid,	Miller, of Marengo,	Weatherly,
Espy,	Morrissette,	White,
Ferguson,	Mulkey,	Willet,
Fitts,	Norman,	Williams, of Marengo.
Foshee,	Norwood,	

And the motion to table was lost.

MR. WILSON (Clarke)—The majority of the Committee ask unanimous consent to accept the Coleman proposition.

Objection was made.

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Greene.

Upon a vote being taken, the amendment was adopted.

MR. WILSON—The question recurs upon the adoption of the Article.

THE PRESIDENT—The question now will be upon the motion to adopt the Article as amended.

Upon a vote being taken, the Article was adopted.

MR. WILSON—I move that the Article be ordered engrossed and to a third reading and upon that I call for the previous question.

The main question was ordered.

THE PRESIDENT—The question now is upon ordering this ordinance engrossed and to a third reading.

Upon a vote being taken, the Article was ordered engrossed and to a third reading.

THE PRESIDENT—The next regular order will be the consideration of the report on Corporations.

MR. HARRISON—Mr. President, in behalf of the Committee on Corporations, I invite the attention of the Convention to the report of the Committee, which shows the changes made in the old Constitution and the reasons assigned therefor. I desire to state further, Mr. President, that this Committee, after giving a full and careful hearing to every ordinance presented to it, and a consideration to all petitions and the hearing of a great many citizens as well as delegates, have in the report of this majority, consisting of nineteen sections, not only unanimously agreed upon those that were present, but in this agreement every member of the Committee was present, and while upon a few propositions there was a diversity of opinion, this Committee among themselves did what this Convention on yesterday, seemed to do on the matter of the report on the Judicial Department, and compromised these issues among themselves, and unanimously instructed me to make this report. The only division of the Committee consists of what is called a minority report, in which some members of the Committee desired to engraft a provision in which the majority did not concur, and which is something entirely new in the Constitution.

As this report will explain itself, and as the Committee will explain by some member each and every change made when the section is reached, for the dispatch of business, I shall be brief, and I now move that we proceed to consider this majority report section by section.

Upon a vote being taken, the motion was carried.

THE PRESIDENT—The Secretary will read Section 1.

The Secretary read Section 1 as follows:

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.

MR. HARRISON—Mr. President, I desire to ask unanimous consent to adopt two amendments to that section in behalf of the Committee, one to correct a grammatical error and the other at the suggestion of some delegates of the Convention, to guard the language and confine it strictly to what the Committee meant. I have the amendment prepared.

The amendments were read as follows: Amend Section 1 by striking out the word "they" where it first appears in the second line thereof, and insert in lieu thereof, the word "it." Further amend Section 1 by inserting between the words "to" and "repeal" on the third line thereof, the following words, to wit: "Amendment, alteration or" and amend Section 1 by striking out the words "of every nature," on line three.

THE PRESIDENT—The gentleman from Lee, the Chairman of the Committee, asks unanimous consent to accept the amendments just read. Is there objection?

There being none the amendments were allowed.

MR. MACDONALD—I would like to ask a question of the Chairman of the Committee. As I understand this section, it authorizes the legislature to alter or amend charters of existing corporations by special act. Isn't that in conflict with the Article we have adopted on Local Legislation.

MR. HARRISON—If the delegate from Montgomery will read further, he will see that it provides that the legislature shall pass general laws under which charters heretofore granted may be amended. The other, as a matter of precaution, was put in there simply to overcome the exclusive rights held by the Courts under the Dartmouth College case.

MR. Ashcraft—I ask this question: If when a corporation has obtained a charter, cannot it then come to the legislature and get

it amended. The section says, "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."

MR. HARRISON—I ask my friend from Lauderdale to allow the delegate from Mobile upon whose suggestion this amendment was incorporated to answer him.

MR. BOONE—I would say that the Committee has put this in, because if you will look at Article XIV, Section 1, of the old Constitution, you will find that after providing how corporations shall be organized, it was carefully put there. "All laws under which corporations are organized may be altered, amended or repealed." That is in every Constitution in the United States that has been made since the decision in the Dartmouth College case, in which Mr. Justice Story pointed out that unless the power was left with the legislature to alter, amend or repeal that a legislature grant was a contract, and could not be subject to alteration, amendment or repeal, and hence, if we do not put this in here somewhere, if the legislature would grant a charter giving them certain rights, they would be unalterable. It seems to me of vast importance and should appear in this Article.

MR. WALKER (Madison)—Under that amendment as proposed by the Committee, would it not have it in the power of the legislature to provide for such an amendment, not by general law but by special law? What necessity is there for providing for special legislation to amend charters if it can be done by general laws.

MR. BOONE—I take it that in many particulars there are corporations of a certain character, relating to certain subjects, which are not of uniform and general purpose, and the idea of the committee was to put it in for that purpose.

MR. WALKER—I would like you to specify some corporation that could not be provided for by general law.

MR. BOONE—I would say there are many rights and privileges, many ramifications in certain corporations, and it would do no harm to have this provision, especially when we have the sentence following, that the Legislature shall by general law provide for the organization of corporations and the giving of charters, and not by special act.

MR. WALKER—But the exception now proposed would take this out of operation of general law, and make it the subject of a special act by the Legislature.

MR. BOONE—I think that would be wise in certain cases.

MR. PILLANS—Could there under the Dartmouth College decision be any amendment by general or special law unless the privilege to amend is retained.

MR. BOONE—I think not. Clearly not.

MR. ASHCRAFT—What is the parliamentary status of the matter?

THE PRESIDENT—The question is on the motion to adopt the setion as amended by unanimous consent.

MR. ASHCRAFT—I desire to call the attention of the Convention to the fact that if that word "amended" if left in there, it will make is possible for the Legislature to pass a special act in connection with every corporation that may be organized in this State, but if it is left as originally reported the Legislature will still have the power to control corporations, because if there is any reason why the charter of a corporation should be amended, and it refuses to do it, under the general law, the Legislature retains the right to repeal its charter and thus retains the power of control over it. If you put words "subject nevertheless to amendment or repeal" you open every charter in this State to amendment by a special act of the Legislature and open the doors for local legislation which we have undertaken to close.

MR. JENKINS—Wouldn't the amendment have to apply generally to all charters.

MR. ASHCRAFT—No, because it says "subject nevertheless to amendment."

MR. JENKINS— Wouldn't the law amending it be a general law itself?

MR. ASHCRAFT—No, that is not the purpose of the word "amendment." I move the reconsideration of the action of the Convention whereby the word "amendment" was inserted.

MR. BOONE—Upon that it seems to me very briefly, as suggested to me by my colleague, Mr. Pillans, that unless we retain some right to amend or alter these charters, that it does not exist. On that point any fair reading of this article, and it is construed by the courts according to well known canons of construction you construe it is a whole, and when you read it in that way, it is clear, as the gentleman from Wilcox stated that those amendments or alterations or the repeal of it, is to be by a general law.

MR. COBB—Will the gentleman allow a question?

MR. BOONE—Certainly.

MR. COBB—If you put in this clause the power to amend will not the effect be to confer upon the Legislature the power to make a charter? Where would you draw the line or distinction?

MR. BOONE—I draw the line here: That whether we give the power to the Legislature, or do not give the power to the Legislature, to amend, that it is much wiser as to corporations that have been heretofore granted charters, or that may be hereafter granted, to put a limitation upon the power to grant exclusive privileges, or to grant rights and franchises which cannot be repealed, and that will stand forever as contracts, such as is pointed out in the Birmingham Street Railway case in 79 Ala., where Mr. Justice Somerville shows that gas, light, water works, sewers, rights of navigation, railroads, and hundreds of such things, rights of exemption from taxation, and numbers and numbers of the sovereign powers of the State have been given away, and that thereafter they could not be taken away, altered or changed by the Legislature, and it is better to have this power here as a limitation upon the Legislature, even if they could amend charters, than to put it in without the power of the people, and I ask that the Section as amended be read.

MR. COBB—I understood you to take the position that where an act of incorporation has once been passed it can not thereafter be repealed, and is a contract.

MR. BOONE—It is, unless there is a reservation, either by general law, or in the charter, or in the Constitution, of the power of repeal or amendment.

MR. COBB—Now you have in this Section the power of repeal?

MR. BOONE—Yes sir.

MR. COBB—The point I make is, if you insert the power to amend, do you not thereby confer power upon the Legislature to absolutely charter a corporation.

MR. BOONE—I think not. I think it would have the power to amend the charter. The corporations of this State when, the power of the State is wisely used to govern and control them, are the great developers of this State, and it might be wise in many instances to make an amendment of the charter, without exercising the drastic power of repealing it, and without this amendment you could do nothing but repeal the charter.

MR. ASHCRAFT—Will you permit a suggestion?

MR. BOONE—Yes sir.

MR. ASHCRAFT—If these words were transposed, and placed immediately after the words "general laws" in the second line, I think they would have the meaning you intend them to have. It would read: "They shall pass general laws, subject, nevertheless, to amendment, alteration or repeal, under which corporations may be organized, and corporate powers of every nature obtained."

MR. BOONE—I do not think that would do, and it does seem to me that it is of the utmost importance that what is called in the law "the visitorial power of the Legislature" in behalf of the people, should be exercisable by the Legislature. That is the only way in which it could be done, and I think that it would not be wise to strip the Legislature of the power to amend, alter or repeal the charters of corporations.

MR. O'NEAL—Do you favor giving the General Assembly power to pass general laws to amend the charters of the different corporations in the State?

MR. BOONE—No sir, I do not. I claim that this language does not have that effect, but if it did, it would be far better to do it than to leave it for corporations to get legislative acts through the General Assembly, and then have them operate as irrepealable contracts.

MR. PILLANS—Might not corporations be chartered under the general law, and be given the right to take 10 per cent. interest, which would become part of the charter contract and would not the clause as you propose it give the power to amend such charters thereafter, and might not the Legislature afterwards by general law amend all of the charters granted under general law and reduce the interest to 8 per cent.? Whereas if they didn't have the power to amend this charter, it would be in effect, a contract, and the Legislature would not have the power to compel them to reduce the rate of interest to 8 per cent.

MR. BOONE—I think unquestionably so.

MR. PILLANS—Isn't that an illustration of how this does not necessarily permit local legislation, and conflict with what we have already done?

MR. BOONE—I think so. That is the law of Ohio, as illustrated in the case of the city of Hamilton against the Hamilton Gas Light and Coke Company. There the matter is regulated by general law. Look at the opinion of Justice Harlan, pointing out the power to amend or repeal a charter as is fixed by the general law, and you will find also under the laws of Ohio that corporations are formed by general laws and not by special acts.

MR. BLACKWELL—By the amendment proposed, couldn't you strike out everything in the charter except the heading of it?

MR. BOONE—Yes sir.

MR. BLACKWELL—And then if you amended it, wouldn't you have a new charter?

MR. BOONE—I deny that would be a charter, it would be just the title of an act. A charter contemplates the power to do

something in a well defined way. It is a statute giving you authority to do it in a certain manner, and according to certain methods.

MR. COBB—There is a concensus of opinion upon one question, and that is that every provision in a State Constitution should be so plain that construction of it would not be necessary. Now, the amendment that is proposed here, even under the view taken by my friend from Mobile, would make this provision of the Constitution of Alabama subject to grave doubt as to what it means. That should not be. The question that is really before this Convention is the question between allowing the Legislature of the State of Alabama to charter corporations, or to confer that power by general laws upon some other department of the State government. That is the vital question that is before this Convention, and before the people of Alabama. Now, then, if we have met here to do that and it is better to withdraw from the Legislature this power of chartering corporations, then we ought to do it effectively, and not in such a way as still will leave the power in the Legislature to do that which we are endeavoring to forbid.

MR. ASHCRAFT—I suggest to the gentleman from Macon that the Committee propose to transpose the sentence to a position immediately after the words "general laws," in the second line, which will relieve it of any ambiguity. It will read, "The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws, subject to amendment or repeal, under which corporations may be organized, and corporate powers conferred," and that will be without objection. Then it would be absolutely clear that no contract could be obtained under the general law that is not subject to amendment or repeal.

MR. COBB—Then the amendment is wholly unnecessary. The power to amend will remain in the Legislature in the view taken by my friend from Lauderdale. The power to amend or change a general law can never be taken from the Legislature of Alabama except by an express enactment in this Constitution. That is not provided here at all; hence any amendment, such as he suggests, is wholly unnecessary. I do not object to the power remaining in the Legislature, to amend these general laws under which corporations may be formed, if that is the object; the only objection to that is that it is wholly unnecessary, but I do protest against any amendment being put into this section whereby the Legislature can amend an Act of incorporation granted by other authority than itself, because it is perfectly patent to everybody that if that power to amend remains in the Legislature, the power to form corporations remains there.

THE PRESIDENT—The question will be upon the motion of the gentleman from Lauderdale to reconsider the vote whereby the amendment was added by unanimous consent.

MR. REESE—A motion to reconsider at this time is not in order.

THE PRESIDENT—The motion to reconsider the vote whereby the amendment was adopted is in order under the rules. The Chair will refer the gentleman to Rule 37—"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."

MR. WALKER (Madison)—Under this provision, as it would be by the amendment suggested by the gentleman from Mobile, and I believe already incorporated, the result would be that the Legislature would be required to pass general laws under which corporations might be formed, but would retain the power to amend the charters of corporations formed under those general laws by a special law. In other words, a corporation could get its charter under a general law, but if it wanted more powers than the general laws conferred, it would simply have to go to the Legislature for a special charter, so that the provision as to general laws would amount to nothing. Anybody could get a charter under the general law, and then if he wanted more power he would go to the Legislature, and, by special law, get it amended. That is just what it means. That is what your language means.

MR. O'NEAL (Lauderdale)—We have already adopted a provision which says that the Legislature shall pass no local law, authorizing, amending, extending charters of corporations. Now, in your judgment, does not this section, in effect, repeal that provision and open the doors to local legislation in this regard?

MR. WALKER—That is what it does. It is utterly inconsistent with the provision already adopted.

MR. WHITE—I desire to ask the gentleman if it is not a fact now that corporations which have obtained charters under the general law have not very largely and generally had them extended by legislative enactment?

MR. WALKER—Yes, and this just means the perpetuation of that custom, and unless this Convention is ready to perpetuate the custom of people getting charters under the general law, and then going to the Legislature and getting everything they ask for, I think this motion to reconsider ought to prevail, and that the amendment ought to be stricken out.

MR. HARRISON—As before stated, the amendment which it is moved to reconsider, was accepted by the committee on the suggestion of the gentleman from Mobile. Your committee understood it as he has explained it. This section as originally drawn by the committee clearly gives the right to the Legislature to repeal these general acts. I submit that it is even with the amend-

ment not subject to the construction placed upon it by the delegate from Madison, and I ask the attention of the Convention to a careful reading of it. If it is subject to that construction, your committee does not desire it, and if it is not plain, we are perfectly willing to guard it, the object of the committee being in accepting this amendment, first, to require the Legislature to pass general laws under which corporations may be organized and corporate powers obtained, but they provide that nevertheless these general laws by which they are incorporated may be altered, amended or repealed, and I submit that that is a fair construction of the meaning of this article. That is all that is meant by it. That is all we intended to put in there. If it does not mean that, without going into the trouble here of a reconsideration, and if he will suggest the phraseology, if there is any doubt about it in his mind, we will be glad to accept it and save time. We are not figuring on principle at all, it is merely on construction and there is no use for parliamentary delay when we are all agreed upon what we want.

MR. WALKER—I suggest to relieve the matter of any question strike out all that clause after the word "obtained" down to the semi-colon.

MR. HARRISON—How would it suit you to insert after the word "obtain" the word "which general laws may be subject."

MR. WALKER—That is all right.

THE PRESIDENT—Does the gentleman ask unanimous consent to so amend the article?

MR. PILLANS—I object. I want to give my reasons why I do not think that meets the views of the committee. The effect of that would be, as was shown by the gentleman from Macon, nothing more than to declare that the Legislature could repeal a law which it had passed, and we know that it can do that without it being so declared. I take it that what the committee wants to do is to retain somewhere in the Legislative powers of this State the right which this State has found it worth while to retain ever since the Constitution of 1875; that is, the power to declare a charter is not a contract and not irrepealable and unamendable. There are scores and scores of charters existing in Alabama and hundreds of them, some under general and some under special laws, and every one that has been created since 1875, is under the control of the State of Alabama, as to amendment as well as repeal. That is plain. They cannot set up against it the doctrine that it is a contract and is inviolable. We need to preserve to the Legislature the power to amend or repeal charters. I grant that we cannot do that by local or special legislation, but we can do it in many instances by general law, and that power ought to be clearly preserved. I hope that the delegates will not forget that perhaps the greatest of the corporations are those existing under

special legislative charters and not under the general laws, and if this article goes through with the amendment suggested, you reserve the power that you have had since 1875 to alter or amend any charter which any corporation of this State has today.

MR. REESE—Doesn't the word "revoke" or "restrict" suggest the idea you have in your mind.

MR. PILLANS—There is no difficulty about the words, I think——

MR. PROCTOR—I think I have an amendment that will meet the views of both sides. Right after the word "laws" in the second line, I want to insert the words "subject nevertheless to amendment, alteration or repeal at the will of the Legislature," and then strike out the same words where they occur in the third line.

MR. PILLANS—That was the identical suggestion made by my friend from Lauderdale. That will not cover it, because, as the gentleman from Macon has demonstrated to you, you have got that power to amend your general laws without it being given in this Constitution. The point is this: You have a general law, and a corporation is organized under that law today, and tomorrow you have the right to amend that law, but your corporations have obtained under it before you amend it rights which you cannot take away by amending it. Let us suppose a general law is passed which gives to all banks under this general banking law in Alabama the right to take 8 per cent. interest. Each bank under that has got a twenty year contract with the State, unless there is something giving the State the right to interfere with it by general or special legislation. It has got a contract with the State whereby it can obtain 8 per cent. interest. Money is not worth 8 per cent. interest in Alabama, and it is very possible that in a few years the Legislature will make the rate of interest 6 per cent. I doubt not they ought to do it today, and if I were in the Legislature today I should surely vote for it, but how I would vote in the Legislature does not concern you. Now if a bank is incorporated under this general law giving it the right to charge 8 per cent. interest, if the Legislature passes a law two days after that charter is granted fixing 6 per cent. as the legal rate of interest every bank organized under that law prior to the time they amended it, by making it 6 per cent would be beyond the power of the legislature of Alabama or the courts to interfere with its charging 8 per cent.

MR. HARRISON—But if the right as suggested by the delegate from Madison is conferred of repealing that general law, doesn't that carry with it the right to repeal that particular charter, and although you say that the legislature has the right to repeal any general law, it wouldn't have the right, if the charter was obtained under that general law, unless it was reserved. Doesn't it accomplish the whole thing. I want us to try to get together.

I think the proposed amendment of the delegate from Madison would still reserve the right to repeal that charter. When you reserve the right to repeal, alter or amend a general law, you reserve the right under that to change the charter.

MR. PILLANS—How does that protect us in regard to the special acts? Every special charter in Alabama, when you pass this, is getting out from under the control of the legislature, even by a general law if it is an amendment.

You don't want to release them, hence I will answer the gentleman and say while we do want to get to the same plane, I do not understand, and I have tried to make it clear why I did not understand, how the repeal of the law that is provided for the organization of banks for twenty years, after the bank is organized, changes the existing state of its incorporation. Five or more gentlemen, I have forgotten the number, may organize a banking concern now and under the general law existing today, you would have a contract with Alabama, which is irrepealable unless by the terms of the Constitution of 1875, that you are going to strike down. And what are you going to put in place of it? You are going to put a meagre provision that you can change your general laws any time you please.

Does that repeal the charter of the bank organized yesterday under it? Certainly not.

That is the reason I object to what has been accepted by the Committee, as I take it unadvisedly.

MR. WATTS—I do not see the difficulty in this section which my friend from Madison sees. The language in reference to amendment or repeal evidently refers to the general law. I think the word "amendment" is necessary in there, because if there was nothing said about amendment or repeal, my friend from Mobile would be right. Notwithstanding the legislature has the right to repeal would it enact, but when the Constitution says that you may enact and you may repeal and does not say anything about your right to amend, a very serious question arises as to whether or not the Courts would construe the inclusion of the word "repeal" to exclude the power of amendment. Therefore I think it advisable to put in the amendment suggested by my friend, Mr. Boone, from Mobile.

MR. O'NEAL (Lauderdale)—How would it answer your objection to strike out the words "subject nevertheless to amendment, alteration or repeal at the will of the legislature" where it occurs, and add at the end of the section the following: "Provided, however, that the legislature may at its will amend, alter or repeal any such general law."

MR. WATTS—I think the sense would not be changed with that at all. I think it ought to be fixed so as to leave no question about its meaning, and I think that is the way it is now.

MR. COBB—I want to ask this question: If you are right in your construction that the word "repeal" there refers to a repeal of the general law where have you got the right in the legislature to repeal a special charter.

MR. WATTS—You have not.

MR. COBB—That is, above all things, what you want in this law.

MR. WATTS—I was about to address myself to that. Mr. Pillans is essentially right in the position he takes.

MR. WALKER (Madison)—To meet the point suggested by the gentleman from Mobile, I would suggest to you the addition at the end of the section the following: "The charter of any corporation shall be subject to amendment or appeal under the general law."

MR. WATTS—Yes, I think so. I don't know whether that would fill the bill or not, but the gentleman from Mobile, Mr. Pillans, is eminently correct in the point which he makes that this law would not affect any charter which had been granted under the general law, although the general law was afterwards repealed, because the amendment of that general law by the legislature would simply say that a corporation threafter would be governed by a law as it then existed, either by repeal or amendment. It would not affect the right of any corporation that had been chartered under the law as it then existed, and if the object is to retain in the legislature the power to amend a charter already granted, then you must use different words than those used in this section.

MR. REESE—I call the attention of the gentleman from Montgomery to Section 23 of the report of the Article on Preamble and Bill of Rights. How does that affect the matter under discussion?

MR. WATTS—It does in a general way, but we had better be a little more particular than that, and there is another matter about this that I desire to all the attention of the Committee to, and that is this, that they had provided for by another Section for the organization of corporations and the conferring upon corporations powers by general law that has heretofore been done by a special act. They don't provide for amending charters by general law as is now done by a special act of the Legislature.

MR. HARRISON—Read Section 10. We could not put it all in one Section.

MR. WATTS—I am speaking of this Section. Of course you could not put it in one Section, but I am calling attention to it, so we may consider it as we go along. I do not think the amendment suggested by the gentleman from Madison meets the difficulty we are under. We want to retain in the Legislature the power to revoke, or to amend the charter of any corporation which is granted under general law, and I do not think the suggestion of the gentleman from Madison covers it.

MR. COBB—I desire to offer an amendment. I propose to amend by striking out all after the words "obtain" in the third line down to the first "and" in the fourth line.

THE PRESIDENT—The gentleman will reduce his amendment to writing.

MR. COBB—My contention is that the power to amend, change or repeal is already in the Legislature of Alabama, and will remain there unless taken away by some constitutional provision. Now if it be true as a question of law, then these works subject to amendment, etc., apply, as contended by the gentleman from Montgomery are wholly unnecessary, and I move to strike them out.

MR. ASHCRAFT—I desire to ask leave to withdraw my motion for reconsideration, and to offer an amendment by inserting in line five, after the word amended the "by general." It would then read "shall pass laws under which charters heretofore granted may be altered or amended by general law." That would prevent any special act being made to repeal any special charge.

THE PRESIDENT—The Chair will state to the gentleman from Macon the pending question is on the motion to reconsider, and the amendment is not in order at this time.

MR. ASHCRAFT—I desire to withdraw my motion.

THE PRESIDENT—The gentleman asks unanimous consent for leave to withdraw his motion to reconsider. Is there objection?

MR. COBB—I object. Will the Chair indulge me just one moment—permit me to say one word there. The reason I object is that I think until we do reconsider we cannot get this Section in proper shape, and when we reconsider it we can perhaps agree to it.

THE PRESIDENT—Is the Convention ready for the question on the motion to reconsider?

Upon a vote being taken the previous question was ordered.

MR. MACDONALD—It seems to me a great deal of confusion has arisen, and the question I put when first raised, while

I thought it was satisfactory, it was not satisfactory. It seems to me that it should be resubmitted to the Committee, so as to be drafted in a proper manner, and I therefore move that it be recommitted to the Committee.

THE PRESIDENT—It is moved that the Section be recommitted to the Committee. Is the Convention ready for the question?

MR. HARRISON—There seems to be a misunderstanding. I have no objection to the will of the Convention if it were expressed. The Committee would like to know what the Convention desires. There is a difference of opinion between the delegates, some of them are evidently anxious that the Legislature shall have the power to repeal by special law any charter, and others are opposed to it, and there has been no test question of that.

MR. COBB—I desire to ask a parliamentary question, whether it would be proper just at this time to recommend instructions. If so I have a recommendation to make by way of instructing the Committee.

MR. HARRISON—The Committee has endeavored to accept what it thought its own construction clear. It seems that there is no one able to get the Section to suit the others. I would like an expression of the will of the Convention.

MR. COBB—That is what I propose to get, that is what I want to put to the Committee to bring in an ordinance here whereby they will give the Legislature the power to alter, amend or repeal any general law if they see proper to put that it. I don't think it is necessary.

MR. HARRISON—If the gentleman will read Section 10, it covers it and we cannot engraft the whole Article in one single Section, and I do not believe——

THE PRESIDENT—Does the gentleman from Lee make any motion for the Convention to take action?

MR. HARRISON—I move the previous question.

MR. WALKER (Madison)—I understood that there was a motion to recommit.

THE PRESIDENT—Yes.

MR. WALKER—If it is to be recommitted, I would desire to have this matter——.

MR. HARRISON—I move to lay the motion to recommit on the table.

Upon a vote being taken the motion to table prevailed.

MR. HARRISON—Now I move the previous question. We will hear from the gentleman from Madison.

MR. COBB—Is my amendment pending?

THE PRESIDENT—It was not in order, because the pending question was a motion to reconsider.

MR. COBB—No sir, long before that the gentleman from Lauderdale wrote it for me.

THE PRESIDENT—It was out of order because the pending question was a motion to reconsider. It will be in order to offer it again when the gentleman from Lee has the floor.

MR. HARRISON—I yield to the gentleman from Madison.

MR. WALKER—I have an amendment.

The Secretary read the amendment as follows:

"Add at the end of the Section the following, 'the charter of any corporation shall be subject to amendment, alteration or repeal under general law.'"

MR. HARRISON—I desire to accept that amendment, and move the previous question on the subject and pending amendment.

MR. O'NEAL—I would like to have the pending amendment read. It was reconsidered, was it not?

THE PRESIDENT—The Chair would call attention of the gentleman from Lee that there was an amendment authorized to be accepted by unanimous consent which was reconsidered by the action of the Convention.

MR. HARRISON—Yes, obviates it. I ask unanimous consent to withdraw the first amendment which was reconsidered.

Unanimous consent was given.

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

MR. COBB—I move to amend that by my amendment sent up to the clerk's desk by the gentleman from Lauderdale.

MR. HARRISON—I demanded the previous question.

THE PRESIDENT—The gentleman from Lee moved the previous question on the amendment and section.

MR. VAUGHAN—I ask for a reading of the section as amended.

THE PRESIDENT—It has been amended. There is an amendment pending.

MR. HARRISON—It was a grammatical amendment.

THE PRESIDENT—That was not reconsidered; it is already incorporated. The question will be upon ordering the previous question.

MR. WATTS—I want to ask the Chairman of the Committee, in the fourth line of your report the words "heretofore granted" ought to be stricken out; otherwise you do not allow corporations which already have their charters.

MR. HARRISON—It would but for the proviso offered by the delegate from Madison.

MR. WATTS—No, sir; "heretofore granted," and it applies to all corporations. Strike out in the fourth line "heretofore granted."

MR. HARRISON—I will accept that.

MR. COLEMAN—If you strike out that what will you do then?

MR. WATTS—It will apply to all charters.

MR. PRESIDENT—The previous question has been ordered. The Chairman of the Committee asks unanimous consent to accept the amendment offered by the gentleman from Madison. Is there objection? The Chair hears none, and it is so ordered. The Chairman asks unanimous consent to accept the amendment offered by the gentleman from Montgomery. Is there objection? The Chair hears none, and it is so ordered. The question will now be upon the adoption of the section as amended.

MR. WATTS—Read it as amended.

The Secretary read as follows: "The Legislature shall pass no special act conferring corporate power, but they shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal at the will of the Legislature; and shall pass general laws under which charters 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. The charter of any corporation shall be subject to amendment, alteration or repeal under general laws."

MR. PROCTOR—The Clerk did not read the amendment which has been adopted in the second line, to strike out "them" and insert "it."

THE PRESIDENT—It was done by unanimous consent. The question is on the adoption of the section as amended.

Upon a vote being taken, the section as amended was adopted.

The Secretary read Section 2, as follows:

Sec. 2. All exsiting 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.

MR. WALKER—I desire to offer an amendment.

The Secretary read the amendment as follows: "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, at the time of the ratification of this Constitution, shall thereafter have no validity.

THE PRESIDENT—The question is on the substitute offered by the gentleman from Madison.

MR. WALKER—The substitute as offered is a copy of Section 2 in the Constitution of 1875. Under this provision, as reported by the Committee, it seems to me that there would be an implied recognition that there were existing charters now under which an organization has not taken place, by which special and exclusive privileges have been legally conferred. I do not think any such charter purporting to have privileges of that kind is legal under the Constitution of 1875, and this would be an implied recognition of the legality of something that is not legal now. Now, in 1875, when that provision was put in the Constitution, there were in existence charters conferring special and exclusive privileges heretofore granted by the Legislature, and that provision was simply the method adopted by the Constitution of protecting the previous acts of the Legislature. There is now no cause for extending a protection of that kind. Certainly, we are doing all that anybody could reasonably call for to protect charters of that kind which have already been organized. I conceive that there could be no such charters unless granted prior to 1875, and it strikes me the provision reported by the Committee would be an implied recognition of the validity of grants that now have no validity; in other words, would give life to something that now has no life.

MR. DENT—Is there any field of operation for that section at all?

MR. WALKER—Yes, there is a field of operation for it—that if there is in that charter now granting exclusive and special

privileges, this would be an implied recognition of that class, which now has no validity.

MR. SMITH (Mobile)—But do you desire to withdraw all because there is one?

MR. WALKER—It also applies to charters that do.

MR. SMITH—Would it destroy them all?

MR. WALKER—No, sir; I am for not giving life to those that do not exist.

MR. SMITH—Don't you nullify all charters, whether exclusive privileges or not?

MR. WALKER—No, sir, I put it as in the Constitution of 1875.

MR. PILLANS—Wouldn't your amendment destroy this sort of a corporation: Here is a corporation contemplating the operation of ship building and dry dock company, that contemplates putting about two million dollars into the plant, by the second section of which it is provided that the incorporators shall within twelve months from the date of the passage of the act, etc., which has not expired and may not expire by the time this Constitution is ratified. They provide that within a certain time after the books are opened they would commence to do business in the State. Would not the amendment you suggest destroy that industrial corporation?

MR. WALKER—I will state that my object was not to take away valid charters already granted, but those other charter grants of special or exclusive privileges, I do not want to have a section here to give such charters validity if they have not that validity now.

MR. PILLANS—Did not your section read "All existing charters or grants—in the disjunctive—"or" "under which a bona fide organization shall not have taken place, etc." If you strike out "charter" is it possible for a special act of the Legislature to incorporate any company that does not grant it special and exclusive privilege of being that corporation, the special privilege of doing business under that charter?

MR. WALKER—The objections urged by the gentleman from Mobile are equally applicable to the Constitution of 1875—it is a copy of that provision.

MR. GRAHAM (Montgomery)—I offer an amendment to the amendment to the section striking out the words in the first line "or grants of special or exclusive privileges." Would that meet the objection of the gentleman?

MR. WALKER—I think so.

MR. GRAHAM—Then I offer this amendment: Amend Section 2 in first line by striking out the words "or grants of special or exclusive privileges."

I move the adoption of the amendment.

THE PRESIDENT—The question is on the amendment of the gentleman from Montgomery.

MR. VAUGHAN—I wish to ask the gentleman from Montgomery if that section even as amended by him would take a charter away from a railroad corporation which has been incorporated and organized but which had not actually commenced to do business?

MR. GRAHAM—Yes, sir, the section reads "under which a bona fide organization shall not have taken place and business been commenced." There must not only be an organization, but a commencement of business.

MR. VAUGHAN—Then if the railroad has not been commenced work that is grading, laying tracks, etc.

MR. GRAHAM—In my opinion it would go by the board within the twelve months.

MR. PILLANS—I only wish to know this, the gentleman from Madison——

THE PRESIDENT—The Chair would call the attention of the gentleman from Montgomery that the amendment which he offers is not an amendment to the amendment, unless the gentleman from Madison withdraws his substitute.

MR. GRAHAM—I understood that he withdrew it.

THE PRESIDENT—The gentleman from Madison asks unanimous consent to withdraw his amendment. The Chair hears no objection. It is so ordered.

THE PRESIDENT—I will ask the gentleman from Mobile to suspend a moment:

Leaves of absence were granted as follows: To Mr. Ely for this afternoon and until 12 o'clock Monday; to Mr. Merrill for this afternoon; to Mr. Palmer and Mr. Greer of Calhoun for Monday; to Mr. Freeman for this afternoon and Monday; to Mr. Williams of Elmore for next week; to Mr. Coleman of Greene indefinite leave on account of sickness; to Mr. Dent for this afternoon and until 12 o'clock Monday; to Mr. Opp for this afternoon; to Mr. Kirk until Tuesday; to Mr. Smith (Mobile) for Monday and Tuesday; to Mr. Sentell for this afternoon.

MR. WILSON (Clarke)—I had earnestly hoped that we would finish this article today, but we cannot do so and we will gain nothing by remaining in session this evening, and I move that when this Convention adjourns at 1 o'clock that it adjourn until twelve o'clock on Monday.

THE PRESIDENT—The gentleman from Mobile has not yielded the floor.

MR. WILSON—The Chair has recognized me.

THE PRESIDENT—The Chair could not take the gentleman from Mobile off the floor. The Chair thought that the gentleman from Clarke rose to ask a question.

MR. PILLANS—I cannot understand on what basis the gentleman from Madison has assumed that the Constitution of 1875 makes it valid to grant special privileges to a corporation; it simply provides that——

THE PRESIDENT—The gentleman will suspend. The Convention stands adjourned until 3:30 this afternoon.

AFTERNOON SESSION.

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

Leaves of absence were granted as follows: To Mr. Bethune until Monday at 12 o'clock; to Mr. Lomax for this afternoon.

MR. PARKER (Elmore)—I desire to offer a short ordinance.

THE PRESIDENT—The gentleman asks unanimous consent to offer an ordinance.

MR. O'NEAL—I object.

THE PRESIDENT—Objection is made.

The regular order of the business will be consideration of report of Committee on Corporations.

MR. GRANT—I move that the rules be suspended, and the gentleman have leave to introduce the ordinance to go to a Committee. We have but a day or two more here, and the ordinance ought to be considered.

The motion was carried.

The Secretary read the ordinance as follows:

Ordinance No. 458, by Mr. Parker of Elmore:

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

That the license of a public school teacher shall not be cancelled or a contract with such teacher to teach in any public school in this State be annulled, except by due process of law, and from any order cancelling such license or annulling such contract, such teacher shall have the right of appeal and a trial by jury, in some court or before some board of competent jurisdiction provided by law.

Referred to Committee on Education.

MR. HARRISON—I call for the regular order.

THE PRESIDENT—The regular order is consideration of the report of the Committee on Corporations of Section 2. The gentleman from Mobile had the floor before recess, and has one minute left.

MR. PILLANS—It is all the time that I require. I find on further examination of the amendment offered that it entirely meets the objections I was urging and ought to be adopted. I therefore move the previous question upon the amendment and upon the section.

THE PRESIDENT—It is moved that the previous question be ordered upon the amendment and the original section. 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 adoption of the amendment.

A vote being taken the amendment was adopted.

THE PRESIDENT—The question is upon the adoption of the section as amended.

The vote being taken the section as amended was adopted.

The Secretary read Section 3 as follows:

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.

MR. O'NEAL—I have an amendment.

The Secretary read the amendment as follows:

"Amend Section 3 by striking out in line two the word "or special" and also "any special law for its benefit." In line 6.

MR. O'NEAL—The purpose of offering this amendment is to prohibit the legislature to pass special local laws in reference to corporations. This section seems to have been adopted from the language of the old Constitution. We have passed an article prohibiting special legislation on the subject of corporations, and if this section passes as submitted by the Committee it will authorize the legislature to pass special laws for the benefit of private corporations. If a corporation holds its charter subject to the provisions of this Constitution the legislature could pass a special law for its benefit. If we adopt the section as the committee has reported it we simply destroy to a large extent the article which we have already adopted on local legislation, and I am sure that was not the intention of the gentleman who compose the committee.

MR. HARRISON—Will the gentleman allow me to call his attention to the very first Section adopted, where all that has been prohibited. It must all be construed together. You will find it prohibited again in Section 10. The language used is simply verbatim copy from the old Constitution, and we did not want to keep repeating all the time what we have in the first Section and also in Section 10.

MR. GRAHAM (Montgomery)—By striking out the word "special," would it not be construed that the Legislature would have the right to enact a special law?

MR. O'NEAL—No sir, you did not read far enough. It simply means that the Legislature cannot pass a general law for the benefit of a corporation unless the corporation agrees to hold its charter subject to this Constitution.

MR. GRAHAM—The idea of the Committee there was to prohibit the Legislature from passing any law, general or special, except in the execution of a trust which is now existing or existing at the time of the ratification of this Constitution, because——

MR. O'NEAL—And you go further and say "other than in execution of a trust created by law or by contract, except upon condition that such corporation shall thereafter hold its charter

subject to the provisions of this Constitution." I submit that that means that the Legislature is authorized to pass a special law in behalf of a corporation if that corporation is willing to hold its charter subject to the provisions of this Constitution.

THE PRESIDENT—The time of the gentleman has expired. The question will be upon the adoption of the amendment offered by the gentleman from Lauderdale.

MR. GRAHAM (Montgomery)—I move to lay the amendment offered by the gentleman from Montgomery on the table.

Upon a vote being taken the motion to table the amendment prevailed.

THE PRESIDENT—The question recurs upon the Section.

MR. WALKER (Madison)—I desire to offer an amendment.

The amendment was read as follows:

Amend by striking out all after the word "Constitution" in line five.

MR. WALKER—The amendment will leave the Section just as it stood in the old Constitution. This Section is a copy of Section 2 in the old Constitution down to the word "Constitution" in line five, and the amendment strikes out all in that Section after that. Now the leaving of this additional provision in this Section it strikes me is entirely unnecessary.

MR. GRAHAM (Montgomery)—Do you think that the adoption of an amendment, either under the general law or by act of the General Assembly, would validate a charter and give life to a concern that was dead, or had never lived or was still-born?

MR. WALKER—I don't think it would unless this would have that effect. What is the meaning of it if it don't mean that? If it is merely an amendment, why say it is a novation of the charter?

MR. O'NEAL—I would like to have your construction of this Section. Now this provides that the Legislature shall not alter or amend any charter of a corporation or pass any general or special law——.

MR. WALKER—I have passed beyond that and do not care to discuss it, I am discussing another matter now.

MR. O'NEAL—I am asking your opinion—

MR. WALKER—I am not going to discuss that question because I want to discuss this other one. That has been laid upon the table and I do not care to discuss something that is not before the Convention.

In addition to the suggestion that I have already made the operation of the proviso in this Section is to permit a railroad corporation, some of which have charters of very long standing, and which contain exclusive privileges or powers, which they could not obtain either from the Legislature or under general laws, to allow them to retain those special privileges or exclusive benefits, although they seek an amendment under this Constitution, and deny to everybody else the right to retain such exclusive privileges, when they, by seeking an amendment, put themselves under the operations of this Constitution. Now I do not know and cannot imagine any justification for a discrimination of that kind, and it occurs to me that this Section 3 as contained in the old Constitution is ample and complete to cover the evil that was sought to be provided against.

MR. COBB—I desire to ask the gentleman a question. I want your construction of this: "And every amendment of any charter of any corporation in this State, or any special law for its benefit." Wouldn't that confer the power upon the Legislature of passing special laws?

MR. WALKER—Certainly. That is one objection to it.

MR. COBB—Wouldn't that be in conflict with what we are trying to do.

MR. WALKER—That is what I suggested a while ago. My motion is to strike out all in that Section after the word "Constitution" in line 5.

MR. BOONE—I move the previous question on the Section and amendment.

The main question was ordered.

MR. O'NEAL—I move to lay the whole Section on the table.

MR. HARRISON—In support of the Committee and against this proposed amendment, I briefly desire to state that the delegate from Madison is correct in stating that the part he desires to remain is the present Constitution of Alabama, and the remainder is directly copied from a provision in the Georgia Constitution which your Committee agreed to accept in deference to the views of some members of the Committee and of the Convention who were anxious to put what they thought were some stringent provisions that existed in the Georgia Constitution in ours, and as a matter of compromise it was accepted, and in deference to that majority, while I was not one of them, we agreed to accept it because it is merely stating in other language, repeating, as it were, the provisions contained in our present Constitution.

MR. COBB—I am not opposed to it, you understand. I want to get this thing fairly understood, though, and I put the question to you that I did to the gentleman from Madison, and that is this: From the word "Constitution" on through line six, "and every amendment of any charter of any corporation in this State, or any special law for its benefit accepted thereby." Now, this is the proposition: Whether or not these words remaining in this section would confer upon the Legislature power to do that which we are attempting to deprive it of, namely, to pass special laws for the benefit of corporations?

MR. HARRISON—I think not.

MR. COBB—You may confer a power——

MR. HARRISON—I want to answer the question, but you are taking my time, and I will not have time to make my speech. I will give you one minute.

MR. COBB—One minute, then. The delegate is familiar with the legal principle that authority may be conferred indirectly as well as directly. Now, then, the point I want to know is, whether this is not an indirect conferring of power upon the Legislature to pass special laws for corporations?

MR. HARRISON—I think if my good friend from Macon will read it all, he will not think so. I would not have consented to it if I had thought it materially changed the Article, and I hope it will be adopted as it is. If you will read it carefully—"every amendment of any charter of any corporation of this State, or any special law for its benefit, accepted thereby, shall operate as a novation of said charter." What does it mean? That although it may have an old charter and had certain privileges, if it accepts anything, it then becomes a new charter and such a charter as would be covered by this Constitution. That is what it occurs to me it means, and I see no harm in that. It is but placing in different language what is already stated. I admit I thought there was no necessity for it, but thinking it meant the same thing expressed anew, in deference to the wishes of the minority, I accepted it and desire to see it carried out.

MR. BOONE—Do you not think the Constitution of 1875 down to the word "Constitution," which is the same as the amendment of Judge Walker, covers practically everything that belongs here?

MR. HARRISON—I do. I admit that.

MR. BOONE—And is not the amendment, after the word "Constitution," taken from the Georgia Constitution? In other

words, you are trying to put two Constitutions together, and is there any use of it?

MR. HARRISON—Some gentlemen think it more clearly expresses it, and I do not think it hurts to say so twice.

MR. MURPHREE—As this portion of it was put in at my instance, and I not being a lawyer and not knowing the construction of language, I will not insist on its being in there if it will endanger the Constitution in the least.

MR. HARRISON—If the gentleman will consent, the Committee on Corporations will accept the amendment offered by the gentleman from Madison.

Unanimous consent was given and the amendment adopted.

MR. WATTS—I would like to ask the Chairman of the Committee a question.. Does not this section authorize the Legislature to pass a special law amending or altering a charter of a corporation or remitting its forfeiture? Does not it say that they can do it on the condition that it will be subject to the Constitution?

MR. HARRISON—We have offered sections covering that.

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

The question is on the adoption of the section as amended.

MR. SMITH—I desire to get a report of the Committee on Rules.

The report was read as follows:

Amendment by Rules Committee:

Amend Rule 53 so as to read as follows:

Rule 53. The Committee on Order, Consistency and Harmony of the Constitution shall report the proposed Constitution to the Convention, or any part or parts thereof, from time to time, as they may think proper, and the Constitution, or the parts thereof, so reported, shall be read and acted upon Article by Article, and submitted to a vote of the Convention; if a majority of the members present shall vote therefor, the same shall be adopted, but if amended in any particular, it shall be re-referred, with such amendments to the said Committee, who shall cause the Article or Articles amended, with such amendments so adopted, to be rewritten and report the same to the Convention for its adoption. When the Constitution shall have finally been adopted by the Convention, it shall be enrolled, and when enrolled, it shall be again read, and attested by the President and Secretary, and each

delegate to the Convention shall personally sign his name thereto. The signature of the majority of the delegates present, or a majority of the Convention, shall constitute a sufficient attestation.

MR. SMITH—I ask whether or not it is necessary for that to lay over with notice?

THE PRESIDENT—It seems to the Chair that if there is no objection the rule may be considered now.

MR. SMITH—I move its adoption and desire to make an explanation.

THE PRESIDENT — The Chair thinks that the point, if made, it would go over, under the rule.

MR. SMITH—Then I will move to suspend the rules and put it upon its adoption. And I desire to state that under the rules as they now exist the Article would have to be passed upon section by section, and the Committee thought it would be better to be passed on by Articles. The same amendments should be made, and it would save time and it would save the trouble and time of reading the section unless some amendment is offered to that particular section. Under the rules as now existing the Harmony Committee should not make a report at all until it had completed the consideration of every article in the Constitution. So that it would facilitate matters to allow them to report part of it in advance of the whole so that the Convention might be acting upon that while they are completing their labors on the other. Those are the only two changes in the rule.

MR. OATES—I arose for the purpose of enquiring what the objection would be to letting the report lie over until Monday morning. I do not know that I have any opposition to make to it at all, but would like for it to lie over and have time to examine it before it is passed. We will lose no time.

THE PRESIDENT—The Chair knows of no objection why it should not lie over until Monday.

MR. OATES—I prefer for it to lie over until Monday morning.

The Secretary read resolution repored by Rules Committee as follows:

Substitute for resolutions 282 and 294, introduced by Mr. Williams of Elmore, reported by Committee on Rules:

In order that the records of this Convention may be complete, be it

Resolved, That the President be and he is hereby authorized to arrange for the printing of one thousand copies of the daily

stenographic proceedings of the first, second and third days of this Convention, and that the Secretary of this Convention be, and he is hereby authorized and instructed to furnish to the printer with whom the President shall so arrange a copy of the proceedings of the first, second and third days of the Convention.

Be it further resolved, That when said proceedings are printed, that the same be distributed among the members of this Convention as official stenographic reports have heretofore been distributed.

Said copies to be of like size and form as the said reports.

MR. SMITH (Mobile)—I move the adoption of the report. I understand the work can be done for about one-half of what the daily reports cost, and we thought it best that the stenographic report should be completed.

THE PRESIDENT—The question is on the original resolution as amended.

Upon a vote being taken the resolution as amended was adopted.

THE PRESIDENT—The next business in order is report of Committee on Corporations.

Section 4 was read as follows:

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 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.

MR. HARRISON—I desire in behalf of the Committee, to submit two amendments. Since the report was made by the Committee we have had a number of gentlemen connected with foreign corporations in the State to appear before the Committee and show to the Committee to its satisfaction, especially that British companies and other foreign companies, it would be an extremely expensive matter for them to file in the office of the Secretary of State a copy of the law and authority under which they were incorporated. We find upon investigation that all we desire in our

report is to give the people of the State information as to their capital stock and their business and it could all be ascertained by filing simply their declaration and we simply desire to avoid that difficulty and put no obstacle in the way of capital coming here, and accomplishing all we intended. My first amendment is for the purpose of striking out that first part which requires them to file the copy of law and authority. The amendment speaks for itself and the further amendment.

THE PRESIDENT—The Convention will act on them one at a time.

The following amendment was read:

"Amend Section 4 by striking out of line a the following word: to wit: "Law and authority" under which it is incorporated.

MR. HARRISON—I ask unanimous consent for its adoption.

MR. MACDONALD—I would like to ask the Chairman of the committee whether it was the intention to relieve foreign corporations of making some showing to the people of this State as to the limit of their authority, their power.

MR. HARRISON—The articles of incorporation are required to be filed.

MR. MACDONALD—The articles of incorporation and association.

MR. HARRISON—They are required to file them.

The amendment was allowed by unanimous consent.

The following amendment to Section 4 was read:

"By inserting in line nine after the word 'benevolent' the word 'education.'"

MR. HARRISON — This simply excludes from the franchise tax strictly educational as well as benevolent and religious corporations and I ask unanimous consent that that amendment be adopted.

The amendment was allowed by unanimous consent.

MR. KYLE—I have an amendment to Section 4.

The amendment was read as follows:

"Amend Section 4 of the report by striking out all of the seventh line after the word corporation and all of the eighth except the word 'but' and insert the following: 'Based on the actual amount of capital employed in this State.'"

MR. KYLE—That makes it read this way: "The Legislature shall by general law provide for payment to the State of Alabama for franchise tax upon such corporations based upon the actual amount of capital employed in this State but strictly benevolent or religious corporations shall not be required to pay such tax."

Now the object of that is to cut out corporations, State organizations, that have pledged in different States and that have headquarters or do their business in this State. For instance take the Tennessee Coal and Iron Company. They have a capitalization of thirty million dollars. They have large property in Tennessee as well as in Alabama. Therefore it should not be required of them or any other corporation of like character, to pay its franchise tax upon property they own in other States. Take the Southern Iron and Foundry Company. They have a capitalization of six hundred thousand dollars and own a small plant in this State. The main plant is in Tennessee. This amendment would reach all the capital they had in use, in Alabama. But they would not have to pay upon the entire capital stock. The Western Union Telegraph Company with eighty million dollars capital would have to pay on the capital of eighty millions instead of what she has in this State. So this reaches the matter and makes it the property in possession of the State. The committee will accept that I hope.

MR. WILSON—The committee has examined the amendment and ask to adopt it.

Leave was granted and the amendment was adopted.

MR. WILSON—I do not care to cut off any one and unless some one desires to amend, I move the adoption of the section and upon that call for the previous question.

The main question was ordered and upon a further vote the section as amended was adopted.

Section 5 was read as follows:

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

MR. BAREFIELD—I have an amendment.

MR. HARRISON—I hope the gentleman will withhold that a moment. I offer an amendment to amend Section 5 by striking out the words "specify in its declaration or application" and inserting in lieu thereof "authorized in its charter or articles of incorporation."

MR. BAREFIELD—I ask to withdraw my amendment.

MR. HARRISON — I ask unanimous consent to make the amendment.

MR. SMITH (Mobile)—There are a great many corporations formed under the general law of the State of Alabama.

THE PRESIDENT—The Chair will inquire of the gentleman from Mobile whether he objects to the withdrawal of the amendment of the gentleman from Monroe.

MR. SMITH—No, sir; I do not.

MR. PRESIDENT—The question will be upon the adoption offered by the gentleman from Lee, the chairman of the committee. Does the gentleman object to that amendment?

MR. SMITH—Yes, Sir. A great number of corporations in this State are formed under the general laws of the State, which laws do not require any particular statement of the purpose of the corporation. It is just the general business that is required to be stated, and then the particular powers, et cetera, are conferred by the general laws. The general law constitutes the charter and not the declaration.

The Secretary read the following amendment:

"Amend Section 5 by striking out the words "Specify in its declaration or application," and inserting in lieu thereof the words, "authorized in its charter or articles of incorporation."

MR. SMITH—It seems to me it ought to be expressly provided by law because its purpose and business is prescribed by a general act of incorporation and not by declaration or application.

MR. HARRISON—If it embodies all that, I do not object. It is just a matter of choice of language.

Mr. Cunningham took the chair.

THE PRESIDENT PRO TEM. — The question is on the adoption of the amendment as proposed by the Committee.

On a vote being taken, the amendment was adopted.

MR. PETTUS—I have an amendment.

The Secretary read the amendment as follows: "By adding at the end of the section the following words: 'Any corporation violating the provisions of this section, either by itself or by any agent, and all persons aiding in such violation, shall be liable in damages, approximate or remote, to any person or corporation who is injured by such violation in any manner whatever."

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

THE PRESIDENT PRO TEM.—The gentleman from Limestone was recognized.

MR. PETTUS—It seems the gentleman from Mobile is impatient to railroad this section through.

THE PRESIDENT PRO TEM—The gentleman from Limestone is out of order. To what purpose does the gentleman from Mobile rise?

MR. BOONE—What did the gentleman say? I just want to know what he said. I want to hear his remark over there.

MR. PETTUS—I said, Mr. President, that I thought they were rather impatient to hurry through the section.

MR. BOONE—No, sir; I thought the amendment very vague and uncertain, and not proper for constitutional enactment.

THE PRESIDENT PRO TEM.—The gentleman from Mobile is out of order.

MR. PETTUS — Section 5 provides that any corporation shall engage in any business other than that expressly specified in its declaration or application." The amendment that I have offered provides that when any corporation engages in some business outside of its charter than authorized in its charter in violation of Section 5, that it shall be liable in damages to any person or corporation who is injured by such violation. I think, Mr. President, that the adoption of the amendment that I have offered will do more to keep corporations within their charters and to keep them from going beyond their authority that is conferred upon them by law, than all the criminal statutes or other statutes of like character that can be piled upon your Code and books, because those statutes cannot be enforced. If you put this amendment in the Constitution, you have a simple, plain provision which can be enforced and which will be self-operative in keeping corporations within their charters. No, I don't care to go into a lengthy discussion with the learned lawyer, who may, perhaps, take issue with me upon this amendment, Mr. President, about the present law. It may be that a corporation now cannot take advantage of an ultra vires act, but if that be true, and if it is also true that there are certain acts of this character not authorized by the charter of corporations which only the State can call the corporation to account for, and if it be true that this is but a reiteration of the law, makes it only plainer, or the law on the subject more expressed or certain in its terms, I do not think it would do any harm to reiterate it in the organic law of the State, but will be in the interest of the people of the State and aid some to keep the corporations within their charters than anything that can be adopted.

MR. BOONE—The gentleman is correct in saying any ultra vires act of a corporation does not bind the corporation, except so far as to make it and other persons liable for damages. We are not here for the purpose of making a Code of laws; the Legislature has supreme power to do that, and there is no necessity for it. As to the reference that I was trying to railroad the report, through, I am not a member of the Committee, but I do think that we are not here for the purpose of putting unnecessary verbiage in the Constitution when it would be that without it under the law. I, therefore, move to lay the amendment upon the table.

THE PRESIDENT PRO TEM—The gentleman from Mobile moves to lay the amendment of the gentleman from Limestone on the table.

Upon a vote being taken, the motion to table prevailed.

MR. SMITH (Mobile)—I desire to offer an amendment.

The Secretary read the amendment as follows:

"Amend Section 5 by striking out everything after the word 'expressly,' and inserting the words 'authorized by law.'

MR. SMITH—The question came up as to what a declaration was under the general incorporation laws of Alabama. The word has a definite place and a definite meaning. So far as this discussion is concerned, all these general corporation laws are substantially the same. I now have before me Section 1252, providing for the organization of corporations, not specially provided for by law, and it provides that two or more persons associating themselves for the same work, for any industrial business or lawful enterprise, may form themselves into a private corporation in the mode and with the capacity and power in the Article expressed. It says: First, declaration to be filed in office of the Judge of Probate." Now, that is what a declaration is; the persons associating must file in the office of the Judge of Probate in the county in which it is proposed the incorporators shall have its principal place of business, a declaration in writing, signed by each stating—

MR. HARRISON—I rise to a point of order that the Convention has adopted an amendment which the gentleman proposes to strike out. It is not in order.

PRESIDENT PRO TEM—The Chair cannot rule on that without consulting the journal.

MR. HARRISON—The Convention has already stricken out those words and added certain other words.

THE PRESIDENT PRO TEM—The amendment adopted says "authorized by its charter or article of incorporation" the amendment offered by the gentleman from Mobile.

MR. HARRISON—What does it say?

PRESIDENT PRO TEM—"Authorized by its charter or article of incorporation." That is the amendment proposed and accepted. The gentleman from Mobile moves to strike out that amendment and insert in lieu thereof "authorized by law."

MR. COBB—Let us understand the Journal.

PRESIDENT PRO TEM—The Secretary will read the amendment.

The Secretary read as follows: "By striking out the words 'specified in its declaration or application' and inserting in lieu thereof the words 'authorized in its charter or articles of incorporation.'"

THE PRESIDENT PRO TEM—The gentleman from Mobile moves to strike out everything after the word "expressly" and insert the words "authorized by law."

MR. HARRISON—Moves to strike out the amendment already adopted.

PRESIDENT PRO TEM—Yes, and insert another.

MR. HEFLIN (Chambers)—The vote will have to be reconsidered by which the amendment was adopted.

PRESIDENT PRO TEM—The Chair understands an amendment which has been adopted could not be stricken out unless others were inserted—an amendment can be stricken out provided other words are inserted, or it can be stricken out provided other words were inserted in the main question. The Chair will therefore overrule the point of order.

MR. SMITH (Mobile)—What I was about to say is "the general purposes of the corporation, nature of the business intended, and the principal place of business or location of the corporation," that declaration does not expressly specify the particular business carried on. Under subdivision 5 which authorizes a corporation to make by-laws in which the character of business and subject to be dealt with are authorized to be described—that is the way they are authorized.

The express declaration as to the particular powers are found in the by-laws of the various corporations, and those by-laws are authorized by this general enactment. This says: "Authorized in its charter or articles of incorporation." Now there being corporations having special charters and there being but one other class formed under articles of incorporation, it seems to me that the amendment might be construed authorizing under special charter where formed under special charters, or contained in the article

of incorporation when formed under the general law. And if it is susceptible of that meaning it would destroy every corporation in Alabama authorized under the general law and I do not think that should be allowed, or that danger incurred.

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

MR. SMITH—Certainly.

MR. PILLANS—Under the general incorporation laws, you alluded to one which provides for business corporations not specially provided for. Does not every corporation have to declare in its declaration what the scope of its business is. For instance, if for soap boiling say boiling soap, if for telegraph business, can it afterwards do soap-boiling?

MR. SMITH—No.

MR. PILLANS—Is not the application the boundary of its powers? Suppose it were to be authorized to do both, would it not have to be in the article of incorporation?

MR. SMITH—Yes.

MR. PILLANS—The by-laws being the domestic law for the arrangement of its domestic conduct?

MR. SMITH—That is true, and in the by-laws it can expressly state what can be done. In the general law it makes a statement of a general character of the business—the express statement of the things to be done is in the by-laws. This expressly states a corporation shall not engage in any business other than that expressly authorized in the charter or article of incorporation.

MR. HARRISON—I submit that the amendment already adopted is better than that proposed by the delegate from Mobile. I submit that the amendment already adopted is better than that submitted by the delegate from Mobile. I thought at first they were similar, but a moment's reflection when we consider his amendment "authorized by law" it might authorize a corporation under some general law to engage in some other business, might engage in selling liquor—something "authorized by law." What law? It does not confine it to the law of its application. I submit that really the word charter put back here as in the old Constitution would be sufficient anyhow. I think it would be sufficient because all of the writings on the question consider it that way, and it was only to meet the ideas of those who might be more particular. It was after consultation with the delegate from Madison and other lawyers in order to meet the supposed difficulty that the Committee agreed to put the proposed amendment in. I do not think the words of my friend from Mobile improve it. Now the Convention understands it, and this Committee has no pride of

opinion, and if the Convention think the amendment better let them adopt it, and I move the previous question upon the amendment and the section.

PRESIDENT PRO TEM—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.

PRESIDENT PRO TEM—The question is upon the adoption of the amendment offered by the gentleman from Mobile.

Upon a vote being taken the amendment was lost.

PRESIDENT PRO TEM—The question recurs upon the adoption of the section as amended. As many as favor the adoption will say aye and those opposed no.

The vote being taken the section as amended was adopted.

The Secretary read Section 6 as follows:

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.

MR. FERGUSON—The Section proposed by the Committee is identically the same as that in the Constitution of 1875. There has been numerous decisions constructing this Section, and the lawyers of the State are well acquainted with the law upon that subject. I therefore move its adoption and call for the previous question.

Upon a vote being taken the previous question was ordered, and a further vote being taken the Section was adopted.

The Secretary read Section 7 as follows:

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 or 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 of 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, on the demand of either party, be determined by a jury according to law.

MR. HARRISON—I rise to a question of inquiry. There seems to be a misprint in the eighth line between the word "judgment" and the word "condemnation," the word is "or" and it should be "of."

The President here resumed the Chair.

THE PRESIDENT—The gentleman from Lee asks unanimous consent that the word "or" in the eighth line be changed to "of." Is there objection? The Chair hears none and it is so ordered.

MR. BEDDOW—I have an amendment to offer.

The Secretary read the amendment as follows:

Amend Section 7 by striking out all the words on line 7 after the word "otherwise" down to and including the word "sustained" in the tenth line.

THE PRESIDENT—The question is on the amendment of the gentleman from Jefferson.

THE SECRETARY—"Provided he shall have given bond with good and sufficient surety to pay such damages as the property owner may sustain."

MR. BEDDOW—I think, Mr. President, that I see the object of the Committee in reporting this additional feature in this Article on Corporations, possibly to avoid long delays where one railroad seeks to cross another. I myself have seen the bad effect of their being unable to cross the roads of each other. But it seems to me from the reading of this Section it may affect those less able to defend their homes than are the corporations themselves. For instance, a railroad company desires to build a side track along its road at any point, and it should be necessary to run to the home of some individual and judgment of condemnation was rendered. Notwithstanding the fact that the person was aggrieved and believe that the condemnation proceeding deprived him of his property without just compensation, it would not restrain the company from proceedings to take the property and appropriate to their use notwithstanding the fact that appeal was taken to the Supreme Court. Now I would be willing to see that Section go in so far as it applies to corporations, when it comes to the value of crossing the tracks of each other, but I could not consent to give my vote to a proposition that would deprive the right of any individual in

this State of retaining his home until the court of last resort passed upon the question. I wish to call the attention of the delegates to this question so that they may vote upon it intelligently.

MR. HARRISON—The amendment to the proposed Constitution which is made by the proposed Section offered by your Committee consists in adding after the word "compensation" in the second line, the following, "to be ascertained as may be provided by law," and also by adding after the word "otherwise" in the seventh line, the following, "but such appeal shall not deprive the person who has obtained the judgment of condemnation from a right of entry," etc.

Your Committee, Mr. President, and delegates of the Convention, was moved to propose this amendment by a very recent case which occurred in Selma, the case of the Southern Railway and the C. S. and N., in which one road was prevented by an appeal for an almost indefinite time, and a public utility actually obstructed, by simply taking an appeal to the Supreme Court upon some question of law, and the whole matter was delayed although they were willing and ready to give bond. I had the pleasure to consult with the attorney on both sides of the question, the one who succeeded as well as the one who failed under the present Constitution, and they both agreed, while those who were successful and availed themselves of the privilege, that they were satisfied it was wrong and the Constitution ought to be amended. If the right of condemnation is to be secured at all it must be under proper compensation. Here was a condemnation, one railroad attempting to cross another, we have tried to arrange so the parties will be secured by amendment, and I think it is ample with sufficient bond to indemnify it, and that the work may go on and not open some interlocutory order and not to await the decision of the Supreme Court.

MR. WALKER—I agree with the purpose of the committee in the section, and I will ask the committee if it will not agree to an amendment in the 9th line by inserting "in double the amount."

MR. HARRISON—I am perfectly willing to that. With that the court would fix it at an amount that would make it absolute and that would be the one purpose.

MR. SMITH (Mobile)—That has a little history too. The purpose of giving an indefinite bond was to secure the damages although they be three or four times the value of the property and it was held that an amount double the amount of property would not be sufficient.

MR. WALKER—I will put it not less than double.

MR. HARRISON—That is right. Put it not less than double.

THE PRESIDENT—The gentleman from Lee, the chair-

man of the committee, Mr. Harrison, asks unanimous consent to accept the amendment offered by the gentleman from Madison.

Objections were made.

THE PRESIDENT—The gentleman will offer his amendment as an amendment to the amendment?

MR. WALKER—Yes, sir.

THE PRESIDENT—The amendment of the gentleman from Jefferson is pending and you had better wait until that is disposed of.

MR. REESE—Will the gentleman allow me to make a suggestion? In the case the gentleman has alluded to the damages assessed were only four dollars. Now a bond in double the amount——

MR. HARRISON—We put it not less than double. We see no objection to that.

MR. REESE—I have no objection to that.

THE PRESIDENT—The gentleman's objection is withdrawn but the pending amendment is offered by the gentleman from Jefferson, Mr. Beddow, and it would probably simplify the record if the gentleman would withhold his amendment until the other is acted upon.

MR. HARRISON—Yes, sir, I think the matter is fully understood and unless some gentleman desires to discuss it further——

MR. COBB—I desire to say something.

MR. HARRISON—All right, then, I will not make any motion.

MR. MACDONALD—I would like to know the parliamentary position.

THE PRESIDENT—There is an amendment offered by the gentleman of Jefferson to strike out a certain portion of it.

MR. ALMON—I move to lay the amendment of the gentleman on the table.

MR. WHITE—I hope the gentleman will withdraw that.

THE PRESIDENT—The Chair recognizes the gentleman from Montgomery if he desires to proceed. Otherwise the Chair will recognize the gentleman from Macon.

MR. MACDONALD—I was inquiring whether the amendment here could be offered to the amendment offered by the gentleman from Jefferson.

THE PRESIDENT—It strikes out all after "said appeal."

MR. MACDONALD—I offer this then as an amendment.

MR. WHITE—I arise to a point of order. The gentleman from Lawrence who was recognized by the Chair and moved to table the amendment and then withdrew his motion in my favor.

THE PRESIDENT—The gentleman from Lawrence would hardly have the right to prescribe, when he withdrew his motion who the Chair would recognize and the gentleman from Montgomery had asked for recognition, before the gentleman from Jefferson, and therefore the Chair thought proper to recognize him before the gentleman from Jefferson.

MR. WHITE—I thought he yielded to me.

MR. MACDONALD—I offer this as a substitute.

THE PRESIDENT—The gentleman from Lawrence really was not recognized if the Chair recollects correctly.

MR. WHITE—I wish to remind the Chair that the Chair stated that the motion was to table, and it was at that moment I asked him to withdraw it.

THE PRESIDENT—The gentleman made a motion to table and took his seat when the Chair was on the point of stating the question. That did not give the gentleman the right to the floor.

The substitute offered by the gentleman from Montgomery, Mr. Macdonald, was read as follows:

"Amend Section 7 by adding after the word 'destruction' in the fifth line, the following words: 'Whenever such taking, injury, or destruction is intentionally and forcibly accomplished without first resorting to legal proceedings, the owner of the property so taken, injured or destroyed shall be entitled to recover three times the value of the property so taken, injured or destroyed in addition to such other damages as may be recovered by law for the trespass."

THE PRESIDENT—It does not seem to the Chair that the amendment offered by the gentleman from Montgomery relates to the amendment offered by the gentleman from Jefferson.

MR. MACDONALD—I think it does in this way, that it is on the same line and prevents the forcible taking of property. It prevents the taking of property if a bond was given. The original Section provides that the property may be taken possession of at any rate, and I propose to amend by substituting this in place of amendment offered by the gentleman from Jefferson.

THE PRESIDENT—It seems to the Chair that the amend-

ment offered by the gentleman from Montgomery would be proper as an independnt amendment to the Section, but not as an amendment to the amendment offered by the gentleman from Jefferson. The Chair will rule that the amendment is not in order at this time.

MR. COBB—I have an amendment.

THE PRESIDENT—Does the gentleman desire to offer an amendment to the amendment offered by the gentleman from Jefferson.

MR. COBB—Yes sir.

The amendment was read as follows:

"Amend by striking out all words after the word 'Provided' in the ninth line, down to and including the word 'sustained,' and in lieu thereof by inserting "He shall pay into court the money which has been awarded to him as damages, and by giving bond for the payment of any additional amount which may be awarded to him on appeal and for costs."

THE PRESIDENT—It seems to the Chair that the gentleman from Macon is moving to amend the language which the gentleman from Jefferson was proposing to strike out.

MR. COBB—He proposes to strike out and I want to strike out and insert.

THE PRESIDENT—You move to amend the same language and insert other language?

MR. COBB—Yes sir.

THE PRESIDENT—Proceed.

MR. COBB—The provision of this Section is that where an appeal is taken and a bond shall be given in double the amount of damages awarded, conditioned for payment on recovery, etc. All that seems to be very well, but you tie up the man, the claim of the party in whose behalf this award is given and remit him to an uncertain suit for damages on his bond, and it is not a very fair contest oftentimes between a corporation and an individual in a suit of this sort, as all know very well. The bond may become insolvent and various contingencies may arise whereby the man in whose favor the damages have been fairly awarded will lose his recovery. Now my amendment provides that where there has been an assessment of damages and an appeal by the party seeking to exercise the right of eminent domain he shall pay into court the amount of money, in money, which has been awarded against him and also give bond providing that any additional amount which he may recover upon appeal will be paid to him and for the payment of costs.

Now such a provision as this puts the corporation and individual more nearly on an equality before the courts of the country. It is not right. The distinguished gentleman from Montgomery has called my attention to the fact that the purpose of the law is, and the provisions of the law are, that you shall not take private property for public or private use except by first paying just compensation for it. The law intends that before you shall condemn a man's property in this way, you shall first pay him in money. In order to ascertain the fair compensation to be received by him, where they cannot agree by contract, it is very well to have these general provisions that you may have disinterested parties to award the amount of damages, but when that award has been made, the only element that was uncertain up to that time under the general law is the amount of the damage. Now that has been ascertained, and under the spirit of the general law the man has the right to demand the money before his property is taken from him. But these gentlemen say don't he give bond? Paying money and giving bond are two different things altogether. One is certain and the other contingent.

MR. SMITH (Mobile)—The gentleman and Committee think they have provided for the same thing. Have you examined the authorities as to whether or not under this very provision, just as you contend it should be done, it is required to be done?

MR. COBB—No, I have not, but this provision would do away with it if put in the Constitution.

MR. BOONE—The provision reads here: "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." As my colleague, Mr. Smith of Mobile has shown, is it not true that the Supreme Court has again and again decided that that money must be paid before he has a right of entry or can take that property, must be actually paid into court?

MR. COBB—The gentleman is occupying my time unnecessarily. This is a Constitution we are making, and in the very provision from which he quotes is contained the other provision that if an appeal is taken, then the money is not to be paid. What is this bond for? For the payment of damages assessed. That is the language of the Constitution. How can you give a bond for the payment of damages assessed after you have already paid it in money? One provision is where there is no appeal and the other is where there is an appeal. Now I say where there is an appeal, the party against whom the appeal is taken should be put as nearly

as possible on an equality with the man to whom the money may be paid without appeal, and remove it from this uncertainty of suit on bond.

MR. WHITE—It seems to me that we are making a wide departure. Private property has always been regarded as a very sacred thing in Alabama; in fact it has been regarded as a sacred thing in every State in this Union. Heretofore before private property could be taken that is, before one could be deprived of his property, just compensation had to be made and made in money. Now what are we doing? We are providing for the taking of private property and remitting the owner to a law-suit. We are telling the individual whose home is ruined and whose family have been deprived of that home that they must wait and wait indefinitely until an uncertain long drawn out law suit may be ended.

MR. CUNNINGHAM—Is that not done in all attachment proceedings?

MR. WHITE—That is true, but it is only true after it has been adjudged, under that attachment proceeding that the defendant owed the debt and then a judgment rendered, condemning his property upon a contract which he has made, and he thereby parted with his property. Here you are taking it from him without his consent. You are taking it from him without his ever having contracted a debt which imposed an obligation upon him. You are taking it from him and turning it over to another in violation of a most sacred principle of our government, to which there is only one exception, and to which there has ever been only one exception, and that is when he has been paid for it in money. What induces our Committee to do it? They mean well, of course. They do it because, forsooth, in one instance one railroad company has delayed the operations of another railroad company. In other words, because one heartless corporation has taken another by the neck, all the rights of individuals in Alabama must be laid upon the altar and sacrificed. I say it is not right. It cannot be made right, and with some of us this is a live question. Mines are being opened in our section every day; rights of way are being acquired by condemnation; in our towns and cities, streets, avenues and alleys are being opened, and homes are being destroyed and taken for the purpose of establishing these public utilities. Is it right to say to a man when you turn him and his wife and children loose penniless in the streets and take from him his property, that you will pay him with a lawsuit that may last for years and years? You say that this appeal is to some kind of a court established by law, but you believe the appeal is necessary to secure his rights or else you would not have had it in here. Viewers are sometimes very partial. Those who are selected or may be selected in some unknown, uncertain way, to be provided by the legislature in future, will determine the price of the property and they may take

it for a song. Then I say a bond given in double the amount of an insignificant sum which may have been assessed on account of partiality for the corporation exercising the right of eminent domain and turned over into the courts, and the individual stripped of everything on earth and turned loose upon the highway of the street and he must stand and combat with the corporation. With this in their hands corporations can bring any individual who may be in their way to his knees, and make him settle upon their terms. I say it is dangerous to adopt any such provision as this; that it is a wide departure from anything in the past that we have had, and the only reason on earth for it is that one railroad company has delayed unnecessarily another in crossing its right of way where only four dollars and a half was involved. Now I say maybe it was that, and when you undertake to condemn your right of way over another right of way, then provide, if you wish, in a case like that, that if an appeal is taken and a bond given that you may go on with the proceedings.

MR. BOONE—How about in the case of a city where it applies to municipalities, having the power to build water works, and it is sought to take water from a stream, and speaking of the amendment offered by the gentleman from Jefferson, they compelled them to take it to the Supreme Court and delayed it for years. Don't you think that the city ought to have the right to go ahead and take water from that stream for the people provided it pays the money into court?

MR. WHITE—That is a pretty long question. Suppose, my friend, that you have a pitcher of water in your hand and you are very thirsty and your family are all thirsty, but a great crowd comes running up and say we are covered with dirt and are thirsty and we demand that pitcher of water in your hand. Do you think they ought to give it up?

MR. BOONE—Do you think that is a fair illustration comparing a pitcher of water with a stream which would supply a large city of people?

MR. WHITE—But the principle is the same. If that stream was his you have no right to force him to take less than it is worth by telling him that if you don't take it, I will give the bond and I will take you up in court and keep you there indefinitely; you are a poor man and you cannot litigate with me. How does that sound? And you know, as a thoughtful man and a lawyer, that this is exactly the whip-handle that will be used over a poor man, when his property is sought to be taken away from him.

MR. BOONE—Isn't it your experience as a lawyer bringing cases against corporations that on matters of taking property that it is exceedingly rare that property is ever put below its value?

MR. WHITE—That is true when you get before a jury, but when you are contending before your viewers, to which this appeal is to be taken, it is very rarely true. Then I may suggest that the man who is robbed of his home must go out and employ a lawyer and provide means to pay that expense, and he must provide some way for his witnesses to get up here, and he is a poor man, and rather than take these chances, he will say, give me anything.

MR. SMITH (Mobile)—This happens to be a question that I have had occasion to consider and study. It is one of the few questions that has come before this Convention that I have had occasion to consider fully, and I want to say in the start that my friend certainly has not been in the same position that I have in this matter, for certainly their arguments are based upon conclusions that are not sustained by any court in the United States as to the operation of this section.

In the Constitution of 1819 the only provision in regard to this matter was this: "No person shall for the same offense be twice put in jeopardy of life or limb; nor shall any person's property be taken or applied to public use, unless just compensation is made therefor."

You will see it is not said that just compensation shall be "first" made therefor. Under that Constitution viewers were appointed, values were assessed, and the parties had the right of entry without paying the just compensation first. The evil that my friend has spoken of, and the gentleman from Macon has spoken of, the right of entering and taking the home, I believe, of the barefoot boy away from him without paying him the amount assessed, was brought before the public, but that did not occur until after the Constitution of 1861, and on account of these evils the gentleman has spoken of, the provisions were changed in the Constitution of 1868. In Section 25, Article I, of the Constitution of 1868 it was provided:

"That private property shall not be taken or applied for public use, unless just compensation be made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner; provided, however, that laws may be made securing to persons or corporations the right of way over the lands of either persons or corporations, and for works of internal improvement, the right to establish depots, stations and turnouts, but just compensation shall in all cases be first made to the owner."

Now that is the first time that the provision was made anywhere in the Constitutions of Alabama that the compensation should be first paid to the owner. Under that provision it was held that there could be no judgment of condemnation and no grant by a court of the right of entry upon property, until the

amount of damages assessed was paid to the owner, or paid into court. But I want to say that the Constitution of Alabama is not the only Constitution in the United States in which these provisions are found. That provision that private property shall not be taken until just compensation is first paid to the owner, is found in nearly every Constitution of the United States, and there is no express provision in any of the other Constitutions for an appeal from that judgment; but in all of the other States there are statutory provisions providing that from such a condemnation there may be an appeal to a jury, and the question has arisen whether or not an entry can be made between the time of the first condemnation and the trial by that jury, and the courts throughout the breadth and length of this land have held that under that first provision, that the first viewers or body whether viewers or jury, determines the compensation. Then you have to pay that compensation, whereupon the judgment of condemnation is had. Then you take an appeal to a jury under the statute, and upon that appeal a bond is given. If the jury assesses damages at a greater amount than the sum already paid into court, then an additional amount must be paid under that bond. If an appeal is taken to the Supreme Court, it stands as it did until reversed. So that in all the decisions over the entire United States the amount assessed by the viewers, or other body, must first be paid under this provision, that provides that the property must not be taken until just compensation is first paid to the owner.

MR. COBB—Can you find any decision of the character you speak of, made under a Constitution containing the provision that we have here in ours.

MR. SMITH—There is no such Constitution in the world, therefore I cannot find the decision in it.

MR. COBB—I reckon there can't be found such a Constitution in the world except this one.

MR. SMITH—I can find a part of it in the Constitutions and the other part of it in the statutes, and I can find cases exactly of this character and the adjudications are just as I tell you and I have them in my hand.

MR. COBB—When there is a conflict between the Constitution and the statute which prevails?

THE PRESIDENT—Does the gentleman yield?

MR. SMITH—No, sir, because I don't think the gentleman has studied the matter, and it would merely be discussing theories, and to answer him would carry me so far off the track that it would take me a week to get back.

Our own statutes provide that no judgment of condemna-

tion can be had, and it is in line with the decisions that have stood since the thirties in the United States, that no judgment of condemnation can be had, until the amount assessed by the viewers has been paid into court.

The statute reads as follows:

"The commissioners must, within ten days from their appointment report in writing to the court the amount of the damages and compensation ascertained and assessed by them, and thereupon the court must order the same to be recorded, and must make an order of condemnation in pursuance thereof upon payment of the damages and compensation so assessed and reported, or the deposit of the same in court."

So that no judgment of condemnation is ever rendered either under this statute or under the general decisions. The decisions rendered under provisions exactly like that provide for the paying of just compensation before the property is taken, and that it cannot be taken until after the amount assessed is paid in cash into court, and the decisions are that there can be no conditions put upon that payment. In one case a man paid it and told the clerk to hold it subject to the adjudication of the higher court, and the Supreme Court of Indiana decided that condition vitiated his right of entry. Now under this provision of the Constitution of 1875, which provides that no property can be taken until after just compensation has been first paid, all the lower courts of this country held, and the Supreme Court recognized, and also held, but without discussion, that the money must be first paid into court, this bond was then operative, and the right of entry was not denied. That has been the practice since 1875 in Alabama; it has been recognized by the bar, and has been acted upon and even recognized by decisions of the Supreme Court, and it is only recently that they have given a different construction to these proceedings, and it is to meet that construction and only that that this amendment is had.

MR. HARRISON—And there was a dissenting opinion to that.

MR. SMITH—No. It is on a rehearing now, but there will be a dissenting opinion unless a rehearing is granted. The gentleman over here (Mr. White) said that we could get in there without even a judgment. He is mistaken, you cannot enter until after there is an appeal from the judgment of condemnation to the Supreme Court, and that is acted on. No final judgment is had until then, and then the matter is open to a question of damages.

MR. GRAHAM (Talladega)—I move that the time of the gentleman be extended ten minutes.

The motion was carried.

MR. BEDDOW—Do I understand the gentleman to say they will not have the right of entry until appeal was taken.

MR. SMITH—Not until it is decided by the Supreme Court on judgment of condemnation.

MR. BEDDOW—Now will the gentleman read the part of the section I ask to strike out, "but such appeal shall not deprive the person who has obtained the judgment or condemnation from a right of entry."

MR. SMITH—I do. If you will wait awhile I will teach you why it is, but I cannot teach you by your questions, they are too far off.

MR. BEDDOW—I am not asking anybody to teach me anything.

MR. SMITH—You asked for information have you not, and I call that teaching. If the gentleman will allow me I will explain it to him. According to the decisions of the Supreme Court you file a petition for condemnation. The judge of the court tries the question whether or not you have the right of condemnation. If the judge of the court says you have the right of condemnation then you take the appeal and of course when you take the appeal and have never had any judgment you cannot enter. If the judge of the court declares you have the right of condemnation then the other side takes the appeal, you cannot enter. It was decided in the case of the Southern Railroad Company vs. B. S. & N. O. and we were held out under an injunction for six months and the Supreme Court held we were rightly held out until after that judgment was rendered. Then, after that judgment was rendered you come back and the remaining question was to assess the damages. Now when the damages are assessed you can get no judgment of condemnation until you pay those damages that are assessed. When you have already had your judgment of condemnation, had that confirmed by the Supreme Court, if it is desired or an appeal is taken, and after that has been fairly decided and you come back and get a judgment for damages then you can take an appeal to the Supreme Court. Now from that appeal you have gotten your right of entry already adjudicated. That appeal, this provision says, shall not suspend the right of entry provided they go further and give a bond to pay for such other damages as may be sustained. So that your final right of paying for all that has been assessed, condemnation is thus finally adjudicated. You have paid the assessed damages and what was paid went upon the question between the land owner and the corporation, if it be a corporation, and that is whether that amount of damages you have paid has

been enough or has not been enough and it is that you give a bond for, and it is during that controversy that you are allowed to enter upon giving such bond. Now that being the case, there being no question about the barefooted boy and the cross-eyed woman having no right to him. It being adjudicated, the right to take the field belongs to the corporation, if it be a corporation, that corporation having paid the value of it and the only other question is whether or not they shall have the right to delay the advancement of progress. It may be incidental even to a common coal mine my friend refers to while he or some other able lawyer squeezes them into paying three or four times the value by saying you shall not cross or go over that patch that you have got to reach in order to meet your plans unless you pay me three or four or five times that amount. Now I say it is not right and there ought to be a provision after this condemnation had been charged after value assessed, after value paid and it is simply an effort of an attorney fighting for damages for their wages to squeeze too much out of them. They ought to be allowed to give bond to pay such further damages as may be determined and make that entry and I say to the gentleman that is the law in every other State in the United States that I have been able to find and that has been recognized law in the State of Alabama until this recent decision. General Pettus and Mr. Jeffries, who were on the other side of the case, said to me, "Smith if we were to win this case, for God's sake make them change the Constitution about it. It will be ruinous to our people to leave it as it is," and after it was decided in his favor, he said, "Smith, don't you forget about that Constitution. We cannot stand it," and I therefore suggested the matter to the Chairman of the Committee. I move the previous question on the Section and the amendment.

MR. MACDONALD—I trust the gentleman will withdraw that. I have an amendment I desire to offer.

MR. ALMON—I move to lay the amendment of the gentleman from Jefferson and the gentleman from Macon on the table.

MR. COBB—I ask for a division of the question.

MR. BEDDOW—I demand the ayes and noes.

Upon a vote being taken a division was called for and by a further vote of 46 ayes and 14 noes the motion to table prevailed.

THE PRESIDENT—The question recurs upon the motion to table the amendment offered by the gentleman from Jefferson, and on that the ayes and noes are demanded.

The call was not sustained.

Upon a vote being taken the amendment was tabled.

THE PRESIDENT—The question is upon the Section.

MR. COBB—Is an amendment in order?

THE PRESIDENT—The previous question has been ordered.

MR. COBB—I hope it will be voted down.

Upon a vote being taken the Section as amended was adopted.

MR. SAMFORD (Pike) — I desire unanimous consent to make a report from the Committee on Engrossment.

There was objection.

MR. SAMFORD (Pike)—It can lie over until Monday to be acted upon, but go ahead.

MR. WHITE—I hope the gentleman will not object to that.

MR. HARRISON—We will take it up after this Section.

The Secretary read Section 8 as follows:

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.

MR. OPP.—This is a literal reproduction of the Section of the old Constitution, and if no gentleman desires its amendment, I move its adoption.

MR. WATTS—I have an amendment.

MR. COBB—I want to give notice that I shall move to reconsider the last vote on Monday.

The Secretary read the following amendment:

"Amend Section 8 of the report of the Committee on Corporations by adding at the end of the Section the following: 'Provided, that where stock is paid for in property of labor at less than the fair value of said labor or property the person so paying for said stock shall be liable to the creditors of said corporation for the difference between the par value of said labor or property and the value at which it was used in paying for said stock.'"

THE PRESIDENT—The question is upon the adoption of the amendment offered by the gentleman from Montgomery.

MR. GRAHAM (Montgomery)—Is not that the law in Alabama now?

MR. WATTS—Let's put that in the Constitution so there will be no question about it. There are a great many questions on the subject, and some are very doubtful. Some say they are liable and some not. I want this fixed in the Constitution. I move the

adoption of the amendment.

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

Upon a vote being taken the amendment was tabled.

MR. OPP.—I move the previous question on the Section.

The main question was ordered.

Upon a vote being taken Section 8 was adopted.

MR. SAMFORD (Pike)—The gentlemen indicate they will grant unanimous consent.

MR. HARRISON—Mr. President, it is evident that we cannot complete this article. Many of the delegates are willing to stay here in order that they might finish, but they desire to leave on the 6:40 train, and in order to facilitate, under the circumstances, I move that further consideration of the report be postponed until 12 o'clock Monday and that it be made a special order for that hour.

MR. O'NEAL—I move to amend by making it the special order for 12 o'clock Tuesday.

Upon a vote being taken the amendment was lost.

Upon a vote being taken the original motion was carried.

MR. O'NEAL—I move that we do now adjourn.

MR. SAMFORD (Pike)—I desire to say that the Committee on Harmony wants the report of the Committee on Judiciary that that may be taken up with their work, and it will not take us many minutes.

MR. WILSON (Clarke)—I object to the consideration of the report. If we could stay here for that we could stay for the consideration of the report on corporations.

MR. REESE—I move that the rules be suspended and that the report be now considered.

Upon a vote being taken, a division was called for, and by a further vote of 43 ayes and 35 nays the motion was carried.

MR. SAMFORD—In view of the fact that this report has been read a third time, with the exception of Section 28, that was amended. I move that the rules be suspended and that the reading of it be dispensed with, with the exception of Section 28.

Upon a vote being taken the reading was dispensed with, with the exception of Section 28.

Section 28 was read as follows:

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 a county in the circuit in which he prosecutes criminal cases, of other territorial subdivision for which he is elected, and whose term of office shall be four years, and who shall receive no other compensation than a salary to be prescribed by law, which shall not be increased during the term for which he was elected. 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; and, provided further, that the Legislature may provide by law for the appointment by the Governor or the election by the qualified electors of a county of a Solicitor for any county.

Upon a vote being taken upon the adoption of the article, the roll was called with the following result:

AYES

Messrs. President,
Almon,
Altman,
Ashcraft,
Banks,
Barefield,
Beddow,
Blackwell,
Boone,
Chapman,
Cobb,
Craig,
Cunningham,
Davis, of Etowah,
Eyster,
Ferguson,
Fletcher,
Foster,
Glover,
Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Hood,
Howell,
Howze,
Inge,
Jenkins,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Ledbetter,
Lowe, of Jefferson,
Lowe, of Lawrence,
Macdonald,
McMillan, of Baldwin,
Martin,
Maxwell,
Miller (Wilcox),
Moody,
Murphree,
NeSmith,
Norman,
O'Neal (Lauderdale),
O'Neill, of Jefferson,
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Pettus,
Pillans,
Pitts,
Proctor,
Reese,
Rogers (Lowndes),
Samford,
Sanders,
Sanford,
Searcy,
Smith (Mobile),
Sorrell,
Spragins,
Stewart,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
White,
Whiteside,
Williams (Barbour),
Wilson (Clarke),

TOTAL—80

NOES

Byars, Cofer,

TOTAL—2

ABSENT OR NOT VOTING

Bartlett,	Freeman,	Oates,
Beavers,	Gilmore,	Parker (Elmore),
Bethune,	Graham, of Talladega,	Pearce,
Brooks,	Greer, of Perry,	Phillips,
Browne,	Harrison,	Porter,
Bulger,	Henderson,	Renfro,
Burnett,	Hinson,	Reynolds (Chilton),
Burns,	Hodges,	Reynolds, of Henry,
Burns,	Jackson,	Robinson,
Cardon,	Jones, of Hale,	Rogers (Sumter),
Carmichael, of Colbert,	King,	Selheimer,
Carmichael of Coffee,	Kirk,	Sentell,
Carnathon,	Kirkland,	Sloan,
Case,	Leigh,	Smith, Mac. A.,
Coleman, of Greene,	Locklin,	Smith, Morgan M.,
Coleman, of Walker,	Lomax,	Sollie,
Cornwall,	Long, of Butler,	Spears,
Davis, of DeKalb,	Long, of Walker,	Stoddard,
Dent,	McMillan (Wilcox),	Weatherly,
deGraffenreid,	Malone,	Willet,
Duke,	Merrill,	Williams (Marengo),
Eley,	Miller (Marengo),	Williams (Elmore),
Espy,	Morrisette,	Wilson (Washington),
Fitts,	Mulkey,	Winn,
Foshee,	Norwood,	

There were 79 ayes and 2 nays. The article was adopted.

The article was referred to the Committee on Order, Consistency and Harmony.

Thereupon the Convention adjourned.

COMMITTEE ON EDUCATION

Editor The Advertiser:

In your Convention notes on the morning of the 16th you say:

"Section 12 was then read. It authorizes the levy of a special tax by counties for school purposes.

"A minority report, signed by Messrs. Ashcraft, Hodges, Pettus and Opp, provided for dividing the fund between the races in proportion to the taxes paid."

You do not correctly state the purpose of the minority. They made no such proposition. The minority believed that something more than money is necessary to the development of an effective common school system. The chief point in their report was the organization of each race into school districts. They then proposed that for the purpose of building or improving school houses or for supplementing the general school fund, each school corporation might make a special assessment of one-tenth of one percentum upon its members. It meant a new share of peace and progress for both races. The minority were defeated and so were the hopes of the great body of the white people of Alabama. X.

Montgomery, Aug. 17, 1901.

SEVENTY-FIFTH DAY

MONTGOMERY, ALA.,

Monday, August 19, 1901.

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

Almighty God, we pause ere we enter upon the duties of another day and of another week. We pray Thy blessings upon us and Thy guidance in all that we do. We are dependent upon Thee for help, our Father, and for guidance and for strength. Our judgment is very weak, and we make many mistakes. We need a divine and mighty power to lead us, that power that never makes mistakes and that can never do wrong. Therefore, we would lay our hands in Thine today, praying Thee to lead us in the way that wouldest conserve Thy glory and that would enable us to perform faithfully the labors that we have to do. We pray Thee to forgive our sins, for all the things wrong that we have done. O Lord, forgive us and grant that each of us may have a conscienceness of Thy divine presence and may we be impressed with the idea that we are free moral agents before God, that we are answerable before Thy judgment for every word and for every deed. Help us, therefore, our Father, to live today just as we will wish we had lived when we stand before Thy judgment bar. Help us to spend this day just as if we knew it was the last day that we had to spend on earth, spending it in the faithful discharge of duty, doing the best we can the work that is given us to do, and looking to Almighty God for guidance and for help. May the Lord bless this Convention today. Help the presiding officer in his difficult and responsible duties. Bless each member of this Convention. Bless the work that shall be done today. Move upon each one, our Father, that the work that should be

done may be accomplished. We pray for the families of these Thy servants; may the Lord watch over them in their absence and keep them from harm of every kind. Bless the people that are here represented, and may this be a year of great prosperity to our people; may they be a people in every walk of life whose God is the Lord. May the Lord bless our land and country; bless all who are in authority over us. Bless Thy servant, the Governor of our State, and all those who aid him in the management of the affairs of our commonwealth. O Lord, give us godly men to rule over us, men actuated by conscientious motives, who look unto the Divine Being for their help and strength. Now, Lord, lead us all today and through all this week, and help us, we pray Thee, in all things that we undertake, and may the Lord, if He spares us, enable us in the future of our lives to glorify him and to do faithfully the work that he has given us to do, until we are through working here below, and then, our Father, may we have the consciousness of knowing that life's labor has been as well performed as we could have done it and may we die in that peace and die in the faith of the Christian hope, and then give us, we pray and beseech Thee, O Lord, an abundant entrance into the Heaven of the pure and the holy and the good, and in that glorious land, we will praise Thee forever, through Christ, our Redeemer. Amen.

Upon a call of the roll, 109 delegates responded to their names.

Leaves of absence were granted to the following delegates: To Mr. Lowe of Lawrence for today; to Mr. Locklin for today and tomorrow; to Mr. M. M. Smith for today; to Mr. Eyster for today; to Mr. Sollie for today; to Mr. Graham of Talladega for today.

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

MR. ESPY—I desire to offer a resolution, and ask unanimous consent that the rules be suspended, that the resolution may be put upon its passage.

The following resolutions were read:

Resolution No. 312, by Mr. Espy:

Whereas, Death has invaded the home of one of our brother delegates and taken from him his life companion, leaving his home sad and desolate, therefore be it

Resolved, That the sincere sympathy of this Convention be extended to Hon. M. Sollie and his little children in this hour of bereavement, and we trust that a kind and loving Father, "Who doeth all things well," will comfort him during this trying ordeal.

Resolved, further, That the Secretary of this Convention be instructed to forward a copy of these resolutions to our brother delegate, thus conveying in some slight way our feeling for him in this dark hour.

Upon a vote being taken, the rules were suspended.

MR. HEFLIN (Chambers)—I move that the resolution be adopted by a rising vote.

Upon a rising vote, the resolution was unanimously adopted.

MR. GRAHAM (Montgomery)—I rise to a question of personal privilege. I wish to have a mistake on page 4, first column of the stenographic report corrected. I am reported as having made a motion on Saturday to lay the amendment offered by the gentleman from Montgomery on the table. The motion was to lay the amendment offered by the gentleman from Lauderdale on the table, and I desire that that correction be made.

Also on the last page in the second column, the stenographic report says that Mr. Graham of Talladega made the motion to extend the time of the gentleman from Mobile ten minutes. I suppose the gentleman from Talladega has enough sins of his own to answer for, and I am unselfish enough to desire to answer for mine, and I desire it to be changed from Mr. Graham of Talladega to Mr. Graham of Montgomery.

THE PRESIDENT—The official stenographer will be instructed to make the correction.

MR. COBB—On last Saturday, I entered a motion to reconsider the vote by which Section 7 of the Article on Corporations was adopted. I understand from some communication I have had with the Chairman of the Committee, that he is willing for the reconsideration, and I want the Convention to understand that.

MR. HARRISON—Not only the Chairman of the Committee, but all of the Committee who have been consulted, are perfectly willing to the proposed amendment prepared by the gentleman from Macon and the gentleman from Madison, which has been submitted to us and I think it expresses the matter a little more clearly. I ask that the vote by which the section was adopted be reconsidered.

THE PRESIDENT—Unanimous consent is asked that the vote whereby Section 7 of the Article on Corporations was adopted, be reconsidered.

The consent was given. The amendment was read as follows:

Amendment by Mr. Cobb of Macon:

Amend Section 7 of the Article on Corporations by striking out all after the word "provided" in line nine and inserting in lieu thereof the following: "He shall have paid into court in money the amount of the damages assessed, and shall have given bond, with good and sufficient sureties, to pay such damages as the property owner may sustain, and the amount of damages in all cases of appeal shall, on the demand of either party, be determined by a jury according to law."

MR. COBB—I would suggest to the Chairman of the Committee, if I ought not to have put in there "to be approved by the Clerk of the Court to which the appeal is taken"——

MR. HARRISON—I don't think it makes any difference.

MR. MACDONALD—I have an amendment to the amendment.

The amendment to the amendment was read as follows:

Amend by adding the following words to said section: "Whenever any municipal or other corporation or individual invested with the privilege of taking private property for public use, takes, injures or destroys any property, wilfully and intentionally, and without first resorting to legal proceedings to condemn the same, the owner of the property so taken, injured or destroyed, shall be entitled to recover three times the value of the property so taken, injured or destroyed in addition to such other damages as may be recovered by law for the trespass."

THE PRESIDENT—The question will be upon the amendment to the amendment offered by the gentleman from Montgomery.

MR. MACDONALD—I presume that any lawyer in this body who has had any experience whatever in reference to proceedings for the condemnation of property or the actions by municipal or other corporations in endeavoring to enforce, in their own way and according to their own notion, their rights, has had occasion to observe repeatedly that municipal and other corporations are in the habit of, without first resorting to any legal proceedings whatever, seizing the property of private individuals or of other corporations, and proceed to construct thereon, their own works, or to act in reference to the property so seized, exactly as they pleased before any legal proceedings were resorted to whatever. We have had in this town many instances of that kind. Why, it has come to pass that a man may leave his home and while he is absent on his business, a municipal corporation may enter upon his premises and either cover it up or elevate it too high by grading, and then leave him to the expense and doubtful proceedings of court to assert his rights. Instances of that kind have occurred in my practice more than once. Not only

that, but within this city and within the last few years, we have seen a railroad corporation or railroad corporations enter on the property of another one, in the night time, seize it, construct its line of railway on it, and do it in such a manner as almost to create bloodshed. Armed men have been brought by either corporation, the one to assert its supposed rights and the other to defend them. I say that something should be done to deter these people from this unlawful method of exercising a right and privilege conferred upon them by the legislature. In the first place, if that is done, if these entries are made, and these unlawful takings, injuries or destructions are permitted, the person injured will have to resort to the doubtful and expensive method of asserting his rights in the Courts of law by action for trespass, or the still more doubtful way of applying to a court of equity for mandatory or other injunction. I know an instance in this town whereby the municipality of Montgomery undertook to practically bury the lot of a man I represented, and when he requested the poor privilege of being allowed to see his counsel before any other proceedings were taken, that was denied him, and he was compelled to go to expensive litigation in the Chancery Court and the Supreme Court before his right could be asserted; but as soon as it is known that when these corporations or individuals vested with this right are to be met with a penalty in the nature of three times the value of the property taken or destroyed, in addition to the penalty for trespass, it may possibly deter them in their action. This is no new thing. As I said before, the experience of every lawyer in this Convention who has had anything to do with matters of this kind will bear me out as to the frequency of such things, and it is a fact, and not an isolated case to which I allude in the city of Montgomery that often the peace of the community is disturbed in efforts to take such property and in efforts to resist such unlawful aggression, therefore I think the amendment should be adopted. The objection may be raised that this is a matter of legislative interference; that the legislature should be called upon to right this wrong. That has been the answer made to almost every proposition of this character made to this Convention, but why it should it not be done here without leaving it to the legislature? We are dealing with the subject now. We are dealing with the limitations upon the exercise of eminent domain at this time. We have adopted, as it seems to me, this particular section which authorizes the corporation, after condemnation, but before appeal, to enter upon the property; at any rate leaving the owner of the property to the poor privilege of suing upon the bond for his damages, but if these unlawful acts could be stopped in the first instance, we would have some security that the law would be observed by corporations or municipalities vested with this privilege, before they undertook to take the property of private citizens, according to their own ideas of how it should be subjected to public use.

MR. COBB — The amendment prepared by the gentleman from Madison and myself and submitted by me, was agreed to by the Committee on Corporations, and unanimous consent is being asked for its adoption. I hope it will not be encumbered by any provisos or amendment. I therefore move to lay on the table the amendment of the gentleman from Montgomery.

MR. MACDONALD—I hope the gentleman will withdraw that motion.

THE PRESIDENT—It is moved that the amendment offered by the gentleman from Montgomery be laid upon the table.

Upon a vote being taken, a division was called for, and by a vote of 54 ayes and 31 noes, the motion to table the amendment prevailed.

MR. ALMON—I move the adoption of the amendment, and upon that I call for the previous question.

THE PRESIDENT—It is moved that the amendment offered by the gentleman from Macon be adopted, and the previous question is demanded upon the Section and the amendment. The question is shall the main question be now put?

Upon a vote being taken the main question was ordered.

THE PRESIDENT—The question will first be upon the amendment offered by the gentleman from Macon.

MR. O'NEAL (Lauderdale)—I would like to have it read again. Some of us over here did not distinctly catch it.

The amendment was read as requested.

Upon a further vote being taken, the Section as amended was adopted.

Section 9 was read as follows:

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

MR. MURPHREE—This is the same as in the old Constitution, and I move that the Section be adopted.

Upon a vote being taken, the Section was adopted.

Section 10 was read as follows:

Sec. 10. The Legislature shall have the power to revoke any charter of incorporation now existing and revocable at the ratification of this Constitution, or any that 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 stockholders.

MR. GRAHAM (Montgomery)—Upon behalf of the Committee I offer an amendment.

The amendment was read as follows:

Amend Section 10 of the Article on Corporations by inserting between the words "to" and "revoke" where the same occurs in the first line of said Section, the following words to wit: "alter, amend or."

MR. GRAHAM (Montgomery)—That is to make this Section conform to Section 1. These words were introduced into Section 1, and are introduced here for the purpose of having this Section conform to that Section.

Upon a vote being taken, the amendment was adopted.

MR. GRAHAM (Montgomery)—I move the adoption of the Section as amended.

Upon a further vote being taken, the Section as amended was adopted.

Section 11 was read as follows:

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.

MR. ROGERS (Sumter)—I would like to ask the Chairman of the Committee a question: It provides that no telegraph or telephone company shall consolidate. I want to know what danger will ever come to the people of Alabama by the consolidation of telephone and telegraph lines, and why it does not provide that railroad companies shall not consolidate?

MR. HARRISON—The gentleman will find railroads provided for later on. This is a copy of the old Constitution relative to telegraph companies, and it was changed by the Committee so as to include telephone companies. There is a similar provision under the head of railroads, which will be read later on.

MR. SANFORD (Montgomery)—I rise to a question of information. Section 11 says, "organize for the purpose of any individual." Individual what?

MR. HARRISON—This is a misprint. The word "of" should be "or." I move the adoption of the Section.

Upon a vote being taken, the Section

The Secretary read Section 12 as follows:

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.

MR. HARRISON—This 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 13 as follows:

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.

MR. HARRISON—This is an exact copy of the same section in the old Constitution; there has been no change made, and I move its adoption.

Upon a vote being taken, the section was adopted.

The Secretary read an additional section numbered 13½, reported by a minority of the Committee as follows:

Section 13½. 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, forfeitures, premiums, commissions or sums of money for the purchase of stock, bonds, or any interest in the business of such corporation, society, organization or association, as a condition upon which such loan or forbearance is obtained or in any other way connected with such loan or forbearance, as a charge, a greater amount than the legal rate of interest provided for by the general laws of 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.

THE PRESIDENT—The question will be upon the motion to adopt the additional Section 13½ by the minority of the Committee.

MR. PROCTOR—It was with some regret, Mr. President, that the minority of this Committee was forced to bring in a report of this kind, but we feel that there is a great injustice done by permitting some corporations to charge for the use or forbearance of money from borrowers, more than the legal rate of interest, or more than any other private individual was allowed to charge. Now, it is claimed that this is a strike at the building and loan associations. Well, if the building and loan associations are charging more than the regular rate of interest, it is a strike at the buildings and loan associations. It is a strike at any association or corporation doing business at a usurious rate of interest, and now that the building and loan associations have taken up the fight, why, then, we want to meet that issue with them, and show wherein the people of the State have not been treated fairly in the part.

Now, as I understand it, most of the delegates here have received a memorial to the Convention from the building and loan associations. They do not even undertake to explain the conduct of the National Building and Loan Associations, but they say all the injustice that has been done was done by the national associations, and that the local building and loans are doing a legitimate business. There is not a building and loan association in the State of Alabama that claims to be doing a business at the legal rate of interest. Now, what do they do? They tell you that their by-laws and their contracts are so complicated that very few people understand them, and that is true, and because of that fact, they have gotten many men to take stock in a building and loan association, thinking that he was getting his money cheaply, when, in fact, he was paying at the rate of from 18 per cent to 36 per cent. They tell us further that it is a stock company, and that every borrower is a stockholder. That reminds me of the two little news boys; one had a nickle and the other didn't, and the one that didn't have the nickle asked the other one to step behind the house and form a corporation. They entered into an agreement to take the nickle and buy a cigar. The little fellow who didn't have any nickel took the cigar, struck a match and lit it, and he says, "Now, we have formed a corporation; I will be the president of the corporation and you will be the stockholder; I will do the smoking and you can do the spitting." That is the very same way that these borrowers have had to do in these corporations. They will come to you and tell you that you will be a member of the corporation; they will give you a certificate of stock; they will require you to take out double the amount of shares that you have borrowed, and I have just made a little calculation here, showing how much a man has to pay on

it. I deny that the borrower is a stockholder after he gets his money. Under the terms of the contract, they require you to assign your certificate of stock to the company before you get the money, and you are no longer, as laid down in the case of Falls in 75 Alabama——

MR. GRAHAM (Montgomery)—I desire to ask the gentleman a question.

MR. PROCTOR—I prefer not to be interrupted; my time is limited. I will answer the gentleman when I get through. You take a loan of $10,000 in a corporation that issues shares of $100. They require you in the outset to take out two hundred shares of stock, double the amount that you borrowed. They require you to pay back in monthly installments sixty cents per share; that is, $120 per month; they require you to pay the interest on that $10,000, which would amount to $50 per month at the rate of 6 per cent—that amounts to $170 per month on the $10,000 loan; they require you to pay three months in advance before they will let you have the money. In other words, you get a fraction over $9,000 instead of the $10,000. Then, how do they apply that? When you borrow, they tell you that a part of this is premium, and a part of it is your stock, and that your premium will be bearing interest and you will get the benefit of it, but I have never yet been able to find a man to get that benefit out of one of them; never got his home except he had paid twice the amount he borrowed. They will give you credit for $60 on the premium, credit for $60 on the loan, credit for $50 interest—but your mortgage never sees but $60 out of that $170, and at the expiration of the eighty-four months, you will have paid into the association $14,480, and then when you go to settle they will tell you that you still owe them $4,960.

Now, I have here some letters from men who have been in these concerns, and they bear out this proposition. Here are two men, each borrowed one thousand dollars; they paid seventy-two monthly payments at $15.34 each, and then had to compromise at the expiration of the seventy-two months by paying four hundred and eighty-four dollars in addition. Here is another man who borrowed fifteen hundred dollars and paid back twenty-five dollars and fifteen cents per month for seventy-two months, and now they claim that he owes them nine hundred and two dollars in addition before they will release his mortgage. Here is another man who lives here in Montgomery, whom many of you know. I do not care to mention names, but I will furnish his name to any delegate privately, that borrowed thirty-four hundred dollars, and in order to get out he had to pay seven thousand four hundred and seventy dollars. (Laughter.) The borrower, Mr. President, has absolutely nothing to do with the expenses of the concern, he has nothing to do with the profits of the concern, but

if they see proper they can tax him with the losses of the concern as long as he stays in there or until he compromises. Now, who gets the benefit? There is nothing in their contract, and I cite you to the Falls case, which I think is mighty sound, even though overruled, I think it is mighty good reading in this case. The Secretary and Treasurer and the attorney and the directors after they put them in there, and start up with the business, if the business is good then the salaries are increased and the borrower pays that, so it does not matter whether the business is profitable or the reverse, the borrower has to pay just the same. Then, what do they tell you about the investment? They say to you, if you have got two thousand dollars, or ten thousand dollars, and you want to put it in there, they will frankly admit to you that they make from 14 per cent to 24 per cent per annum—they admit that to the men they want to go in as investors, but the man to whom they want to loan money they tell him they will lend the money to him at 6 per cent. I was very much struck with a remark what a gentleman on this floor made while this was under discussion. They went, it seems, into his office and got after him to take some stock, knowing that he was a man of some means and had idle money and it was his money they were after. They outlined their beautiful plan and told him they wanted him in there. He said: "I see here you are charging about 24 per cent interest," and the agent sidled up close to him, and thinking to catch him, said. "That is right, but you get the benefit of it, the investor is the man that gets the benefit of this." The gentleman replied: "My friend, when I decide to act the rascal, I want the money to come through my own hands, and not through yours." Now, they claim further, Mr. President, that under the statute as it now exists, that you cannot charge more than 12 per cent interest, and I desire to say that I do not think that is a correct proposition.

If you turn to Code Section 1133 in reference to Building and Loan Associations, it says: "Such Associations may, by their by-laws, impose fines and penalties upon their members for default or delay in payment, when same are due, of installments upon their loans, the interest, premium and charges thereon, and upon the shares of stock of such members, and the same may be secured and collected by mortgage, in addition to the amount of interest, premium and other charges allowed by law, but such fines shall not exceed 2 per cent per month of such arrearages."

Now, in this case of the ten thousand dollar loan, how much would that be? If a man was in arrears for one month only, which was one hundred and seventy dollars, it would be 2 per cent per month on that one hundred and seventy dollars. Now if you will take up Section 1134 you will find these words: "The premium to be charged upon any loan must be fixed by the by-laws, but such premium and the interest on the loan taken to-

gether shall not exceed 1 per cent per month, of the amount actually loaned or advanced."

Now that says the premium and the interest shall not be more than 12 per cent, but the fines, it says nothing about the fines, the fines, the forfeitures and the arrearage may be 2 per cent a month. (That is Section 1133.) So, by a doubling process, they can charge you more than 12 per cent interest, and I say this is not right. It is rather catchy when you look at it but when you get into it is mighty hard to get away from it and I do not see why these corporations, if doing business on greater interest than other corporations, should not be required to come down on the level with everybody else.

MR. PETTUS—I move the reconsideration of Resolution 246, which was adopted on Saturday and ask unanimous consent that that motion go over until the pending motion is disposed of.

MR. OPP—What is the subject matter?

MR. PETTUS—In reference to the fertilizer tag tax.

THE PRESIDENT—The gentleman from Limestone moves the reconsideration of Resolution No. 246, and moves that it be postponed until after the article under consideration.

There being no objection, it was so ordered.

MR. HOWZE—Mr. President, I rise to take a short time on this proposed amendment by the minority of this Committee. The mover, and the gentleman who has just preceded me in this matter, in speaking of this matter admit that the purpose of it is a strike at the Building and Loan Associations. In other words, the report in effect and intention is made in order to abolish the Building and Loan Associations in this State. The question then, that presents itself, is as to whether or not these institutions are good in themselves, or whether or not they are evil and such as should be abolished by the laws of this State.

Now, from the remarks of the gentleman who has preceded me, it is very evident that he has been detailing woes and troubles that have arisen, by parties who have borrowed money from foreign Building and Loan Associations. As we all know there are two classes of these associations, who have been doing business in this State, those who are local and confine their business to the city, county or to the State, and those who are national in character and do business in different portions of the United States and in different States of the Union. In those cases, Mr. President, and the reason why these hardships have arisen, it is very apparent to my mind, as I have had some experience in the matter. The foreign companies have been very unfortunate. They have had to rely upon local parties in making their loans, and these

parties have not been careful in their valuation of properties, consequently the losses of foreign corporations have been very enormous, and of course, their revenues have been greatly diminished, and the expectation of the stockholders and the borrowers in those companies have been greatly defeated and disappointed, and therefore the maturity of their loans and their stock has been deferred far beyond the time it was expected to mature. Another reason parties have taken out loans in those companies, and have obtained far more value than the property would justify, and have become defaulters. I know from personal experience a number of parties who borrowed money from these associations on their property who never paid another cent after they paid their three months' installment, who absolutely discontinued from that moment, paying a single dollar upon the stock which they had sub-described doubtless, because they had failed in the first place, they had all about that their property was worth, when they obtained the loan, and in the second place, many obtained a loan, had no way of meeting monthly payments, and therefore they defaulted, and suits arose, litigation began, and of course these contracts bore heavily upon them under those circumstances. Now, the nature of the Building and Loan Association requires that every stockholder should be prompt in the payment of his dues. If he is, why then he will often receive some benefit from it. If not, then hardships come in and it is that class of people my friend speaks of this morning in his address. Now we have the Falls case, where a party borrowed from a corporation a large sum of money on a vacant lot, and he made no more payments. After a short time he stopped his payments. The mortgage was attempted to be foreclosed, and this litigation was produced. Of course, the Supreme Court in passing upon this matter, the able Chief Justice Stone argued at length upon the principles of these corporations. Unfortunately, to my knowledge that case was not properly presented to the Supreme Court. The great defect in it being that the certificate of stock which this party held in that corporation was not in evidence in the case, and that case failed to show that this party was a stockholder in the corporation, consequently Judge Stone based his opinion upon the fact that he was not a stockholder.

THE PRESIDENT—The gentleman from Jefferson will be entitled to the floor this afternoon.

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 question of privilege. I respectfully ask the attention of the delegates present upon the floor to "The Woman's Journal," published at Boston, Saturday, August 17, 1901, which says: "In the debate upon reconsideration, August 9th, some angry and disrespectful speeches were made against the measure. Among others, that of Hon. T. L. Long, of Walker, seems to have enjoyed an unwholesome pre-eminence. A correspondent says: 'He spoke as loud as he could scream, with the gesticulations of a ruffian. I have never heard anything less chivalric or more savage, uttered in the presence of dignified men, who have mothers, wives and daughters.'" (Laughter.) I wish to state, Mr. President, that the stenographic report will bear no just criticism, nor show that I made any unjust or improper statement upon that occasion. I wish to say that ever since our forefathers, the Puritans, first settled in Massachusetts, they seem up there to have undertaken to dominate and influence public opinion, sometimes wisely and sometimes unwisely. This is not a true representation of the opinions or thoughts of the Boston people, but it comes from a class of people who believed in burning old women at the stage as witches in the years gone by, and I will state that Boston is the only city I was ever in that I saw a white woman hanging on the arm of a colored "gentleman" as her husband. (Applause.) I want to state that Boston is the only two that I ever attended a Christian church, twenty-five years after the war, when representative men were mentioned in the pulpit and abused because they were from a different section of the country. I want to state that while this emanates from women, I never saw a woman in my life who wanted to vote but what she was so ugly that she could not get married. (Applause.) If I should do anything that would meet approval from a Boston standpoint, I would weaken my position. That is all I have to say in regard to this matter.

MR. WALKER—I arise to a question of personal privilege.

THE PRESIDENT—The Chair would inquire if it is of the same nature? (Applause.)

MR. WALKER—No sir, I want to correct the impression that some members may possibly have received from my treatment of the question asked me by my friend, Mr. O'Neal, on Saturday. I understood the question referred to a matter contained in the amendment which had been proposed, but had already been disposed of. As I stated at the time, it certainly was far from my intention to treat the gentleman with any discourtesy, and I simply desire that no man shall have the impression that I would intentionally treat the gentleman from Lauderdale on any question otherwise than properly and with consideration.

MR. O'NEAL—I desire simply to say that I was satisfied the gentleman's remarks were due to a misrepresentation and his

explanation is in keeping with his uniform courtesy and manly character.

MR. JACKSON—I move that the rules be suspended and that the privileges of the floor be extended to the Hon. T. L. Kennedy of Opelika, a member of the Legislature.

Upon a vote being taken the privileges of the floor were extended to the gentleman.

THE PRESIDENT—The question will be upon the minority report. Section 13 1-2 was under consideration when the Convention adjourned and the gentleman from Jefferson has the floor.

MR. HOWZE—Mr. President and gentlemen of the Convention: I will be very brief in what I have to say. It is undoubtedly evident that the object, or at least the effect, of this proposed Section to this Article, would be to abolish Building and Loan Associations in this State. I ask the gentlemen of the Convention to consider what that means. This is an institution not established in the last few years, but one that has been in existence nigh on to a hundred years. It has grown so that it has spread all over the United States of America as well as over England and other countries in the world. It has prospered in all of these countries and has been a blessing and benefit in many localities of all the countries of the land. By this action they ask you to abolish an institution of that kind. It is an institution that has been particularly fostered by our own government. In the recent act raising revenue for the war with Spain, these companies were particularly favored, and the United States Government saw proper to exclude them from paying the stamp tax on all contracts between these associations and their members. Further than that, they are made an object of interest in the Government to the extent that the Commissioner of Labor is required to make a report upon these different institutions, and I have before me here a volume of over 700 cases gotten out by the Commissioner of Labor in regard to these institutions throughout the United States from which I desire to read you. This was in 1896 I believe.

"Of the 5,838 Associations in the country, both local and national, 4,444 have reported as to homes acquired by their borrowing shareholders, and through this latter number of Associations 314,755 homes have been acquired. In the 4,422 Associations reporting as to that fact 28,459 buildings other than homes have been secured."

In addition to that in the State of Ohio particularly, these Associations are a great benefit and advantage, and it is a matter of interest that in the city of Dayton, O., which, at that time had a population of about 80,000 people there were 19,886 sharehold-

ers in the associations of that city. One-fourth of the population were shareholders in the Building and Loan Associations in Dayton, O.

Now these things go to show the great importance and great value of these institutions. They are fostered by the United States government and by other governments and by the States of the United States mainly because of the fact that they are the great home builders of this country.

MR. OATES—Is this not entirely a matter of legislation?

MR. HOWZE—Entirely so. I was just getting at that. In all the States of the Union they are recognized and regulated by legislation of the different States, and I was coming down to our own State. For more than thirty years these Associations have been recognized and regulated by the General Assembly of the State of Alabama beginning way back in the seventies. In 1868 or 1870 the first act was passed regulating these Associations and when four years ago, in 1896-7, the legislature of the State of Alabama had this matter under consideration, and after an exhaustive fight on the part of those for and against these institutions, put in our code a fine system of law regulating these associations. This is a matter entirely within the province of the legislature, and it is an unheard of proposition that the fundamental law of the State of Alabama should have in it a provision which absolutely destroys an institution of so great value as this. It is remarkable. We had almost as well say there shall be no banking institutions in Alabama. It is an institution wherein men of small means can go and put in their little pittances by the month, and have those savings loaned out at interest for their benefit, and it enables the wage-earner of the country to obtain homes. A man with a small lot as his only capital can go to one of these institutions and become a member of it and by that means erect himself a home. It is peculiarly an institution adapted to the needs of the poor people of our country and as I said before, it is within the province of the legislature to regulate these institutions, and if they are such a great evil, as my friend (Mr. Proctor) over there would have us believe, the legislature can abolish them, but with the statistics I have given you, it cannot be said that these institutions are of very great harm to the country. I desire to call your attention to some further figures: "The Comptroller of the Currency, in his report for 1896, shows that we now have 3,679 national banks with a paid up capital of $650,000,000, owned and controlled by 288,000 stockholders, and the Commissioner of Labor shows in a bulletin issued in May, 1897, that we have 5,618 Building and Loan Associations, with $607,118,070 of paid up capital, owned and controlled by 2,500,000 stockholders" showing you the enormous growth of these institutions. Can it be that they are of such great evil as the gentleman would

have us to understand when we consider the wonderful growth of these institutions throughout the land.

THE PRESIDENT—The time of the gentleman has expired.

MR. BROWNE—I move that the rules be suspended and that the gentleman's time be extended ten minutes.

Upon a vote being taken the motion to extend the gentleman's time ten minutes prevailed.

MR. HOWZE—I am very much obliged to you gentlemen of the Convention, I have tried not to take up much time since I have been here and I will try to be as brief as possible in concluding my remarks.

This statement goes on to say that "the foregoing figures show that more individuals are interested in the stock of Building and Loan Associations than in any other class of corporations in existence."

In the State of Ohio, by a report made in 1897 to the Governor of that State, there are found to be "$99,770,161.07, or an amount greater than the combined capital of the banks of Texas, Louisiana, Arkansas, Mississippi, Alabama, Georgia, North Carolina and South Carolina. The Inspector of Building and Loan Associations of the State of Ohio in his last annual report said: "They foster habits of economy and thrift and steady increase the wealth of the locality in which they operate. A well managed Building and Loan Association is one of the greatest blessings any community could have and should receive every reasonable encouragement."

"In Pennsylvania they amounted to $81,870,964. It is a well known fact that the city of Philadelphia was built up largely through the aid of these Associations. It is called the City of Homes, and those home are mainly built through the instrumentality of the Building and Loan Associations of that city. It is one of the most solid and substantial cities in the universe, and it shows that great and good results have come from these institutions of Building and Loan Associations.

Now then you ask by this proceeding here to abolish in the State of Alabama an Institution which is shown to be of such great benefit to other communities. It will not do to say that because there are individual instances where hardships have been wrought by reason of the action of some of these institutions, that they should be abolished. That trouble prevails in everything. You take the banking system, we know that many banks have been mismanaged, that hard contracts have been made by them, and that many of them have gone under by reason of mismanagement. Is that any reason why we should condemn the

banking system?' It is the same way with other Institutions, with land companies for instance. Some of them have been mismanaged, yet you do not condemn the good because of the evil produced by some.

I say, gentlemen of the Convention, we should not condemn an institution of such vast importance as these are shown to be. It is now the question what will be the effect of your action here? What is going to be the effect and who will be affected by it? Why, we have in the State from twelve to fifteen local associations. There are three in Birmingham, two in the city of Montgomery, one in Decatur, two in Selma, one in Cullman, one in Bessemer, one in Tuskegee, one in Avondale, and perhaps one or two of other small institutions in the State. The people invested over a million dollars in these institutions, and this act in this Constitution absolutely abrogates every one of the institutions. They are bound to go to the wall; they cannot be maintained, and the system is such that if this act is passed, they are bound to become insolvent, or bound to be wound up. Take now an instance where the assets in this State amount to over a million dollars in that way. There is in the city of Birmingham one institution which has in force $1,600,000, one of these local institutions. They have made total loans of $1,100,000. They have members who have cancelled their loans to the extent of over $700,000, and in cash paid members in savings profits and matured stock of over $600,000, and have aided in building homes for the people of Alabama not only in Birmingham, but the company has operated in different towns of the State, and have aided the people of Alabama to January 1st, 1901, to the extent of $1,100,000 in loans for building homes and paying off existing mortgages, and through its aid, members have paid for their homes to the extent of $700,000, and in Jefferson County alone last year this Association furnished money for building over $150,000 in homes. Now, that is one of the institutions you are called upon to destroy by this act, by the passage of this section to this Article, and, besides that, these institutions represent a capital of over $1,000,000 which you will destroy. Reports show they have assets of over $1,000,000. As I stated just now, if this ordinance is passed, these concerns would have to go into liquidation. Necessarily so——

MR. OATES—Did not the Legislature know, and everyone else, when they were chartered, that it would require more than 8 per cent to run them?

MR. HOUSE—Certainly they did.

MR. OATES—Considering the expense of maintaining the institution, 8 per cent would not pay men for investing their capital in that way, and, therefore, it was not any disappointment on anyone.

MR. HOWZE—None in the world. The Legislature provided in the Act that I had before me, that they must pay non-borrowing stockholders 8 per cent on their capital. It is well known that there are two classes of stockholders, one non-borrowing and one borrowing. The non-borrowing is the one who furnishes the money and expects a return which the statute has fixed at 8 per cent. Now, how will they earn that with their expenses? The Legislature recognized, as my friend suggests, and provided, that the interest shall not exceed 12 per cent. They are limited to 12 per cent, and yet my friend over there, the delegate from Jackson, (Mr. Proctor) says they have hidden in it a little fine of 2 per cent extra. Now, he would have you believe that is an additional 2 per cent. The law says it shall not exceed 2 per cent of arrearages. The arrearages do not exceed from $6 to $10.

MR. PROCTOR—Suppose you were to borrow $10,000, the monthly payment would be $170. What would the arrearage be in the $10,000 loan?

MR. HOWZE—It would depend upon the amount of premium paid every month. If we paid $100 per month and fell short on that payment, 2 per cent of the arrearages would be $2.

MR. PROCTOR—Two dollars per month?

MR. HOWZE—That is all that means, not 2 per cent on the debt, as you would have the Convention believe. That is necessary to make the stockholders prompt in their payment. It is for their benefit that it is done. It is not for the benefit of the corporation, but for the stockholder himself if he makes these payments regularly by the month. These are big institutions. They are not capitalized by the payment of any large sum in at once, but by small monthly payments made by the stockholders, both the borrowing and non-borrowing. If the borrowing stockholders would pay regularly the amount of his due so that they can go into the general fund, he will get the benefit of it. Every dollar he pays in is used for his benefit. This interest he calls usury here, and his fines and dues are all embraced in the money loaned out for his benefit, and the money he puts in there is loaned out and from month to month accumulates with the amount of loan that he has made with that company and it cancels his stock.

THE PRESIDENT—The time of the gentleman has expired.

MR. COFER—I am surprised that the gentleman would make any such statement. It seems to me that about three weeks or a month ago, from the same locality, there came to this Convention a hue and cry upon the part of the people in that locality against certain corporations which, if compared with the corporations the gentleman now defends, shows that the earnings allowed

by law and earned by them are greatly disproportionate. There is a cry against the railroads of Alabama, and if you will examine the history of the railroads you will find that the average earnings of the railroads are not 3 per cent per annum, and here is a corporation authorized by law to collect from the people of Alabama anywhere from 12 to 36 per cent. Now, I insist, Mr. President, that if there ever was a legally authorized institution in the State of Alabama whose purposes were that of fleecing the unsuspecting public, it has been the organization and manipulation of the building and loan associations. If there ever was a crowd of gentlemen—and I care not whether they are foreign or domestic —who are authorized to collect usurious interest in their own way and under the terms of their own contracts, made by persons who could not help themselves, it has been the statutes regulating and controlling these institutions.

Now to illustrate it, they first make a loan to their members. They bring them indirectly into dishonest competition, so far as the value of money is concerned, and they sell the money to the highest bidder for the greatest amount of premiums they can receive, and I have known the premium to be as high as ten and twelve per cent., in addition to which they charge eight per cent., running the entire length of time for the entire month, and in addition to that, if the borrower happens to be unfortunate, they are authorized by law to inflict the further penalty of charging or assessing a fine of five per cent., differing according to the corporation, being sometimes five per cent. upon each share or fifty dollars, for delay in payment of weekly or monthly dues, and they say it is right because it is a mutual concern, and that it is done for the benefit of loaning money to persons to build homes. The same argument can be said about the banker or the individual who loans an individual money to pay off and discharge an indebtedness on his home; the same argument might be used in justification of the action of Shylock when he attempted to collect the money that was due him that he had a right to enforce it under the penalties of the bond. They have no objection to the non-payment of the money. In other words they prefer that the poor creature in their grasp be not able to make the payment, because each time they add another link to the chain to bind him securely. Each moment that he refuses to pay they fine him and these fines accumulate and are added to the principle until these Shylocks come to the conclusion that the limit has been reached, they turn over the mortgage to their lawyer and there is an additional fee of twenty-five dollars, and they say "take the pound of flesh" and they generally do it. It is authorized by law. It is part and parcel of the code of Alabama. The question has been asked why put this in the Constitution? Is it not a subject of legislative enactment? It is not the first thing that has been put in this Constitution that was a subject of legislative enactment.

The same answer might be made, why not regulate the great railroad pass evil in Alabama by legislative enactment? Why not regulate the right of railroad corporations in carrying freight? Why not leave that to the Legislature and yet it is put in this same report, and they now say it is not fair to put in a provision regulating and controlling this gigantic corporation. Last night I had the opportunity of going to church and I am sorry that the delegates of this Convention who represent these Shylocks were not present. I heard a sermon by that eloquent divine, Rev. Dr. Patterson, pastor of the Presbyterian Church, upon Zaccheus. Zaccheus paid a tribute to the Roman Empire for the privilege of collecting taxes and he robbed them right and left and he grew immensely rich. And as this splendid preacher proceeded with an eloquence unsurpassed and pathoes seldom equalled, I thought times had changed but little since then. The eloquent minister went on to justify the visit of Christ who spent the night with Zaccheus and while he justified it on account of friendship and kindness, I thought for one time Christ got into bad company, and desired to inquire if he was not the originator of the scheme of the building and loan associations which have invaded the fair fields of Alabama. When you undertake to justify this corporation, this law and this Constitution says, that the banker cannot charge but eight per cent., and the individual cannot charge but eight per cent., legally, they say it is not right to charge over eight per cent., but here is a corporation doing business in a particular way, who charge what they choose and what they please, and enforce the collection of their money by the authority of law in a Christian country.

MR. VAUGHAN—I would ask if these building and loan associations are not creatures of the Legislature.

MR. COFER—Yes.

MR. VAUGHAN—Cannot the Legislature repeal their charters?

MR. COFER—The railroads are creatures of the Legislature. Why not leave them out? What is the difference in principle? I say there is no difference. If we are going to let them regulate the rule of right and justice between corporations of Alabama and the individual of the State of Alabama, if it the purpose of this Convention to assist the people of Alabama, from being imposed upon by corporations let us do so. I do not care whether they are foreign or not. I would just as soon be robbed by a fellow from New York as a fellow from Alabama. There is no difference, and I say that these charters are unjust. The time has come in the history of Alabama when it ought to be stopped, and when the people of this State ought to be protected. If not, I would suggest or endorse the idea of not putting in the Constitution or

statutes any rule to prevent usury. Why not say to the individuals and bankers and corporations, charge just as much interest as you can get. Take advantage of every victim you can, and when they are thoroughly and completely in your power, stand over them with the power of your mortgages, with the laws of collection, and crush their life and existence out of them? Now I ask, Mr. President, if this be just to be put in this Constitution? They have nearly legislated them out of Mississippi because of their fleecing sapacities and abilities. Mississippi says no longer in the history of that great state shall these miserable Shylocks stand like vultures over their victims, holding high carnival over the forms of human happiness, and dance in hideous revelry around their victims.

MR. LONG (Butler)—I have very few words to say on this subject. It seems to me that the gentleman from Jefferson thinks that if this minority report is adopted it would abolish building and loan associations in Alabama. That is a very strange doctrine to me. It seems to me that it would put them on the same plane with every individual and banker and every one else doing business in this State, instead of giving them privileges which they are allowed under the present law. We all know that a building and loan association gets out a pamphlet that puzzles with facts and figures, and is simply a gold brick scheme to catch the unsuspecting public. I have never myself bought any stock in a building and loan association, and I do not expect to buy any, because I think I know what they are. I have here in my hand a statement of a gentleman who lives in Greenville, Alabama. He took stock in a building and loan association in Montgomery, Alabama. The same association is now doing business in this city. He borrowed on three certificates of stock, which I hold in my hand $750, $1,000 and $2,000, respectively, and he paid on this stock for sixty-seven months up to January 1, 1898. At that time he asked for a statement of his account, asking how much he owed as a balance, and they sent him a statement which I hold here, showing he owed a balance of $1,177.27. He continued to pay according to his contract with this association, and asked for another statement on July 26, 1899, a year and six months after this first statement had been made to him, and they sent another statement saying he owed a balance of $1,735. (Laughter.) Now if anybody doubts that statement, I hold the certificates in my hand, and am willing to show them. I do this to show you that ordinarily when a debt is created, when a man pays and continues to pay on the debt, it gets smaller, but in this instance it grows larger.

Now if we take this position, in the spirit of fairness, and I do not want to do any Building and Loan Association, or any legitimate concern that does business in this State, or any other

State, an injury, I do think that they should be prohibited from doing injury to the individuals of this State.

I do think, Mr. President, that we should place in our organic law such a Section that will prevent any concern, let it be banker or what not, going out and preying upon an unsuspecting public. We should throw all the barriers around this possible. That is the reason I favor the minority report. If anybody will suggest anything better I will accept it. The only thing I object to, and the only thing that induced me to sign the minority report is because of knowledge of the fact that I know these Building and Loan Associations have been gold brick schemes in my town. I hold documents in my hand of these Building and Loan Associations that I am willing to show to any member of this Convention to see what they have done over their own signature, and I tell you that they have just robbed the people of my town, and I do not believe that it should be allowed to continue any longer.

MR. SPRAGINS — It seems to me that the purpose of the minority report is not to destroy Building and Loan Associations, but to bring them down to the position where they will enjoy only the same privileges as individuals. The Building and Loan Associations of Philadelphia do not charge 12 per cent. interest as the Building and Loan Associations in the State of Alabama are allowed to charge. It is true, Mr. President, that the Legislature could control the matter of interest charged by the Building and Loan Associations in this State, but after the Supreme Court decided that they were charging usurious interest they went to the Legislature of this State and had a law enacted authorizing them to charge usurious rates of interest and making such rates of interest lawful. They have undoubtedly been favored by the Legislature of Alabama instead of being controlled by that body. Every citizen of the State of Alabama and every other corporation, except the Building and Loan Associations, pay taxes to the State, county and city in which they may reside upon any money that is loaned. By special enactment the Legislature of Alabama exempts Building and Loan Associations, they are exempted from paying these taxes. I admit, Mr. President, that the principal stated in that enactment would be the true solution of the taxing power, to allow a man credit for every dollar that he pays and charge him up with every dollar that he owes, but the wisdom of the State has kept us from the difficulties that such an enactment would produce because of the fear the tax payer when he showed his debit and credit side of the ledger, he would owe so much that no taxes would be due from him to the State. Now what good reason is there that a Building and Loan Association should be allowed to deduct from their assets, their taxable assets which is the stock and the money paid in, all the money which they have loaned out on mortgage? Instead of charging, as the Building

and Loan of Birmingham, of which my friend Mr. Howze has spoken, 9 and 60-100 per cent. interest, they could charge 8 per cent., instead of making 8 per cent., they could make 6 per cent., as other individuals in this State with less capital are now contenting themselves with. It is no matter of defense to the report of the minority to say that this is a matter of mere legislative detail, because the Legislature has had this thing in their power for many years and instead of controlling and restraining they have added to and enlarged the powers of these corporations. While it is true that the Legislature could do these things, it is not objectionable I contend for this Convention to set down the principle that no Building and Loan Association nor any corporation of any character should charge in premium or dues or whatever name it may be given, any greater rate of interest than 8 per cent., that per cent. which is allowed to every man, and every other corporation in the State of Alabama to charge, and no more.

MR. BULGER—I move that the privileges of the floor of this Convention be extended to the Hon. Benjamin Huey of Perry.

Upon a vote being taken the motion was adopted.

MR. WALKER—There is no doubt that in Alabama certain Building and Loan Associations which have operated in this State have been guilty of some abuses, and that some people have had the misfortune to lose money by connecting themselves with institutions that were planned improperly or were improperly managed. In this respect a good many people in Alabama have had an experience similar to the experience of a great many people in Alabama in the years immediately after the war in reference to life insurance. If the Convention of 1875 had yielded upon the subject of life insurance to the representations that might have been made to that Convention as to the losses that had been incurred all over the State of Alabama, and had yielded to it to such an extent as to prohibit in the State of Alabama the future carrying on of life insurance it would have done as foolish a thing, in my opinion, as this Convention would do by yielding to the representation of a few people in reference to losses in mismanaged Building and Loan Associations, to the extent of prohibiting in the future the carrying on in Alabama of that kind of business, one would have been as great a folly as the other. It had been demonstrated in the world up to that time, that life insurance was a good thing, and it was a good thing, although in the Southern States after the war the country was infested with a number of life insurance companies presided over by distinguished soldiers of the Confederate army who had been inveigled into those mismanaged institutions and vast losses had been incurred by the people of this country. Was that any reason for prohibiting in the future the carrying on of life insurance which was a system of saving, the wisdom of which had been demonstrated

all over the world, because a number of insurance companies in the Southern States particularly, presided over by gentlemen distinguished in the service of the Confederacy, from Jefferson Davis down, had been unsuccessful, and the people of this country had lost vast sums of money in those companies. Now it has been demonstrated over the world that Building and Loan Associations properly managed are as great agencies of thrift and home acquiring as have been developed in the experience of commercial countries. Look at England, look at the continental countries, look at the old established communities of this country and you will find that the greatest agency of thrift and independent home acquisition that exists in those communities are the Building and Loan Associations properly managed. Are we now in Alabama to strike down the possibility of institutions properly managed being conducted upon that plan in the future because the people in this State in the past have had the misfortune to connect themselves with some improperly managed institutions. Now that is the whole question. The utility and the great benefit to the common people of Building and Loan Associations managed upon proper principles has been as fully demonstrated as anything could be demonstrated, but because of the unfortunate experience of some people in this State—of a good many of them I am afraid—of connecting themselves with some mushroom institutions which no longer do business in this State, will this Convention be guilty of a folly of striking down the possibility of beneficial institutions being established and carried on.

MR. BOONE—Isn't it a question of opinion as to what constitutes a muchroom institution? Would the gentleman call the Fidelity Trust and Loan Company of Mobile, and the National Building and Loan Association of Montgomery or the New South, I forgot the balance of the name, or the Southern Building and Loan Association of Huntsville such companies? Weren't they doing a business as large as done in the State, and what has been the result? Have they not been managed by just as fair, apparently, a set of men as any of the others?

MR. WALKER—As I am not acquainted with the history of those institutions I am not able to give the information. If the gentleman knows about them he can give the information. But if he can give the information. But if the gentleman desires to know the operation of institutions properly managed, there are several in this State that have had no lawsuits and the people that have borrowed from them, the people that have built homes through the Association have no complaints. Now that was a specimen of the arguments—selecting three institutions in this State, and because those institutions have not been successful, to make that a reason for prohibiting other institutions properly managed from being carried on. The gentleman could well select three insurance

companies, or three banking institutions, including the State bank, and say that therefore because they were not successful, that such institutions should not be permitted.

MR. BOONE—Do you state to this Convention that under the laws of Ohio and under the laws of Pennsylvania where it is said such companies have done good, have the privilege as they have in Alabama?

MR. WALKER—As I am not acquainted with the laws of Pennsylvania and Ohio, compared with those of the State of Alabama, I will not undertake to give the explanation.

MR. BOONE—I say that they are not. The gentleman is supposed to be familiar with the subject when championing one side.

MR. WALKER—I will leave that to the Convention and I will not undertake to answer the last thrust of the gentleman. I disclaim having the fund of information that the gentleman from Mobile has at his command.

MR. PROCTOR—I would like to ask a question. Suppose an aggregation of capital put together for the purpose of lending the farmers money to make crops at 14 or 15 per cent interest, what do you think the people would say to a proposition like that?

MR. WALKER—I think if the farmers themselves were getting the benefit, and it was a mutual concern I do not think it would be anybody else's business. That is the situation. Here are these concerns getting from themselves out of the borrowers these rates of interest, it is impossible for that to be so in a properly managed Building and Loan Association. Why? Because the borrowers as well as everybody else has got as much interest in the amount of money received whether interest or anything else, as anybody else in the Association—it is a mutual concern.

MR. PILLANS—Is it not a fact that in these mutual concerns known as Building and Loan Associations, the borrower, as these gentlemen style him, is a person not expected to pay back the principal, but it is paid by the accumulated profits and interest.

MR. WALKER—Of course. The gentlemen claim that they ought to pay legal rate of interest. That is an impossibility where the scheme is for the amount to be paid back monthly or annual installments which, in course of time, by re-investment will cancel the debt.

MR. MACDONALD—I have had some little experience in this matter and it seems to me that the opponents of the minority report have overlooked or forgotten the decisions of the Supreme Court in reference to these Associations, and the contract made by

the parties that deal with them. They are stockholders or mortgagors or debtors, as they are called, as the occasion may arise. The difficulty about the proposition is this, that our Supreme Court has repeatedly, within the last year or two, decided substantially that these corporations are far away and beyond the law in any respect, and any one familiar with the decisions in that regard will bear me out in that statement. The Supreme Court has decided and said in substance that these are bad contracts, but they are based upon legislative enactment, and they will not relieve the parties that make them. They have decided that when a man goes to one of these Associations and asks for a statement of his account and gets it, and he denies the correctness of that account and files his bill in a court of equity, for the redeeming of his mortgage alleging that the full debt has been paid, that he cannot get out because he has made such a contract as this and that character of contract is based upon the statute. Now that is the character of privilege granted by the legislature of Alabama to these institutions, that when a man borrows money from them becomes indebted to them, he absolutely belongs to them and cannot even redeem his own mortgage except at the kind permission of this company. It is said by the gentleman opposing the minority report that these institutions were created for the benevolent purpose of allowing a number of people to get together and mutually aid in building homes—a very benign and benevolent purpose, but one entirely departed from by these institutions. Every one of them of any importance whatever in this State, issue what they call preferred stock. In other words they borrow money from large investors at 8 per cent or more and the purpose in lending the money is because they can get a larger rate of interest and better security than they can get anywhere else, and they prefer preferred stock, and this rate of interest on their money is taken out of the profits of the business, whereas their contract with those who borrowed money to build homes is that their debts are paid out of those profits, and that thereby by this action the profits which should go to the payment of the stock, and ultimately to the payment of the debt are diverted from their original purpose and go to the men who loan the money.

When the man who borrowed money goes to get a statement, they will tell him they have paid out in interest immense sums to those who loaned them money.

MR. BOONE—Under the operation of these associations, say a man made a loan on his house of $1,000, and he took stock after he had paid off the amount loaned, does he not have to keep on paying?

MR. MACDONALD—Absolutely, there is an indefinite time for their collection of seventy-two months, or whatever they chose to put it in their alluring prospectus, or promise to the borrower,

which they say is an estimate. As was said by the learned Chancellor of this district in a case before him, that if they were correct in the proposition, the borrower was entirely at their mercy, that the payments would go on indefinitely and never terminate.

MR. PILLANS—Was the gentleman of counsel in that case?

MR. MACDONALD—Yes, and no man knows better how a shoe pinches than the man who wears it; he knows it better than any one else. Yes, and I will say further than when I addressed the Supreme Court in the application for re-hearing in the case that the gentleman alludes to, I stated to the learned tribunal that it was well to know whether the building and loan corporations were far away and beyond, the reach of the law anywhere, and could not be controlled. I asked that court whether the mortgagor who had mortgaged his property to this corporation was so different from any other mortgagor that he could not get a redemption? They said yes, under the statutes of this State, and under the law of that contract. The gentleman had talked of the benevolent operation of these building and loan association, when the newspapers of the whole world two or three years ago were filled with accounts of the scandals created in England. And what have they done here? I don't know the successful institutions, there may be some, and I understand there is one in Birmingham and that they deserve all praise. It is suggested here that this is a legislative matter, one that ought to be left to the Legislature. Well, it seems that when a man wants to get rid of a proposition before this Convention, he suggests that it be left to the Legislature, where it has been left for the past twenty years. What are we here for, but to limit the Legislature in their grants of power; what are we here for, but to say you shall not grant to any corporation any immunity or privilege beyond that which another man gets? What sanctity attaches to these particular corporations that they are afforded the right to charge from 12 to 14 per cent, and the limit is hazy, if anybody knows how far it goes, that they should have the right to charge 12 or 14 per cent, and absolutely say when the debtor shall cease payment, when no other corporation or individual in the State of Alabama is granted such monstrous and extraordinary power? Why, there are men in this Convention who would revolt if the suggestion was made that a bank should have this power, and yet it is said because this is an agency, an aggregation of poor people wanting to build houses, gathered together to help each other, that we should grant this power, when it is known, and the Supreme Court asserts it, that it is a power to go into the money markets of the country and borrow money at 8 per cent, and turn around and lend it at 14, stopping a large quantity as it goes through for the managers and officers of the corporation.

MR. PILLANS—Is not the evil you have discovered in this well known co-operative system, the evil that grows out of their being allowed to issue preferred stock and borrow money?

MR. MACDONALD—I think to a great extent that is one, but under the law in force they can do it.

MR. PILLANS—Then what we want to stop is not taking the interest and part of the principle monthly, but to stop them from borrowing money to lend to their stockholders?

MR. MACDONALD—No, sir; if they are limited in the amount of interest they can charge other people, they will not be willing to borrow money at 8 per cent, because they cannot make this immense profit out of it.

MR. PROCTOR—Mr. President——

MR. PILLANS—I suggest that the entire debate almost has been conducted from that side of the house. The gentleman from Jackson has already spoken upon the proposition.

MR. HOWZE—I raise the point of order that the gentleman has made one speech upon the question.

THE PRESIDENT—The point of order is well taken.

MR. PROCTOR—I would like the gentleman to withdraw that. This is the second speech that I have made upon this floor, and I am willing afterwards to yield to the gentleman from Mobile.

THE PRESIDENT—The gentleman from Jackson asks unanimous consent to make a few remarks. The Chair hears no objection.

MR. PROCTOR—Now, the entire argument on the part of the building and loan people in this case seems to indicate that this minority report is striking solely at building and loans. There is not a word said in the ordinance about building and loans. If building and loans are the only corporations that are doing this business, why, then of course, they are the only ones that come under the ban of this section. If there are other corporations that are charging more than that, they, likewise, come under this section, but no corporation that is not doing the business at a usurious rate of interest is affected by it. Now, the contention of the minority Committee is that building and loans, or any other corporation, ought to be put down like the plain people, charged the same rate that any other individual in the State has to abide by. Now, the gentleman from Madison said something about that it would hurt the bank. Mr. President, under the law as it stands now, and the gentleman from Madison will bear me out, the banks are allowed to charge but 8 per cent.

MR. WALKER—I beg the gentleman's pardon. I said nothing about banks that I remember.

MR. PROCTOR—I understood the gentleman, or was informed, but some gentleman on that side intimated that private banks charged possibly more than 8 per cent interest. If he went to the bank and borrowed one hundred dollars and the bank told him it would charge 2 per cent per month, if that statement was made to me, and I make the contract, it is my duty to walk up and pay that 2 per cent interest. If the building and loan associations were doing the same character of business with their clients, and not getting them in by delusive literature and charging them from fifteen to twenty-five per cent, representing in their literature that they were not charging but 6 per cent, then I would say to stand to the trough and take their medicine, but where the literature goes out and tells the poorer class of people, many of them not able to investigate for themselves, that they are getting the money at 6 per cent., and women, too, I dare say, because the case I quoted from this morning was a woman. It is wrong.

It is not right and just, and if the Convention takes time to study the literature of these associations, and I think the home companies as well as the national ones, they are all doing business under the same law, they have the same privileges and powers, and they can practice their rascality just as well. Possibly there may be one or two Building and Loan Associations in Alabama who are doing a fair, legitimate business, but it is because of the honesty of the men at the head of them, and not because they have not the power under the law to act the rascal with the borrower. Another thing they tell us that an individual won't lend money at 6 per cent, to be paid back in monthly installments. Who is the beneficiary of the money being paid back by the month? It is not the borrower, because he pays on the principal from the first day to the end, and does not get any credit for the payment, he don't get credit for the partial payments, the beneficiary is the Building and Loan Association. Then how can they come up and argue to us because of the fact that they receive these slow payments by the month that it is helping the poor man and not the Building and Loan Association. In their literature they say they are doing a great business. I would like to see any corporation or association that is making this unlawful charge that would not be in a healthy condition of business. Turn over to the rear end of the memorial and you will find a number of affidavits where fellows have invested in them and have come out all right. How many do you find that have borrowed money and come out all right—one single, solitary one, and who is he, a man of means because he says in that same affidavit that he not only borrowed but he was an investor. Well, if a man has money to put in there for six or seven years, he certainly has plenty of money and only borrowed to get some other poor fellow in not so fortunate as himself. Now I claim, Mr.

President, that the borrower the very moment they get their money, they are no longer a member of the Association, there is no mutuality between them. Whenever they borrow they are required to transfer their certificate back to the Association. What else are they required to do, required to pay all the expenses for abstracts, and is compelled to pay the insurance just so long as the mortgage remains in force, the association takes no risks at all, and then splitting the principal in two, yet he is paying on the total amount ever since the loan was made. Who is paying the lobbies ever since this question has been raised here—they are business men and good lawyers, certain of them I know. Why have they left their businses, and who pays them—these poor borrowers are paying the expenses of the lobby to defeat this matter and put it upon the table, or somewhere else. I will say just one word, and then I am through. I say that the borrowers cannot come here, but they are represented by letter and that is the only way they can get here. These fellows that belong to the association as secretaries, treasurer, attorney and directors they incur these expenses out of an expense fund which is as big as any other fund and they can send representatives down here.

MR. GRAHAM (Montgomery)—The misfortune which has marked the line of the argument of those who favor the minority report is that they brand all classes of Building and Loan Associations with the same iron. It is well known to every lawyer in Alabama, and citizens of the State, that there are two classes of Building and Loan Associations in this State. One is known as national associations whose business extends beyond the confines of the State in which it is organized—two or three associations, possibly more, were organized in Alabama—numbers were organized in the North and in the Northwest, they extended their business over the State of Alabama and these are the associations and these are the causes which led to this debate in this Convention. Unfortunately, Mr President, for some of those who are in this Convention, they were the attorneys, or local agents, of these foreign associations who solicited for business and those with whom they were successful have lost by mismanagement and they are here attempting to reform the wrong which they have caused.

MR. BOONE—Will you please name the men. When you make a broad statement like that you ought to name them.

MR. GRAHAM—I desired to ask a question of the minority Committee this morning and they refused to permit me, and I propose to consume my whole time without being interrupted. It would be manifestly improper for me to name any one in this Convention; that I would not do under any circumstances. There is not a man on the floor of this Convention but for whom I have the greatest respect, that he was unfortunate and was the cause of his clients losing money was his misfortune and not his fault,

but he makes a mistake when he attempts to engraft an amendment to this report for the purpose of trying to cure a wrong which he was intrumental in committing. Now my friend from Jackson says that he has the papers in his hands to show parties who have suffered by reason of these Building and Loan Associations. I have in my hand, Mr. President, and I introduce them at this time because I may want to talk about them hereafter. Here are statements, four or five from the county of Jefferson, to which are signed 113 names, which read as follows: "That the following citizens of Jefferson County being borrowers from Building and Loan Association of that county, are perfectly satisfied with the terms on which loans were made." There are three others of the same character, and one from Morgan County in which the subscribers state that the undersigned citizens of Morgan County, Ala., being borrowers from Building and Loan Associations of that county are perfectly satisfied with the terms upon which loans were made. That is a contradistinction and set-off to the remarks of the gentleman from Jackson. There is a class of Building and Loan Associations in Alabama known as home associations, that is, those who engage in the business of lending money in the locality in which they are organized and where their principal office is located.

In the ctiy of Montgomery we have two of those. They are prosperous. They have been prosperous from time of their organization, and we have never, down to this time, in relation to either one of those institutions, heard a single solitary complaint of the manner in which their business was connected. My information is that there is one in the town of Tuskegee, one in the city of Birmingham, one in the city of Decatur and others in other cities in Alabama, which have been conducted by home men, and not a word of complaint has ever been made of them.

I define the two classes in order that the Convention may draw the distinction between them. If you brand the national associations, which you may possibly have the right to do, is that any reason why you should brand the home associations? Is it right that you should say to these associations which have conducted their business right and honorably, because some concern has come into Alabama and conducted its business dishonestly, we will class you as dog-tray among a crowd of scurvy curs. This Convention is assembled here for loftier purposes and loftier motives. We are here to protect the whole people of the State of Alabama, and to brand none of them because they happen to have names similar to those of others denounced by members of this Convention and people on the outside as rascals.

The conduct of the business of these associations is entirely different from that of any other business ever known. There may be associations with other names conducting business in the

same manner, but they are to all intents and purposes building and loan associations. There is no other class of business on the earth that conducts its business in the same way that building and loan associations do. It is authorized by law, by the Legislature of the State of Alabama, and by the Legislatures of other great States of this Union, and it is idle to say that whenever Alabama, or its Legislature, has authorized the doing of a particular business, and other States have authorized the doing of a similar business that that business is rascally and results in highway robbery.

Their business is conducted by men paying a small amount per month per dollar on the stock for which they have subscribed. And while I think of it I will answer one question propounded by the gentleman from Jackson. He said: "Does not every man on this floor know that a man surrenders his stock when he makes a loan from a building and loan association?" I answer him in the negative. The stock is required to be transferred as collateral security to the association for the payment of the money which is borrowed, as an additional security to the mortgage which may be made in behalf of the association. The stockholder has a right to vote that stock at all of the meetings. They do it at all of the meetings whenever they may happen to be present, and yet my friend would have you believe that when they borrow money from the associations they absolutely wipe out the stock they have in it. Those are the facts.

These men get together and carry on a mutual business. They put in so much money per month. When they borrow, they have to pay interest on the money; they pay so much premium per month on the money, and should they fail any month to make payments, in order that those who may keep up promptly with their dues should not be permitted to lose by reason of those who are behind, the recalcitrant ones are made to pay a fine which is just and proper. If I borrow from an association they calculate upon every dollar a certain amount of profit. If I fail to pay dues and interest at the time it falls due, then I cause this man, and that man, and that one, and others to suffer a depreciation in their stock by not complying with my duty under my contract. That is the manner in which the business of these associations is conducted.

This committee gave this matter very mature consideration. It was one of the earliest matters that we had before us, and we considered it almost daily that is, at almost every meeting of the committee, and the result was that we refused to put anything in the report, and the minority submits the report we are now considering.

Mr. President, it is not necessary for every man to go to a building and loan association. It is not necessary for rich men like my friend Long from Butler to do so.

MR. LONG—I deny the allegation.

MR. GRAHAM—I defy the allegator. He may not be rich, but in comparison to a certain class of men who own stock in these associations he is a millionaire. I know that there are hundreds of homes that have been built in the Capital City of Alabama by poor men through the aid of these associations, by the addition of a small amount of money to the rent which they were paying. In the course of six or seven or eight years, or the time of maturity, they own their homes clear of all indebtedness, and the record is cancelled in the office of the Judge of Probate.

THE PRESIDENT—The time of the gentleman has expired.

MR. HARRISON—As the majority of the committee have not consumed much time, I ask that the gentleman who represents the majority of the committee may have his time extended ten minutes.

Upon a vote being taken the time of the gentleman was extended for ten minutes.

MR. GRAHAM—Mr. President, I am very much obliged to the Convention. I have not been upon the floor of the Convention often enough to bore any man on it, and I am sorry that I am in a position now where it is probable that I do, but I feel that I am speaking in the interest of the poor people of Alabama who are interested in these associations, and it is the first opportunity that I have had to do so.

MR. OATES—Bore the fellows on the other side.

MR. GRAHAM — But still I have some friends upon the other side, but I don't like to bore them, though they may differ with me. For instance I don't like to bore my friend Boone.

My colleague, Macdonald of Montgomery, virtually admits that the preferred stock is the cause of the disaster that has overtaken building and loan associations in Alabama. I agree with him to a certain extent that his statement is a fact, but the gentleman cannot name a local association that has issued preferred stock. It is issued by the so-called "scurvy dogs," the national associations. I find there are about twelve associations doing business in the State of Alabama, two of these are national associations. The balance are home associations. But one national association outside of the State of Alabama has taken out its license this year and it is in the hands of a receiver. There is but one Alabama national association in existence in this State today, and my information is that it is in course of liquidation. Then we have nothing left upon which to operate, if we insert the minority report in the Constitution.

My friend also says that whenever a man opposes a measure it is a question of legislation. If he is in favor of it, it ought to go into the Constitution. If he opposes it, it is a question of legislation and ought to be left out. There is a great deal of truth in the statement made by my colleague, but this is one instance where it should be left to the Legislature. It is not a matter of principle, but it is a matter of policy, and that policy should be dealt with by the General Assembly, and it will deal with it. But he seems to fear the law-making body, he seems to fear the legislature. I say to him as Voltaire said in his life of Charles the Twelfth: "Unfortunate is the country whose King loves the singing of bullets." I say, unfortunate is the country, whose people fear its General Assembly. I, for one, do not fear the General Assembly of the State of Alabama. As was said by the distinguished gentleman from Tallapoosa on the floor of the Convention the other day, in many respects the legislature is the peer of this body. I am not a member of the legislature, and do not propose to defend it. It is able to take care of itself.

There is but one other matter to which I desire to call the attention of the Convention. I have a letter here that was written by a distinguished lawyer of Alabama, one of the ablest young men in the State, and I desire to read it, and with it, conclude my remarks. This is a letter written by Hon. S. D. Weakly of Birmingham, to Mr. W. V. M. Robertson. It is as follows:

"Dear Sir:—At your request I submit herewith the reasons why National Building and Loan Associations have not been successful, although the local Alabama companies have been prosperous, and have met the expectations of their investing stockholders and borrowers. For the past ten years we have represented both national and home companies, have conversed freely with officials of both, and have had an excellent opportunity to observe their workings. In addition to this, I have been a stockholder with very satisfactory results in a home company, which more than met all my expectations.

"By reason of the fact that the national associations have covered such an extended field, and had to rely upon valuations and appraisements made by local people, who nearly always had an exaggerated idea of values, they were induced to make loans often times for large sums, far beyond the point of security and safety in the matter of values.

"I have in mind one case where a national company of Minneapolis, Minn., loaned $7,000 on a piece of acreage property near Birmingham on which loan they never collected from the party a cent of interest and in which case, after several years of litigation to secure the property, they sold it for $2,000, thus losing more than $5,000 on that particular loan. For the same reasons the same company suffered larger losses in other cities in this State."

Why don't you fellows that are opposed to national building and loan associations applaud the loss of the Minneapolis Company? He says further:

"Another embarrassing feature in reference to the national associations has been that there were conflicting rules and decisions upon the questions of law involved in the Building and Loan Association contract in the several States in which they did business. In some States the contract was sustained, and in others it was not sustained according to its terms. The result was that the general uniformity of the whole plan was destroyed, producing confusion and consequent loss.

"For these reasons the officials of the national association have freely admitted to us that the plan was too far-reaching and extensive, and in actual practice it was a failure. As a result, investing stockholders in those associations did not realize the profits they expected, and borrowers also suffered considerable losses, in that the expected profits were not earned. Hence it required a much longer period to mature their stock than was anticipated, thereby largely increasing the rate which their loan actually cost.

"The local associations in Alabama have confined themselves to a much narrower domain and the principles of law governing their contracts have been well settled, and the officials of these companies have been able to keep the amount of the loans at a fair proportion of the actual valuation of the property offered as security. The result has been that these associations have prospered, they have enabled many small owners to obtain homes upon easy monthly payments, and the profits which were earned have enabled them to mature their stock within a reasonable time, thus keeping down the rate of interest to the borrower.

"In other words the difference between the two associations is simply the difference between failure and success."

Just one word more and I am done. I ask the members of the Convention to keep in their minds, when they vote upon this proposition, the distinction between national associations and home associations; and ask yourselves whether or not you are willing to strike down these associations that are doing good in Alabama, and thereby cause loss and harm to the poor people who have borrowed money from them. Are you willing to do that? If so vote for the minority report. If you are not willing to do that, vote against it. I move to lay the report of the minority upon the table.

Mr. Blackwell here took the chair.

MR. PROCTOR—I call for the ayes and noes on that proposition.

The call was sustained.

MR. CHAPMAN—What is the question now?

THE PRESIDENT PRO TEM.—The motion is to table the minority report. Those in favor of tabling the minority report will say aye and those opposed, no, as your names are called.

Upon a call of the roll the vote results as follows:

AYES

Messrs. President,
Almon,
Ashcraft,
Banks,
Beddow,
Bethune,
Blackwell,
Brooks,
Browne,
Burnett,
Burns,
Cobb,
Cunningham,
Davis, of Etowah,
Dent,
deGraffenreid,
Espy,
Ferguson,
Foster,
Graham, of Montgomery,
Grant,
Grayson,
Haley,
Handley,
Harrison,
Hood,
Howze,
Inge,
Jenkins,
Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Ledbetter,
Lomax,
Long, of Walker,
McMillan, of Baldwin,
McMillan (Wilcox),
Martin,
Merrill,
Miller (Wilcox),
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Opp,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pillans,
Pitts,
Reese,
Reynolds, of Henry,
Rogers (Lowndes),
Rogers (Sumter),
Sanders,
Searcy,
Selheimer,
Smith (Mobile),
Smith, Mac. A.,
Stewart,
Stoddard,
Tayloe,
Thompson,
Vaughan,
Walker,
Weakley,
Weatherly,
White,
Williams (Marengo),
Wilson (Clarke),
Wilson (Washington),

TOTAL—74

NOES

Barefield,
Bartlett,
Boone,
Bulger,
Byars,
Cardon,
Chapman,
Coleman, of Greene,
Davis, of DeKalb,
Duke,
Fletcher,
Foshee,
Glover,
Heflin, of Chambers,
Heflin, of Randolph,
Hodges,
Howell,
Jackson,
Kyle,
Long, of Butler,
Macdonald,
Malone,
Moody,
Murphree,
Proctor,
Reynolds (Chilton),
Sanford,
Sentell,
Sorrell,
Spears,
Spragins,
Waddell,
Whiteside,
Williams (Barbour),
Winn,

TOTAL—36

ABSENT OR NOT VOTING

Altman,	Greer, of Perry,	NeSmith,
Beavers,	Henderson,	O'Neill, of Jefferson,
Carmichael, of Colbert,	Hinson,	O'Rear,
Carmichael, of Coffee,	King,	Palmer,
Carnathon,	Kirk,	Porter,
Case,	Kirkland,	Renfro,
Coleman, of Walker,	Knight,	Robinson,
Cornwall,	Leigh,	Samford,
Craig,	Lowe, of Jefferson,	Sloan,
Fitts,	Lowe, of Lawrence,	Smith, Morgan M.,
Freeman,	Maxwell,	Sollie,
Gilmore,	Miller (Marengo),	Watts,
Graham, of Talladega,	Morrisette,	Willet,
Greer, of Calhoun,	Mulkey,	Williams (Elmore),

PAIRED

AYES	NOES
Eyster,	Cofer,
Eley,	Locklin,

So the motion to table the minority report prevailed.

MR. LONG (Walker)—I ask unanimous consent to introduce a short resolution and have it referred to the proper committee.

The consent was given.

Resolution No. 314, by Mr. Long of Walker was read as follows:

"Resolved, That the Committee on Order, Consistency and Harmony of the Constitution, be authorized and directed to insert in the draft of the Article on the Executive Department relating to sheriffs, the following amendment:

"Strike out the words 'who shall be ineligible to such office as his own successor,' where they occur therein, and insert in lieu thereof the following words: 'Who shall be eligible to succeed himself, but not for more than two consecutive terms.'"

"Also by adding at the end of the section, the following words: 'And the Governor, when satisfied, may suspend him from office until the impeachment proceedings are terminated.'"

MR. LONG—I ask that the resolution be referred to the Committee on Executive Department.

THE PRESIDENT PRO TEM.—The resolution will be referred to the Committee on the Executive Department.

Section 14 was read as follows:

Sec. 14. All railroads and canals shall be 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.

MR. WILSON (Clarke)—This section is an exact copy of that in the old Constitution. In the old Constitution it is Section 21. I move the adoption of the section.

MR. HEFLIN—And upon that I move the previous question.

The main question was ordered.

THE PRESIDENT PRO TEM. — The question is on the adoption of the section as read.

Upon a vote being taken, the section was adopted.

Section 15 was read as follows:

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 tariffs, 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.

MR. SANFORD (Montgomery)—I have an amendment to Section 15.

The amendment was read as follows:

"Amend Section 15 by striking out the words, 'Conferred upon the Legislature,' in the fourth line of said section, and inserting in lieu thereof the words, 'Conferred upon the Railroad Commission,' and also to strike out the remainder of the section beginning at the words 'whose duty it shall be,' in line four of said section.

MR. SANFORD (Montgomery)—It seems to me that fifteen or twenty years ago, when this commission was established, it was proposed by the opponents of the commission to confer this power upon the Legislature to fix the rates and with adequate

provisions to compel their observance, and the advocates of the Commission and friends of the railroad companies opposed it with great energy, but finally the Commission was defeated, and afterwards it was reconsidered and adopted. I remember saying to one gentleman, who was an advocate of the Commission: "Why, you have given it no power; you might as well have conferred it upon three old women, gossiping upon the transactions of a quilting as to put such restrictions upon their conduct." He said: "Certainly, that is true. I am on the side of the Indian, and I would not have given it any power." But it so happened that the men who were appointed on that Commission were men of imperious will and great force of character, men who had purposes of their own, and they made it a more powerful institution than was contemplated by its advocates. If you adopt this provision, you absolutely destroy the Commission, for the Legislature would have the power to do precisely what has been conferred upon the Commission, and what would be the use of the Commission at all? It would be a repeal of the Commission. See what it says: "The power and authority of regulating railroad freights and passenger tariffs, etc., are conferred upon the Legislature." That power is now exercised by the Commission, as it exists, and when you confer it upon the Legislature, what have you left for the Commission to do?" It will be absolutely an office without any power. He would be a functionary with nothing to do except to draw his salary from the railroads. Let me read it to you: "The power and authority of regulating railroad freights and passenger tariffs, the location and building of passenger and freight depots, for correcting abuses and preventing unjust discriminations and extortion and requiring reasonable and just rates of freight and passenger tariffs, are hereby conferred upon the Legislature."

Now tell me what other matters can the Railroad Commission do except these that you have conferred upon the Legislature the right to do? It would be a useless body. If you adopt that, abolish the Railroad Commission, but I am against abolishing the Railroad Commission as it now stands because the Legislature will meet only once in four years. How can it regulate rates of freight upon articles not yet perhaps invented or manufactured? How can it look for four years ahead when the very articles of commerce upon which freight is to be charged have no existence? The commerce of the world is increasing, and in a few years importations will be made not now known to the commerce of America. How, then, can the Legislature fix rates when it meets only once in four years? Therefore, I insist that the amendment conferring the power upon the Railroad Commission ought to pass, and the balance of the section means nothing. It is merely a tub thrown to the whale to fool the fish. I am not the fish. Where is the canal that Alabama owns upon which you have to regulate

the rates of freight and passenger fare? If there be such, I am ignorant of it, and I ask for information. What canal is there upon which you can fix a tariff for rates? And the rivers of the State—you have no jurisdiction over the rivers. My impression is that that is entirely in the power of the Federal Government. Therefore, Mr. President, I insist upon the amendment which I have offered, striking out the words conferring the power upon the Legislature and asking that it be conferred upon the Railroad Commission.

MR. HARRISON—I desire the attention of the Convention a moment in answer to my friends from Montgomery (Mr. Sanford), to explain what the Committee has done in making its report on this section. The present Constitution, Section 22, reads as follows:

"The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freights and passenger tariffs on railroads, canals and rivers in this State."

I know my friends has read the Constitution many times, and he ought not to accuse this Committee of throwing a tub to the whale, when your forefathers put this provision in the Constitution years ago. As you say, you are no fish. I thought you were a whale and not a succor, but so much for the tub and the whale of my good friend.

Among other things we read in the Democratic platform that no additional powers should be given the railroads, and that was a limitation, a positive requirement, and your Committee has constantly tried to adhere to that, and I say, without fear of successful contradiction, that there is no additional power conferred in this Section on any corporation, but wherever the Constitution has been changed at all it has been to the reverse of that.

MR. SANFORD (Montgomery)—I never said it conferred additional power. I said it took away all the power the Railroad Commission had.

MR. HARRISON—If you are not through I will yield and give you time to finish your speech.

As is well known by delegates, the Railroad Commission is not a constitutional office. It never has been so. It was established by the Legislature by authority of the provision in the Constitution that I have read. The Legislature has perfect power, as it has been doing, to pass laws to prevent these abuses and to appoint a Commission to see that its laws are executed and carried into effect.

MR. WEATHERLY — Would it not be the effect of the amendment proposed by the gentleman from Montgomery to deprive the Legislature of the power it now has to regulate that very

matter by conferring it upon the Railroad Commission, and violating the other provisions adopted that the three departments of government shall not infringe on each other.

MR. HARRISON Certainly. Wouldn't it be an infringement upon the prerogatives of the Legislature. Now the only change that your Committee has made has been to insert, in addition to the present Constitution, as I have just read it, is adding a Section embodied in the Georgia Constitution, which State has a Commission, and which a great many of the papers that came to your Committee and filled the Secretary's hands, many of them from the city of Birmingham, in a lot of type-written petitions, prayed for. If you remember, though, it has been some time ago, they were not only written in the same language, similar to the free pass evil petitions, but most of them were printed on the same typewriter and called your Committee's attention to the Georgia Commission. A minority of your Committee had looked in that direction and wanted something from Georgia, and the balance of this Section is a provision of the Georgia Constitution, added to ours, making it stronger against the railroads. The Georgia Legislature established the Georgia Railroad Commission to which all these petitions alluded, and after consultation, a majority of your Committee believed this was not a constitutional office and never was made so by the people of Alabama, and ought not to be made so but that the Legislature, as the guardian of the people, vested with legislative rights should have the power and retain it to correct these abuses, and we thought it best not to undertake to interfere with the manner in which they had done it, for they were powerful enough, but if there was anything in the Georgia Constitution making it stronger, the majority of the Committee were willing to agree and did agree to take it as a settlement of this issue. This does not hurt. It adds nothing in favor of the railroads or any other corporation. I will read it that the delegates may understand it:

"The power and authority of regulating railroad freights and passenger tariffs, the location and building of passenger and freight depots," and we have added that to the present Constitution, because there has been some criticism that they didn't have the power to do that. Reading on further it says, "correcting abuses and preventing unjust discriminations and extortions and requiring reasonable and just rates of rate and passenger tariffs, are hereby conferred upon the Legislature." Some good friend would say, I thought they had it anyhow, but to emphasize it, we put in the very language of the Georgia Constitution: "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."

I ask my good friend from Montgomery where is there any tub thrown to the whale? Point it out. There is no concealment and no reservation of any right to any corporation in this report. These reports have been printed and laid upon the desks of the members——

MR. SANFORD (Montgomery)—I will tell you. You talk about regulating freight and passenger tariffs upon canals. There is no canal that I am aware of.

MR. HARRISON—But we hope to have some canals in Alabama.

MR. SANFORD (Montgomery)—I do not know of any canals in Alabama.

MR. HARRISON—Maybe you don't want one. Perhaps, as I am informed, my friend has forgotten that he himself introduced an ordinance to have one dug in North Alabama.

MR. SANFORD (Montgomery)—Yes, sir, I did.

MR. HARRISON—If we get it, aren't you willing that we should regulate it? I wish only to explain to the Convention the action of this Committee. I say this report is stronger against the railroads and corporations than the former provision of our Constitution, and I do hope——

MR. O'NEAL—May I ask a question? Is not this provision even stronger than the Georgia law.

MR. HARRISON—It certainly is, and I ask my good friend from Lauderdale or anybody else to compare them, and they are bound to see that it is, and I trust that this Convention will accept the report of the Committee. We copied it, and Mr. Murphree compared it, and handed it to me. I did not read it. If any gentleman denies it I ask him to refer to the Georgia Constitution and satisfy himself. I therefore hope that the Convention will vote down the amendment. I call the previous question of the amendment.

MR. ESPY—I ask the gentleman to withdraw the motion on the amendment.

MR. HEFLIN—I move the previous question on the Section and the amendment.

MR. HARRISON—Do you want to speak to the amendment?

MR. ESPY—Yes, sir.

MR. HARRISON—Well, I withdraw it.

THE PRESIDENT—Does the gentleman desire to speak to the amendment?

MR. ESPY—Yes, sir.

MR. HARRISON—The gentleman desires to speak to the amendment and I withdraw the motion.

MR. ESPY—Mr. President, you may search this Constitution that we are now making from end to end, and you cannot find as meaningless a Section in it as this is. They attempt here to confer upon the Legislature something that the Legislature already has. What is that? This Section says that the Legislature shall have the power to regulate railroad freight and passenger tariffs and to regulate the location and building of passenger and freight depots, the correcting of abuses, and preventing unjust discrimination and requiring reasonable and just rates of freight and passenger tariffs. Now I ask each member of that Committee if the Legislature would not have everything that they attempt there to confer, if nothing was said there at all.

MR. HARRISON—They would have it, but this is a positive mandate that they shall pass them and provide penalties for a violation of it.

MR. ESPY—Then they would have the right to attach penalties. If they have the right to confer the power they have the equal right to fix penalties in the event that they fail to exercise the power. So this question comes back, for what purpose is the Section incorporated into this Article? Can it be for any other purpose than to catch votes for the ratification of the Constitution. The people, Mr. President, I know, of one portion of the State of Alabama, they expected this Convention to take some action with reference to the conferring powers upon the Railroad Commission of this State to regulate freight and passenger traffic. This does not do it. You might as well leave it out. The first clause of it attempts to confer power upon the Legislature that the Legislature already possesses. The second part of it then recommends that they shall pass laws to enforce their power. Now what good would that recommendation do? They say it is the duty of the Legislature to do that. I reply to that that it is already the duty of the Legislature to do that, and yet Legislature after Legislature has met in this State and they have refused to do it. Therefore if we adopt this we adopt something that amounts simply to child's play. Now they may have what is in the Georgia Constitution, I do not know; they have not what it is the Georgia law. That much is certain. They come here and want the Legislature of Alabama to stand between the people and the railroads and that is what your Section means. If you are willing to let the Commissioners of the State of Alabama exercise this power, then confer it in so many words.

MR. HARRISON—Does not the Georgia Section mean the same thing?

MR. ESPY—The Georgia Section confers the power upon the Railroad Commission. Here you put the power with the Legislature of Alabama and thereby deny the power to the Commissioners until it is conferred by act of Legislature.

MR. SANFORD (Montgomery)—Much of that is in the Code already about the Commission.

MR. ESPY—You have the Commission. This does not confer power, but on the contrary restricts power to the Legislature, and power can never reach the Commission until it is done by legislative enactment, and the people of Alabama so long as it remains in that condition will never get relief from the railroads of the State.

MR. VAUGHAN—Do you not think it would be a good idea to make the Railroad Commissioners a constitutional office?

MR. ESPY—Yes, if we cannot get it otherwise, I think it might be a good idea to make it a constitutional office. There is no valid objection why it should not be done. Power has been conferred upon the Commission in other State, and wherever it has been tried, it has worked well and satisfied both the railroad and the people, and the amendment offered by the gentleman from Montgomery brings the issue squarely before this Convention and that is whether this power shall be conferred upon the Legislature, or whether it shall be conferred upon the Commission, and I hope that the amendment will be adopted.

MR. CUNNINGHAM—Does the gentleman advance the idea that it will be safer in the hands of the Commission consisting of three, five or seven, than in the Legislature, consisting of thirty-five Senators and 105 Representatives?

MR. ESPY—Judging from past experience I would rather risk the Commissioners.

MR. CUNNINGHAM—And you subscribe to the doctrine, the nearer we get to a one-man government, and the further away you get from the people, the safer it is for the people.

MR. ESPY—Just to the Contrary, because the Commissioners ought to be elected by the people.

MR. CUNNINGHAM—The Commissioners elected by the people would be safer than 135 elected by the people?

MR. ESPY—Yes, sir.

MR. CUNNINGHAM—Well, carrying out that idea, wouldn't one be better?

MR. ESPY—That is not the question under discussion. It might be better.

MR. WEATHERLY — The gentleman is speaking to the amendment?

MR. ESPY—Yes, sir.

MR. WEATHERLY—Advocating it?

MR. ESPY—Yes, sir.

MR. WEATHERLY — Would it not be the effect of the amendment to confer these powers directly upon the Railroad Commission, and take them away from the Legislature?

MR. ESPY—It certainly would confer them upon the Railroad Commission.

MR. WEATHERLY—And wouldn't it deprive the Legislature from legislating upon these matters?

MR. ESPY—I do not think that would necessarily follow.

MR. WEATHERLY—Could both bodies legislate contrarily for the same matter?

MR. ESPY—Possibly not, sir.

MR. FOSTER—Have you read Section 3491 as to the powers of the Commission?

MR. ESPY—Yes sir, I read it all.

MR. FOSTER—It strictly has the power in that to regulate rates?

MR. ESPY—I do not understand that they have the power to enforce their orders in that particular.

MR. FOSTER—Do you not know the criminal provisions upon railroads?

MR. ESPY—Oh yes, I understand the criminal provision.

MR. FOSTER—Don't you think the law is now stringent enough.

MR. ESPY—No, sir; I do not.

MR. MURPHREE—I wish to state that this question of the railroad commission and the free passes are the only thing that created any friction at all in the Committee on Corporations. I was of the opinion of my friend from Montgomery, and also from Henry, but after deliberating over the question, and looking over it and debating it time and again we effected a compromise, and therefore we make a unanimous report on both. We have agreed

upon these two sections, and I would be glad for the Convention to endorse that.

MR. SANFORD (Montgomery)—And the compromises have been an abandonment of principle, and a matter of cowardice.

MR. KYLE—I offer an amendment to the amendment.

The amendment was read as follows:

"Amend Section 15 in line five by striking out the following words: 'From time to time regulating' and insert in lieu thereof the following: 'At the first session after the ratification of this constitution and from time to time thereafter, authorizing the railroad commissioners of the State to regulate.'"

MR. KYLE—I offer that substitute to the amendment of the gentleman from Montgomery, and the object is to accomplish just exactly what the Chairman of the Committee claims he wants to do. We want to enforce the power of the legislature, and while the legislature has no means of doing it, only through the commission, we want to specify that it shall be done through the commission, and it will make the section read this way, so that every one can understand exactly what is meant:

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 tariffs, are hereby conferred upon the legislature; whose duty it shall be to pass laws at the first session after the ratification of the Constitution and from time to time thereafter 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.

Now this Article states that the legislature shall pass these laws from time to time regulating freights, when the legislature is supposed to meet only every four years. Suppose unjust discrimination comes up, and they have to wait four years before it can be regulated. Power should be given to the railroad commission to regulate these freight and passenger tariffs, and it cannot be done except through the railroad commission, and this amendment places it in the hands of the railroad commission.

MR. WEATHERLY—Is not the railroad commission a creature of the legislature?

MR. KYLE—It certainly is.

MR. WEATHERLY — Then under this power, giving the legislature power to do this thing, can't it authorize its creature to do this thing?

MR. KYLE—I want the Convention now to authorize the legislature to do it, to require the legislature to do it at the very first session, to authorize the railroad commission to do it.

MR. PILLANS—Would not the effect of the adoption of this amendment be to make the present railroad commission as now elected and of the number now provided, a constitutional office, which it would be very doubtful if the legislature could ever hereafter change.

MR. KYLE—I am not a constitutional lawyer and cannot answer your question.

MR. HARRISON—In answer, Mr. President, to certain inquiries, and an evident desire for information upon the part of some parties, perhaps not lawyers, this provision that we are amending has already been made by the legislature the mandate of the former Constitution, and I desire to read for the information of those gentlemen, Section 3491 and 3492 of the Code, who believe that the legislature have never acted and would not do it. Section 3491 reads as follows:

"Revision of railroad tariffs.—It is the duty of the railroad commissioners to consider and carefully revise all tariffs of charges for transportation made by any person or corporation owning or operating a railroad in this State; and if, in their judgment, any such charge is more than just compensation for the service for which it is proposed to be made, or amounts to unjust discrimination against any person, locality or corporations they shall notify the party making the same of the changes necessary to reduce the rate to just compensation, or to avoid discrimination; and when such changes are made, or when none are deemed proper and expedient, they shall append to the tariff of charges a certificate of their approval; and they shall exercise a watchful and careful supervision over all tariffs and their operations, and revise the same, from time to time, as justice to the public and the railroads may require, and increase or reduce any of the rates as experience and business operations may show to be just; but in revising any tariff, the commissioners shall take into consideration the nature of the service to be performed, the entire business of the railroad, and its earnings from passengers and other traffic, and so revise the same as to allow a fair and just return on the value of the railroad its appurtenances and equipments."

"Section 3492. Complaints against approved tariffs, and proceedings thereon." I will not detain the Convention. Here it is in accordance with this section. They have prevented this unjust discrimination.

MR. KYLE—Has the railroad commission ever exercised any of these powers?

MR. HARRISON—Yes, sir; they have.

MR. KYLE—I am one of the sufferers.

MR. HARRISON—I reckon you have never complained to them. In the last published report it says no railroad has ever refused to comply with any finding they have ever made.

MR. KYLE—That is all right. They pay no attention to the people.

MR. HARRISON — No, because people don't go there and complain.

MR. BEDDOW—Can the gentleman show where the railroad commission can enforce any rate which they propose or make.

MR. HARRISON—My friend from Jefferson being a lawyer understands and knows what it is.

The finding of that commission under the Alabama system is made prima facie correct, and when they fail to do it, they can go into any court of justice anywhere with the same certainty of recovery, the same as a man sues on a promissory note. In fact, if you had a law that they have always regarded, whenever complaint was made, the railroads have always obeyed it, what is the necessity to make a more stringent law when they have not refused to obey the one you have given them.

MR. BEDDOW—Have there not been cases where people have been injured.

MR. HARRISON—I do not hear you.

MR. BEDDOW—A shipper is not injured by the exaction of $3.50 more than he ought to pay on a car load of lumber; if he makes that complaint is there any way to get that matter settled without getting it in the courts?

MR. HARRISON—If they didn't pay it I reckon my friend or any other lawyer would be very glad to bring such a suit.

MR. SANFORD—I would like to ask a question, if the Convention confers all of this power mentioned in fifteen upon the Legislature, which I think it has already but suppose that it has not, what use have you for a Railroad Commission, if it does everything a Railroad Commission is to do?

MR. HARRISON—I think that is simply your opinion and not the fact.

MR. SANFORD—You tell me that the Railroad Commission can do anything mentioned in this act, I would be glad to hear it and so would the Convention.

MR. HARRISON—I think the Convention understands the object as well as I do. I would like very much to read other provisions, but I believe the Convention understands it. The other side has been heard and I called the previous question on the section and the pending amendment.

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

The main question was ordered.

MR. deGRAFFENREID—I move to lay both amendments on the table.

MR. KYLE—I call for the ayes and noes on that.

The call was not sustained.

Upon a vote being taken the amendments were tabled.

Upon a further vote being taken the section was adopted.

Section 16 was read as follows:

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 or 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 five hundred dollars, 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.

MR. VAUGHAN—I have an amendment.

The following amendment was read:

Amend Section 16 by adding after the word "Legislature" on the third line the following: "Members of Municipal Councils," also by adding after the word "Legislature" on line 17, the following, "or members of Municipal Councils."

MR. VAUGHAN—Mr. President, I have heard something said here about having been a compromise between the enemies and advocates of the free pass question. As for me I was not a party to the agreement and am not bound by it. I am then to presume that the section offered us is a compromise measure. I am opposed to the compromise of a principle. I take it that if a principle is compromised as this section is, then we have a defective section, admittedly so. Those who have contended for the principle have agreed to demand or take less than they conscientiously think ought to be incorporated in this Constitution. I am not one of those. There are those in the Convention who say that there is no evil in accepting a pass from a railroad corporation whenever they can be obtained; that is in accepting a pass a man does not place himself under any obligation to the railroad. I deny this proposition. I contend that if a man in office accepts a pass, and he considers himself under no obligations to the railroad offering the pass, he is as much an ingrate as the man who accepts your private hospitality, and feels himself under no obligations for it. The fact that in the one case the donor is a railroad corporation, and in the other case an individual, makes no difference in principle. Now what are these passes granted for, and to whom are they granted. I am informed by a railroad attorney of no small reputation that railroad passes are granted for influence. That a company will not grant a pass to a person for business friendship. He must have influence? I take it that a railroad looks to the man who holds an office, legislative or judicial, for its friends. They give them passes to carry friendship. For what purpose? Why the answer is so plain that it needs to answer—They want their influence. That they give passes for influence and do so willingly, is clearly seen and noticed. I have no doubt that the State of Alabama has many a time felt the influence of the free pass in its legislative bodies. But the report of the committee recognizes the evil of the pass with the members of the Legislature, and even the judicial officers of the State in their reports. It is because these officers are in position to pass upon the rights and privileges of the railway corporations. If this is so, then there is more abundant reason why an amendment incorporating members of municipal coun-

cils should be adopted. These officers have to pass upon the rights of railway companies in the cities and towns in Alabama; they have to regulate their use of the streets; they have to grant to them franchises down the streets, and many other important questions come before them affecting railroads. I submit the Corporations Committee has left out one of the most important classes of officers. They are in close touch with the people and the railroads, and their decisions affect more vitally the people's interest, than do even the acts of the Legislature. Now, Mr. President, there are some people who say that no matter how rigid the acts of the Legislature on this free pass question, the evil cannot be cured, and that officials will continue to use railroad passes, no matter whether the law forbids it or not. If some of the newspapers of the State have even taken this same position, I do not deny that there is truth in the argument. I do not deny that whether a severe penalty is imposed by the law or not, there will still be some officials within the prohibition who will continue to violate the law. This same argument, if it be an argument, would apply with equal force to any criminal offense on the statute books. It might as well be said that there is no use in prohibiting gambling by law, because there would still be persons who would gamble; or that there is no use in prohibiting any other offense which is conceded to carry evil influences. We know that the criminal laws will be violated, but is that any argument why we should not pass them? Not at all. We can make the carrying of these passes an offense, and it being so recorded in our statute books, a man will not be so quick to accept one, nor will he do so openly or secretly without feeling like a man who has violated any other criminal statute, and has escaped the indictment of a grand jury. Now, Mr. President, I submit that the amendment offered embraces a class which ought to be incorporated in this section, and, by offering this amendment, I desire to say that I have no intention of reflecting upon the municipal officers of any town or city, any more than the Committee had when they incorporated "members of the Legislature;" but I believe that the report has exempted a class who ought not to be omitted. I do not think municipal councilmen ought to be admitted if members of the Legislature are prohibited from using passes. Members of the Legislature pass upon laws regulating railroads of the State, but municipal councilmen pass upon the rights of railroads within our towns, and they are closer to us, and we feel the influence more. Now, Mr. President, I think inasmuch as one body is to be prohibited from using passes, that municipal councilmen ought also to be prohibited just as much as any other legislative body, and I do not see any reason why they have been left out of this. I move the adoption of the amendment.

MR BLACKWELL—I have an amendment.

The following amendment was read:

"Amend Section 16 by striking out after the word 'himself,' in line 18, the following words, 'or another, not a member of the Legislature, or officer exercising judicial functions.'"

MR. BLACKWELL—Mr. President and Gentlemen of the Convention: Section 16 says that "no railroad or other transportation company, or corporations, shall grant free passes or sell tickets or passes at a discount other than is 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 or officer receiving any 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."

That part of the section provides that any man who procures a free pass for himself or another shall be subject to these penalties. Further on in the section, you will notice, in line 16, it says, "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, of an officer exercising judicial functions, a free pass, over such railroad or transportation company or corporation by which he is employed."

This provides that a man who is a bona fide employe of the railroad shall have a free pass. I have no objection to that, if he has earned it as an employe of the railroad, but it says he may procure a pass for anybody else that he wants to, who is not a member of the Legislature, or who is not an officer exercising judicial functions. It denies to anybody who is not an employe of the railroad the right to procure for himself or for another a pass. The man who is a bona fide employe of the railroad, having a pass as a bona fide employe, is entitled to that pass, but there should be no privilege extended to him to grant passes for other people, simply because he is employed by the railroad, if granting passes to men who are not employes of the railroad will influence their action. Then, as a matter of fact, why should the Committee pretend to say it is right for a man who already has a pass over the railroad and is entitled to ride on it, should have the privilege of obtaining passes for others? Simply the right to bring in as many friends as he wants to, when no one else can do it. Deny the right for themselves and for others. That is proper, and if a man has earned a pass by services before he becomes a judicial officer or member of the Legislature, or any-

thing of the sort, and has paid for his pass, it is not a part of the consideration that it is given him to influence his action. It was his before election, he is entitled to it, but that does not give the right to procure passes for other people. I submit the employe under that section would be given an advantage over those who had not earned passes by such connection or association, but as to giving other people the right, if other people would be influenced by that action. I do not think there is near so much danger in that as some people do, but he would be influenced, and I insist it is right he should not have that influence when it is denied to others to have the right of having free passes and procuring them for others who are not officers with legislative functions or judicial functions, and, therefore, I move the adoption of it.

MR. BROOKS—I ask that the doors be closed and that the lobby be quiet.

THE PRESIDENT—The Sergeant-at-Arms will close the doors.

MR. BROOKS—I have an abiding faith in the potent influence of railroads in advancing the prosperity of the country. My observation and experience is that whenever any city or center of distribution is deprived of or has diverted from it some of the trade or traffic by the operation of the laws of trade through railroad transportation, that the remedy is not to antagonize railroads, but to build more railroads, and thereby to get back to counteract that by advancing into new fields, and get traffic from new quarters. Now, sir, all my life it has so happened I have been thrown in pretty intimate contact with railroad men, and I have never failed to advocate anything that was just and proper in behalf of the railroads. I have always opposed legislation of any kind that tended to be unjust to them.

I have always opposed legislation of any kind that tended to be unjust or unfair to them. Ten years experience as President of the Board of Trade some years ago in Mobile brought me in constant contact with these matters when the relations between the railroads and the public were not as systematized as they are now. So in my career in the legislature of Alabama. There are delegates on the floor, with whom I had the honor to serve as far back as 1876, and the capable and experienced Chairman of the Committee on Corporations sat next to me for four consecutive sessions, and I venture to say that he will bear me out in the statement that he never knew me during that time to antagonize railroads in any reasonable or just assertion of their rights or demands for legislative enactments. Therefore in the pass question I am actuated by no feeling of prejudice whatever. While I do not propose to elaborate on the ethics of the question or resolve with casualtry as to the effect of the pass giving or receiving directly or indirectly, consciously or unconsciously, I say this: Something must be

done and we ought to have a provision in the Constitution that not only will be self-operative but will have some vitality. I undertake to say that the ordinance reported by this Committee is a very adroit one and a very nernicious one. In pass giving and pass receiving there are always two parties to the transaction. One that gives and one that receives. Now if you want to get rid of this practice, if you want to uproot it, if you want an efficient system, you must put the penalty on the road which gives the pass as well as on the officers of the State of Alabama who accept them. In this respect the ordinance proposed by the Committee is not a whit better than what has been in the Constitution for the last twenty-five years. It simply says that railroads shall not give any pass but it puts no penalty on a violation of his provision, and that is what the Constitution now is. We want it galvanized into life, and I have an amendment which proposes to say right there, after you say that no railroad, or its agent, shall give a pass, you go right on to say that violation of that on the part of the agent shall be a misdemeanor and he shall be punished accordingly.

Then, Mr. President, there is this to be said. While this is a very drastic provision on its face, really it is not so at all. There is no way in which you can prove when an officer of the government violates this law.

Now, I do not stop to consider the question of its being limited to members of the legislature and the judiciary. I am willing to give that up, though I cannot see why you should make any discrimination. It seems to me that no officer of the government ought to receive a pass, and I am willing to let that go, but the members of the legislature and the judiciary are the only ones against whom the penalty is provided, and you cannot ascertain except from evidence that you must get through the railroads themselves, who have received and are using passes. Hence the amendment that I proposed, which not only provides a penalty on the railroad and its agent, for giving the pass or selling tickets below the rate charged the public, but that they shall also testify, and shall be relieved from criminal or civil prosecution, if they testify that they gave the pass, and in that way and only in that way, would you ever ascertain the fact that a pass had been given.

Now, as a part of my remark, I will read the amendment, which I propose to offer when the proper time comes, if I have the opportunity. Section 16:

Sec. 16. No railroad or other transportation company or corporation or officer or agent thereof 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 a violation of this provision is hereby declared to be and shall be deemed to be a misdemeanor, but no person or officer or agent of a cor-

poration who gives any such free pass, free transportation, or sells tickets for transportation at rates hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the selling or giving of the same. And any such member or 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 five hundred dollars, 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 no attorney or employe of a railroad or other transportation company who, at the time of his election to the legislature, had a free pass over the line of such company shall be debarred from using the same or from procuring one for any member of his immediate family, who is not a member of the legislature or officer exercising judicial functions.

MR. LONG (Walker)—I move we adjourn.

MR JONES (Montgomery)—Will the gentleman withdraw that in order that I may submit a report on the Executive Department?

THE PRESIDENT—Does the gentleman desire to suspend the consideration of the Article which is now before us?

MR. JONES (Montgomery)—Yes sir, it will not take but a minute.

THE PRESIDENT—Will the gentleman allow his report to be received and read as soon as this Article is disposed of?

MR. JONES (Montgomery)—Yes sir.

MR. LONG (Walker)—We have been here discussing this question quite a while, and it seems to me with all due respect for the Corporation Committee that reported Section 16, that it is the most unjust and uncalled for Section that I have ever heard or read in my life. In the first place, your humble servant stands before you as one low enough down to be a member of the Legislature of Alabama. This Section denies me the right of riding, and

requires me to walk to come down here and represent my county in the Legislature. Others can ride with impunity if he represents a railroad, although he might have nothing more to do than to ascertain the distance from a curve on the railroad to where you find hair when a cow is killed. He is an employe of the railroad and he can ride with impunity all over the State of Alabama. Now, gentlemen of the Convention, in the name of justice, in the name of right, if it corrupts me to ride on a railroad pass, will it not corrupt the others? I want to state that I have a substitute for his Section, and I am opposed to every principle contained in Section 17, and will offer my substitute when the time comes. I have never yet recognized that there was a pass evil. I am opposed to corporations to such an extent that I favor getting the lowest freight rates that we can command, and I am also in favor of the best transportation for ourselves that we can get, (applause), but I do ask this Convention to think of what they are called upon to vote for now, and to meet the proposition fairly. If it corrupts me it will corrupt the Governor of your State, it will corrupt the Auditor and the Treasurer, who passes upon the valuation of every dollars' worth of railroad property in the State of Alabama. It will corrupt the man although he be an humble citizen and not an official, for he may sit on the jury ten years afterwards and be influenced by this hullaballoo pass evil that we now hear discussed all over this State. (Applause.)

Now, Mr. President, and gentlemen of the Convention, I want this thing voted down because it is wrong in principle. There is a natural enmity and jealousy between men, and I believe some local jealousy existing right here in the city of Montgomery, is causing this howl all over the State about the pass evil. I believe that like a countryman believes in preaching—I believe in it from book to book. (Applause.)

Now this proposition is wrong. If you are going to make a man who runs for office in the Legislature from North Alabama who gets $4 a day for his work, either pay his railroad fare or walk, while you allow all the big Ikes in the State to ride on railroad passes, and many of them in private cars from here to New York and Buffalo, make them walk along with us. Put us all on an equality. That is Democracy. You have no more right to take away from the railroads the right to give me a free pass than you have the right to take away from Dave Fleming the right of furnishing me a free meal. Now that is honest, you know it is honest, and you cannot justly advocate a measure which is proposed by this Committee. You may adopt it by force and power, but you do that which is wrong and you know that when you do it. The Supreme Court of our land has said that railroad corporations are but persons in the eyes of the law. You allow hackmen to give free rides, and you allow every other influence and lobbyist to come here and represent interests, and you deny the right in the

fundamental law of the State that the agents and managers of a corporation cannot control it as they see fit. I never would cast another vote in my life if I considered that the people of this State were so corrupt that they were influenced by a little ticket that saves probably 2 or 3 cents a mile. A man that is that corrupt can be bought for a dollar in cash, or he can be bought with a drink of cheap whiskey.

Now I want to tell you that the people of Alabama are not clamoring against this great pass evil that you gentlemen advocate. It is not an uprising of the people, and while the petitions have come into this Convention that would take five hours to read, with a list of names probably long enough to reach from here to Wetumpka, yet those petitions were gotten up and sent here, and I can go around and get up a petition signed by 10,000 men throughout the State of Alabama to hang every member of this Convention (applause), and we will be lucky if on going home the people do not undertake to do such a thing. You know that you can get a petition for almost anything. The people have not advocated this measure. When something was said that the representatives of papers should not have free passes, there was such a howl went up that it shook our State from the Tennessee River to the Gulf. Is a man merely because he sits in his office and calls himself "we, the people," any better than a member of the Legislature. You know that he is not. Two-thirds of this distinguished Committee on Corporations that advocates this measure, probably, are railroad lawyers, willing to make me walk but providing that they shall ride, (applause), that is their report. That is exactly what I mean. I probably would have been with them myself on a compromise, if I had been a railroad lawyer. But I cannot hope for anything in this respect for I am not learned in the law, but I have some judgment and I tell you, gentlemen, that this thing is obnoxious on its face. It is wrong and should not be passed, but if you do pass it, vote down these amendments and the original Section and let me offer my substitute, which puts every man in the State of Alabama who is not an actual employe of the railroad on the same footing. It provides for Methodist preachers paying a full fare of 3 cents a mile, and Baptist divines also. (Laughter.) Go to that extent if you want to do it. If this is right you have got as much right to say to the L. and N. Railroad that they shall not extend privileges of a rate of 1 1-2 cents a mile to ministers. If this is adopted you cannot hold a Legislature, because one-half of them are preachers, and you know it.

I tell you, gentlemen, that you should think well of this. We are drawing to the close of this session, after sitting here much longer than we should, and I do not want to put a Section in the Constitution that the people do not want, and which is wrong in principle. It is wrong in principle, you know it is wrong, and I

tell you that if you are going to apply it to one let us make it apply to all.

MR. OPP--Mr. President, the arguments of the distinguished gentlemen from Dallas and Mobile are unanswerable, because they were inaudible. (Laughter.) It was not my good fortune to hear what those distinguished gentlemen said, but knowing the high character and conspicuous ability of those gentlemen I naturally infer whatever they did say was good. I did hear, Mr. President, distinctly, what the gentleman from Walker had to say. He is always exceedingly audible (laughter), and I gathered from what he said that the word "free pass" is almost as dulcet and euphoneous to his trained ear as the word "Mobile" (laughter), which he eulogized in such a pathetic and sweet manner the other day.

Now, I agree heartily with much that the distinguished gentleman has said. There can be no doubt that there is more or less evil in the issuance and acceptance of free passes, creating to a certain extent an obligation upon the part of those who accept them, but this opposition to the granting of free passes is not a spontaneous uprising of the people, but it is largely fictitious. I do not think, Mr. President, that the judiciary or executive officers of Alabama are so susceptible to corrupting influences that these little pieces of paste board can swerve them from the discharge of their duty. When I stand here in the light it may be of championing free passes, I desire to say in defense of State of Alabama that I have never yet known one man who was corrupted by the use of passes.

If there is any one thing in which the American people excel over every other people upon the globe it is their swift and instinctive detection of a humbug, and while I do not reflect upon any gentleman upon the floor of this Convention who have have opposed or advocated the adoption of legislation against the issuance of these passes, nine-tenths of the delegates upon this floor recognize in their heart of hearts that all this clamor and hulleballoo, all this urging and raring about free passes is largely fictitious, as I said before, and is something that ought never to have been indulged in. However that may be, as a member of the Committee on Corporations, I desire to say that this and the kindred topics or subject of Railroad Commissioner was before the Committee on Corporations and many plans were discussed. It was the desire of this committee to arrive at what the diplomats would call a modus vivendi on these questions. The opposition to passes was ably represented by Hon. Joel D. Murphree of Pike, who knows what he wants and who has the heaven born ability of getting it after he knows it. The matter was put off from night to night in order that it might not be said that it had been acted on precipitately, or that there was any disposition to take snap judgment on anybody.

My friend retired from time to time and took counsel with others who held the same views as myself, and I assume, though I don't know, and no doubt I was in error as to that, that he had counsel with the distinguished gentleman from Mobile, and finally we arrived at the agreement which is reported and included in the report made by the committee. While these compromises are not binding and are not conclusive upon this Convention, nevertheless we regard it as a highly desirable and eminently proper and fit thing to do, to see if we could not arrive at an amicable understanding upon this question. Mr. President, much was conceded by those who represent the anti-railroad pass side of the case, and my friend here, my distinguished and venerable friend who will no doubt repeat it whenever occasion offers, or it becomes necessary, instead of being disappointed in his undertaking, said that he really got much more than he expected to get. We assume, Mr. President, that a topic which threatened to end the endless contraversy, and which might divide a body of men who desired to be harmonious upon this and all other subjects, should be settled in some way, and we were heartily of the opinion that this report would meet with the concurrence and assent of every member upon this floor It will be observed that there are stingent self-executing penalties against those who issue passes, and those who might naturally be subject to undue or corrupting influences. Surely sir, these are stringent enough, and we assume that however rapid, however unreasonable these parties might be, that this would meet their demand, and satisfy every just expectation, of those who wanted to correct what was an evil.

I assume, Mr. President, that this whole subject is understood in all of its bearings, that this is a subject and topic which ought to be disposed of amicably, if it can be disposed of in such a way. In order that this Convention may move on to the transaction of the grave and important matters which are ahead of it, and I think, Mr. President, inasmuch as the agreement or compromise or understanding to which I have referred, was operative with respect to the preceding paragraph, it should be operative with respect to the one now under consideration. Therefore assuming that the whole subject has been elaborately discussed that every gentleman has been given opportunity to give expression to his sentiments on this subject, I move the previous question upon this section and the amendment.

There were expressions of dissent.

MR. LONG—I move to lay the section and amendment on the table.

MR. OPP—If there is objection I will withdraw it. I do not desire to shut off any gentleman from debating this or any other matter that he may desire.

MR. WILSON (Clarke)—I move that we remain in session until we finish this article. (There were expressions of dissent.)

MR. O'NEAL—I move that we continue in session thirty minutes longer.

MR. SANFORD (Montgomery)—I move that we adjourn, it is nearly adjourning time.

THE PRESIDENT—The gentleman from Greene has the floor. He will proceed.

MR. COLEMAN (Greene)—Mr. President, I feel somewhat embarrassed after the intimations of the President and some of the members of the Convention.

THE PRESIDENT—The Chair only meant we are losing time, and that we wanted to make the best use of the time that is left us.

MR. SANFORD—I move that we adjourn, it is five minutes of adjourning time.

THE PRESIDENT—The gentleman from Greene has the floor.

MR. COLEMAN (Greene)—Mr. President and delegates of the Convention, there are two character of law which excite the contempt if not the odium of every one. A law which is so framed as on account of its inherent weakness that it is not effectual to remedy the evil intended, and the other is the one so drastic that on account of the excessive cruelty, or its applicability to people that ought not to be punished, and either of these cases always bring a law into contempt, and it is not capable of being executed. But a law intended to remedy an evil, which does meet the evil, will always meet approbation. A great deal has been said about the pass evil, and those who are influenced by the carrying of passes, and those who are jealous. Whether it be considered proper or not, I think I am justified in saying that I am in a position to discuss this question without any prejudice against the railroads, and without being under any obligations to the railroads. I never rode on a free pass in my life, down to this good hour, and I am under no obligations to the railroads in any respect, but that it is not any reason why I am not willing to do justice to the railroads. The only influence that could be affected are those which rise from the judicial position or from the legislative. There is a demand in this country that something be done, and no unbiased and unprejudiced man will deny it. It was considered a great evil even when the last Constitution was adopted, as that document will testify, for it is plainly provided there, the very provision that we have made, and the Legislature failed to give it operation. This section is intended to remedy that evil, and that only, and it does seem

to me that if you adopt this Article, you will have accomplished everything that was intended. Why should you provide for municipalities when but few in this State are reached by the railroads, and the vast number of people are unaffected by this measure and are not in a position ever to be influenced by a railroad; those are provisions that on account of the harshness, always bring a law into disrepute. Mr. President, the Legislature has full authority—

MR. VAUGHN—I would like to ask the gentleman a question.

MR. COLEMAN—I decline to be interrupted. I doubt if there is a municipality in the State of Alabama that has not a provision in its own charter, and if it has not, she can easily obtain it, to remove any evil that exists of that kind.

MR. WILSON (Clarke)—Will the gentleman yield for me to move to extend his time a moment?

There were loud expressions of dissent.

MR. COLEMAN (Greene)—Mr. President, I will not trespass upon the time of this Convention, because it is too impatient.

THE PRESIDENT—Does the gentleman consent that the Convention will stay in session ten minutes longer.

The consent was given.

MR. COLEMAN—I do not desire to trespass upon the patience of any body of men, which seems to be the desire of the Convention, and of the Chairman, and I will move the previous question on the section and amendments.

MR. WILSON (Clarke)—I move that this Convention remain in session ten minutes longer.

Upon a vote being taken, the motion was carried, and upon a further vote the previous question was ordered.

MR. LONG (Walker)—I move to lay the amendments and the section on the table.

MR. OPP—I move to lay the amendments on the table.

MR. BLACKWELL—I ask for a division of the question.

MR. VAUGHN—I call for the ayes and noes.

The call was not sustained, and upon a vote being taken, the amendment offered by the gentleman from Morgan (Mr. Blackwell) was tabled, and upon a further vote being taken, the amendment offered by the gentleman from Dallas, (Mr. Vaughn) was also tabled.

MR. LONG (Walker)—I now move that Section 16 be laid upon the table.

MR. PETTUS—I call for the ayes and noes on that.

The call was not sustained, and upon a vote being taken the motion to table Section 16 was lost.

MR. OPP—I move the adoption of Section 16 as reported by the Committee.

MR. SANFORD (Montgomery)—I move that we adjourn.

MR. JONES (Montgomery)—Before that is put, I ask leave to make a report for the Committee on Executive Department.

Objection was made, and upon a motion to suspend the rules, the Convention suspended the rules, and the report was read as follows:

Mr. President—The Committee on Executive Department, to which was referred resolution No. 314, by Mr. Long (Walker) have had the same under consideration and instruct me to report the same back favorably with a recommendation that it be passed.

(Signed) Thos. G. Jones.

Chairman.

Resolution 314 by Mr. Long (Walker):

Resolved, That the Committee on Order, Consistency and Harmony of the Constitution be authorized and directed to insert in the draft of the Article on the Executive Department relating to Sheriffs, the following amendment: "Strike out the words 'and shall be ineligible as such officer as his own successor,' wherever they occur therein, and insert in lieu thereof the following words: 'Who shall be eligible to succeed himself, but not for more than two consecutive terms,' also by adding at end of section the following 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 terminated.'"

THE PRESIDENT—The resolution will lie on the table and be printed under the rules.

MR. SANFORD (Montgomery)—I move that we adjourn.

Upon a vote being taken, the Convention adjourned.

CORRECTIONS

In remarks of Mr. Smith (Mobile), page five, second column, commencing with the fifty-ninth line from the bottom, after the

word "sustained," it should read as follows to the bottom of the column:

Then after the judgment is rendered, you come back to the probate court, and there only remains to assess the damages. Now, when the damages are assessed, you can get no judgment of condemnation until you pay such damages. When you have obtained your judgment of condemnation, and had it affirmed by the Supreme Court (if an appeal is taken) after the appeal has been fairly decided, and you come back and get a judgment for the damages assessed, then you can take an appeal from the assessment of damages to the circuit court.

Now, before that appeal is taken, you have gotten your right of entry adjudicated. This provision says that this last appeal shall not suspend the right of entry, provided the person seeking to condemn goes further and gives a bond to pay such other damages as may be assessed upon such appeal. So that your right of entry is after the payment of all the damages assessed under the condemnation proceedings, and after the right to condemn has been finally adjudicated. You have then paid the damages assessed, and the question left to be determined is only whether or not the amount of damages paid by the corporation (if it be a corporation) to the land-owner, is sufficient, and in case it is adjudicated that such damages are not sufficient, then a bond is given to pay such further damages as the land owner may be held to be entitled to. It is during the controversy over this question that you are allowed to enter upon the land after giving bond.

This being the case, there is no question between the barefooted boy and the cross-eyed woman, whereby the corporation can eject them without paying them anything for their property, for it has then been adjudicated that the corporation or person seeking to condemn has a right to the property, and the corporation has then already paid just compensation for such property, according to the assessed value thereof, determined by the tribunal first trying the question, and the only other question remaining is whether or not the land owner has a right to the payment of still further damages thereafter to be assessed by a jury. There is also a question as to whether or not the land-owner, or able lawyers representing damage suits, shall have the right to delay the advancement of progress, whether that advancement is incidental to the opening of an ordinary coal mine, such as my friend refers to, or to any other class of improvement. The question is whether such lawyers shall be able to squeeze a person seeking to condemn into paying to them or their clients three or four times the value of the property sought to be condemned, by asserting that the company shall not go across one piece of property, it matters not how

narrow a patch it may be, so as to reach the property beyond it, unless they pay three or four times the value of the property taken, in order to prevent them by technicalities from defeating the purposes of the company by delays. Now, I say that such a proceeding is not right, and that there ought to be a provision that after the right of condemnation has been adjudicated and the value of the property assessed, and such assessed values paid, to enter upon the property, provided you will give bond to pay such further damages as may be adjudged. And I say to the gentlemen that is the law in every other State in the United States that I have been able to find and that has been recognized law in the State of Alabama until this recent decision. General Pettus and Mr. Jeffries, who were on the other side of the case, said to me: "Smith, if we are to win this case, for God's sake make them change the Constitution about it. It will be ruinous to our people to leave it as it is," and after it was decided in his favor, he said: "Smith, don't you forget about that Constitution. We cannot stand it," and I therefore suggested the matter to the Chairman of the Committee.

In the vote upon the final adoption of Section 28 of the Article on Judiciary, referring to solicitors, Mr. Burns of Dallas should have been recorded as voting aye.

In the stenographic report of the proceedings of the Convention Wednesday afternoon the report fails to note that Mr. Williams (Marengo) was the President pro tem for the afternoon.

SEVENTY-SIXTH DAY

MONTGOMERY, ALA.,

Tuesday, August 20, 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:

O Lord, our Heavenly Father, we thank Thee that Thou hast spared our lives through the night and hast given us the health and strength necessary to gather here in the transaction of the business of this Convention, and we come before Thee this morning realizing our helplessness without Thee, our utter dependence upon Thee, praying that Thou wouldst give us strength and wisdom and grace necessary to discharge the duties of this day. Bless each and every member of this Convention according to his needs.

Bless their families at home. Guide us by Thy spirit, uphold us by Thy strong arms, and at last in Heaven save us, we ask for Christ's sake. Amen.

Upon a call of the roll 104 delegates responded to their names.

Indefinite leave of absence was granted to Mr. Willett of Pickens, the leave dating two weeks from last Thursday; Mr. Freeman for yesterday and today.

MR. HARRISON—I desire to call attention to the fact that the stenographic report of yesterday fails to show that section 16 of the report on Corporations was adopted. I therefore ask that the report be amended so as to show the facts. The Journal, perhaps, shows it.

MR. SANFORD (Montgomery)—I rise to a question of personal privilege. In the colloquy yesterday, in the discussion between my friend from Pike and myself, in the report, I am reported as saying (I do not blame the stenographers, because you cannot always catch the exact words in a controversy), but I am made to say "and the compromises have been an abandonment of principle, and a matter of cowardice." It might be supposed from that that I insinuated that my friend from Pike had abandoned principle and that he did so from a want of courage, than which nothing can be further from the truth. I have known him for many, many years, and I regard him as a man of intellect, of courage, and of patriotism, and I am the last man to insinuate that any gentleman is afraid to do anything that is right for a man to do, and especially a friends as I have in Mr. Murphree of Pike county. I wish to make that statement so that no one will suppose that I was rude enough, discourteous enough, or unjust enough to make such a charge upon any gentleman I esteem as highly as him. There are some other merely verbal points that I will have corrected.

MR. MURPHREE—The explanation made by the senior delegate from Montgomery in regard to the matter is entirely satisfactory.

MR. OPP—I desire to call attention to an error in the stenographic report of yesterday. In the remarks I made, in one line it says at the end of the seventh column on the third page, "is not a spontaneous uprising of the people, but it is largely ficticious." It should be "facticious."

THE PRESIDENT—The gentleman from Dallas complains that the gentleman speaks inaudibly. (Laughter.)

MR. OPP—I did not hear the gentleman from Dallas say that, and I am glad that it could be transmitted through the President. (Laughter.) Further on in my remarks I am made to say: "When I stand here in the light it may be of championing

free passes." It makes me say exactly the reverse of what I did say. I said "while I did not stand here as the apologist or defender of free passes." There are some other errors, due, no doubt, to the enormous amount of work devolving upon the stenographers. I am made to say "raging and raring," when I said "surging and roaring." Then "fictitious" occurs further down where it should be "facticious."

I am also reported as saying:

My friend retired from time to time and took counsel with others who held the same views as myself, and I assume, though I don't know, and no doubt I was in error as to that, that he had counsel with the distinguished gentleman from Mobile, and finally we arrived at the agreement which is reported and included in the report made by the committee. While these compromises are not binding and are not conclusive upon this Convention, nevertheless we regard it and it should be "regarded."

MR. SANFORD (Montgomery)—I would like to say in justice to the stenographers, that what I did say yesterday was that "all compromises are an abandonment of principle, and sometimes are the result of cowardice."

MR. SMITH (Mobile)—I ask unanimous consent to make the report from the Committee on Judiciary on Ordinance No. 410, the special order, after the pending special order.

MR. BROWNE—I would like to inquire what is the ordinance.

MR. SMITH—It is an ordinance, introduced by Mr. Reese of Dallas, recommending that the court be given power to exclude the public from the trial of rape and assault with intent to rape cases.

THE PRESIDENT—The Chair will state for the information of the gentleman from Mobile that we are not proceeding now under any special order, but every matter comes up in regular order.

MR. SMITH (Mobile)—I understood there was a regular order for this morning.

MR. SAMFORD (Pike)—I ask unanimous consent to make a report from the Committee on Engrossment.

The consent was given.

The report was read as follows:

"The Committee on Engrossing, report that they have examined the article on Education and find the same correct.

W. J. Samford, Chairman."

MR. BROOKS—I desire to offer a motion to reconsider the vote by which Section 16 was passed.

THE PRESIDENT—The motion will not be in order until after the reading and approval of the journal.

MR. BROOKS—The rule says "any time during the morning session."

THE PRESIDENT—The Chair will entertain the motion after it hears the report from the Committee on Journal.

MR. GRAHAM (Talladega)—The journal has not been approved?

THE PRESIDENT—Not yet.

MR. SAMFORD (Pike)—The Committee on Harmony are anxious to get these reports, and I ask that the report of the Engrossing Committee on the article on education be taken up at once.

THE PRESIDENT—It will not take long to dispose of the report of the Committee on Journal.

The Committee on Journal reported that they had examined the journal for the seventy-fifth day and found the same correct. The report was thereupon adopted.

THE PRESIDENT—The Secretary will read the article on education.

The article was read as follows:

ARTICLE ——.

Education.

Section 1. The General Assembly shall establish, organize and maintain a liberal system of public schools throughout the State for the benefit of the children thereof between the ages of 7 and 21 years. The public school fund shall be apportioned to the several counties in proportion to the number of school children of school age therein, and shall be so apportioned to the schools in the districts or townships in the county as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships. Separate schools shall be provided for white and colored children, and no child of either race shall be permitted to attend a school of the other race.

Sec. 2. The principal of all funds arising from the sale or other dispositions of lands or other property, which has been or may hereafter be granted or entrusted to this State or given by the United States for educa-

tional purposes shall be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific object of the original grants or appropriations.

Sec. 3. All lands or other property given by individuals, or appropriated by the State for educational purposes, and all estates of deceased persons, who die without leaving a will or heir, shall be faithfully applied to the maintenance of the public schools.

Sec. 4. All poll taxes levied and collected in this State shall be applied to the support of the public schools in the respective counties where levied and collected.

Sec. 5. The income arising from the sixteenth section trust fund, the surplus revenue fund, until it is called for by the United States Government, and 4 of this article, together with the special annual tax of 30 cents on each $100 of taxable property in this State shall be applied to the support and maintenance of the public schools and it shall be the duty of the General Assembly to increase, from time to time, the public school fund as the necessity therefor and the condition of the treasury and the resources of the State may justify. Provided, that nothing herein contained shall be so construed as to authorize the General Assembly to levy in any one year a greater rate of taxation than 65 cents on each $100 worth of taxable property; and provided further, that nothing herein contained shall prevent the legislature from first providing for the payment of the State's bonded indebtedness and interest thereon out of all the revenues of the State.

Sec. 6. Not more than 4 per cent of all moneys raised, or which may hereafter be appropriated for the support of public schools shall be used or expended otherwise than for the payment of teachers employed in such schools; provided, that the General Assembly may, by a vote of two-thirds of each house suspend the operation of this section.

Sec. 7. The supervision of the public schools of the State, shall be vested in a Superintendent of Education, whose powers, duties, and compensation shall be fixed by law.

Sec. 8. No money raised for the support of the public schools of the State, shall be appropriated to or used for the support of any sectarian or denominational schools.

Sec. 9. The Agricultural and Mechanical College now called the Alabama Polytechnic Institute shall be under the management and control of a Board of Trustees. The Board for the Agricultural and Mechanical College shall consist of two members from the Congressional District in which the college is located and one from each of the other Congressional Districts in the State, said trustees shall be appointed by the Governor by and with the advice and consent of the Senate, and shall hold office for a term of six years and until their successors shall be appointed and qualified. After the first appointment, the Board shall be divided into three classes, as nearly equal as may be. The seats of the first class shall be vacated at the expiration of two years, and those of the second class in four years, and those

of the third class at the end of six years from the date of appointment, so that one-third may be chosen biennially. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such. The Governor shall be ex-officio president, and the Superintendent of Education ex-officio a member of said Board of Trustees. The State University shall be under the management and control of a Board of Trustees which shall consist of two members from the Congressional District in which the University is located and one from each of the other Congressional Districts in the State, and the Superintendent of Education and the Governor, who shall be ex-officio President of the Board.

The members of the Board of Trustees now existing shall hold office until their respective terms expire under existing law, and until their successors shall be elected and confirmed, as hereinafter required. When the term of any member of such Board shall expire, the remaining members of the Board shall, by secret ballot, elect his successor. At every meeting of the Legislature the Superintendent of Education shall certify to the Senate the names of all who shall have been so elected since the last session of the legislature, and the Senate shall confirm or reject them, as it shall determine is for the best interest of the University. If it reject the names of any members, it shall thereupon elect Trustees in the stead of those rejected. The Trustees who shall hereafter be elected and confirmed shall hold office for a term of six years from the date of their confirmation or election by the Senate, and until their successors shall be elected and confirmed. No Trustees shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such. No Trustee shall hold office for more than 12 successive years.

Sec. 10. The General Assembly shall have no power to change the location of the State University or the Agricultural and Mechanical College, or the Institutions for Deaf and Blind or the Alabama Girls' Industrial School as now established by law, except upon a vote of two-thirds of the General Assembly, taken by yeas and nays, and entered upon the Journals.

Sec. 11.—The General Assembly shall provide for taking a school census by townships and districts throughout the State, not oftener than once in two years, and shall provide for the punishment of all persons or officers making false and fraudulent enumerations and returns; provided, the State Superintendent may order and supervise the taking of a new census in any township, district or county, whenever he may have reasonable cause to believe that false or fraudulent returns have been made.

Sec. 12.—The several counties in this State shall have power to levy and collect a special tax not exceeding 10 cents on each $100 of taxable property in such counties, for the support of public schools, provided, that the rate of such tax, the time it is to continue and the purpose thereof, shall have been first submitted to a vote of the qualified electors of the county, and voted for by three-fifths of those voting at such election; but the rate of such special tax shall not increase the rate of taxation, State and county combined, in any year more than $1.25 on each $100 of taxable property; excluding, however, all special county taxes for public buildings, roads, bridges, and

payment of debts existing at the ratification of the Constitution of 1875, for which special taxes not exceeding one-fourth of 1 per cent. may be levied and collected; provided, that such funds so raised shall be so apportioned and paid through the proper school officials, to the several schools in the townships and districts in said county; that the school terms of the respective schools shall be extended by such supplement as nearly the same length of time as practicable, and, provided, that the provisions of this section shall not apply to the cities of Decatur, New Decatur, and Cullman. The General Assembly shall provide for carrying the provisions of this section into effect.

Sec. 13.—The provisions of this article and of any act of the General Assembly passed in pursuance thereof to establish, organize and maintain a system of public schools throughout the State, shall apply to Mobile County only so far as authorize and require the authorities designated by law to dray that portion of the funds to which county shall be entitled for school purposes and to make reports to the Superintendent of Education, as may be prescribed by law. And all special incomes and powers of taxation, as now authorized by law for the benefit of public schools in said county shall remain undisturbed until otherwise provided by the General Assembly, provided, that separate schools for each race shall always be maintained by said school authorities.

Sec. 14. After the ratification of this Constitution there shall be paid out of the treasury of this State at the time and in the manner provided by law, the sum of not less than $36,000 per annum as interest on the funds of the University of Alabama, heretofore covered into the treasury for the maintenance and support of said institution; provided, that the legislature shall have the power at any time they deem it proper for the best interest of said University, to abolish the military system at said institution or reduce the said system to a department of Instruction, and that such action on the part of the Legislature shall not cause any diminution of the amount of the annual interest payable out of the treasury for the support and maintenance of said University.

THE PRESIDENT—The question will be upon the passage of the article just read. As many as favor the adoption of the article will say aye, and those opposed no, as your names are called.

Upon a call of the roll, the vote resulted as follows:

AYES.

Messrs. President,	Handley,	Pearce,
Almon,	Harrison,	Pettus,
Ashcraft,	Heflin, of Chambers,	Pillans,
Banks,	Heflin, of Randolph,	Pitts,
Barefield,	Henderson,	Proctor,
Beavers,	Hood,	Reese,
Beddow,	Howell,	Reynolds (Chilton),
Bethune,	Howze,	Reynolds, of Henry,

Blackwell,
Boone,
Brooks,
Browne,
Bulger,
Burnett,
Carmichael, of Colbert,
Chapman,
Cobb,
Coleman, of Greene,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
deGraffenreid,
Duke,
Eley,
Espy,
Ferguson,
Fletcher,
Foster,
Glover,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Hale,
Jones, of Wilcox,
Knight,
Ledbetter,
Lomax,
Long, of Walker,
Lowe, of Jefferson,
Macdonald,
McMillan, of Baldwin,
McMillan (Wilcox),
Malone,
Martin,
Maxwell,
Merrill,
Miller (Wilcox),
Murphree,
Norman,
Norwood,
Opp,
Palmer,
Parker (Cullman),
Parker (Elmore),
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Sentell,
Sloan,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Stewart,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Weakley,
Weatherly,
White,
Williams (Marengo),
Wilson (Clarke),
Winn.

Total—100.

NOES.

Byars,
Dent,
Foshee,
Kyle,
Phillips,
Porter,
Spears,
Watts,
Whiteside.

Total—9.

ABSENT OR NOT VOTING.

Altman,
Bartlett,
Burns,
Cardon,
Carmichael, of Coffee,
Carnathon,
Case,
Cofer,
Coleman, of Walker,
Cornwall,
Craig,
Eyster,
Greer, of Perry,
Hinson,
Hodges,
Jenkins,
Jones, of Montgomery,
King,
Kirk,
Kirkland,
Leigh,
Locklin,
Long, of Butler,
Morrisette,
Mulkey,
NeSmith,
Oates,
O'Neal (Laudedale),
O'Neill, of Jefferson,
O'Rear,
Renfro,
Robinson,
Rogers (Lowndes),
Sollie,
Stoddard,
Willet.

Fitts,	Lowe, of Lawrence,	Williams (Barbour),
Freeman,	Miller (Marengo),	Williams (Elmore),
Gilmore,	Moody,	Wilson (Wash'gton).
Graham, of Montgomery,		

And the article was adopted.

THE PRESIDENT—The article will be referred to the Committee on Order, Consistency and Harmony of the whole Constitution.

MR. BROOKS—I now move to reconsider the vote by which Section 16 of the Article on Corporations was adopted.

THE PRESIDENT—The gentleman from Mobile moves to reconsider the vote whereby this Convention adopted Section 16 of the article on Corporations. The question will be upon the motion to reconsider.

MR. BROOKS—I desire to detain this Convention but a very few moments. There was an evident purpose yesterday to drive through Section 16 without, as I thought, adequate consideration. I was cut off from offering the amendment which I had read as a part of my remarks, by the calling of the previous question. Now, sir, in my judgment, as I intimated yesterday, the section adopted will have about as much force and effect as Rule 56 of this "lobby-ridden" Convention, the rule which is designed to restrict the privileges of the floor to certain persons. My respected colleague, Mr. Smith of Mobile, when this question was before the Convention some time ago, made a speech, characterized by the utmost candor, and in which he stated that the Mississippi Constitution and Statute had practically no force and effect. Now, Mr. President, if the Mississippi Constitution and statute have in practice no force and effect, I would like to know what is going to be the effect of this little weakling that has been adopted by this Constitution. Now the Mississippi statute provides a penalty against railroads and railroad officials for issuing passes which ours does not, and yet even with that penalty upon them, we have the testimony of one of the ablest lawyers of the Louisville and Nashville system that statute cannot be put in force and effect in the State of Mississippi, or has not been up to this date. That is no reason, however, why we should not adopt as strenuous a provision, as necessary, to carry out the intent and purpose of our Constitutional provision. The time may come when the people may see to it that the officers of the law will have the statute carried out. Now, Mr. President, that is all I care to say, except to read the amendments that I propose to offer, that the delegates on this floor may vote upon the question of reconsideration in view of those amendments. They are short. The first amendment I read yesterday and I shall not read it now. It only provides that certain words may be inserted in the first paragraph of Section

16, which shall provide that a railroad corporation or any of its officers or agents who should give passes, etc., shall be liable to a penalty under the law of misdemeanors. The next amendment that I propose, has reference to another matter—and I want to call the attention of the Convention to the fact that Section 16 creates a sort of free pass aristocracy; that is to say it sets apart in the legislature a certain few, or a certain many, as it may happen to be, of the members of the Legislature, because they happen to be railroad attorneys, or railroad employees, who may ply their vocation and procure and demand for anybody else railroad passes for other people, than for members of the Legislature. Now, I submit that that thing is manifestly unjust, unfair and indefensible upon any ground. I say that a railroad attorney who happens to be a member of the Legislature is entitled to all the rights and privileges of the pass which he holds as such railroad attorney, and I do not believe that the free pass legislation would touch his case because of his official position, and it is given as a part of the compensation for his services. But if you want to protect him, don't go so far as to give him or any other employee, or others who do not happen to be railroad attorneys, or employes, the right to procure, demand or accept for others, not members of the Legislature, free railroad passes. That is giving them an eminence which they do not deserve, by reason of their position, and it is a very wrong thing, it seems to me, and a very indefensible thing, to put that into the organic law of the land. If you have it as a statute, it may be repealed, but you crystalize it as a provision of the Constitution, and it will stand forever, or until you have a new Constitution, which will not be for many years to come. Upon that point, I propose to offer this amendment by striking out all after the words "And provided further" in the sixteenth line, and inserting the following words "a member of the Legislature who at the time of his election had a free pass over the lines of any railroad, or other transportation company, as an attorney, or employee thereof, shall not be debarred from the use of the same." I think that is as far as we should go in any Constitutional provision. I submit these remarks for what they are worth, and if the Convention differs with me, of course, they will vote down the motion to reconsider. I now call for the ayes and noes upon that motion.

MR. OPP—With all due deference to the distinguished gentleman from Mobile I do not think the deliberations of this Convention ought to be further blocked by re-threshing a matter which as we understand it has been incorporated into the section, and is regarded practically by all as a fortunate solution of this pending trouble. I believe the public prints, with flaming head lines have announced that the pass evil resolution has been stricken down. I do not think the time of this Convention ought to be further consumed by a discussion of the matter. I think it is fully understood

on all sides. It was thoroughly understood in the committee and on the floor of this Convention and elsewhere and I therefore move to lay the motion of the gentleman on the table.

THE PRESIDENT—The motion is to lay upon the table.

MR. deGRAFFENREID—I desire to ask the gentleman from Covington a question.

THE PRESIDENT—Will the gentleman from Covington yield?

MR. OPP—Yes sir.

MR. deGRAFFENREID—The gentleman from Mobile (Mr. Brooks) said something about this being a "lobby-ridden Convention"—I want to ask you if that is your understanding?

MR. OPP—I did not hear what the gentleman from Mobile said. "Lobby-ridden?" If it is I do not know it—the gentleman ought to give his evidence.

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

The ayes and noes have been demanded. Is the call sustained?

The call was not sustained.

Upon a vote being taken, the motion to table prevailed.

MR. BANKS—It was said yesterday upon this floor that the measure offered to this Convention in Section 16, was a compromise measure between those who are opposed to any legislation on this question, and those who are in favor of blotting out this whole free pass system. I want to say that it is not, so far as I am concerned, a compromise measure, and that I had no part in this compromise. This is the first time that I have heard anything at all of its being offered as a compromise measure, and I want to say for myself that the measure meets my entire disapprobation.

THE PRESIDENT—The next order of business will be the consideration of the report of the Committee on Corporations. The Secretary will read the next section.

MR. HOWZE—Before that is taken up, I ask leave to introduce a resolution which I think will be of interest to the Convention, for their action.

Resolution No. 315 by Mr. Howze (Jefferson) was read as follows:

Resolution 315 by Mr. Howze:

Whereas, the Convention has about completed its labors, with the exception of action upon the report of the Committee on the

Order, Consistency and Harmony of the Whole Constitution, and whereas it is uncertain when this report can be made and acted upon, and it is important that such action should be taken by this Convention as will be the most economical and best to facilitate the work of the Convention.

Therefore, be it resolved, That a committee of five be appointed, consisting of the President and four other members named by him, whose duty it shall be to investigate and report whether it will be best for the Convention to remain in session until the Committee on Order, Consistency and Harmony shall make its report or to adjourn to some future day. Said Committee is authorized to report such course as it may deem best for this Convention to adopt in the premises.

MR. HOWZE—I move that the rules be suspended and that the resolution be put upon its passage.

Upon a vote being taken, the rules were suspended.

THE PRESIDENT—The question will be upon the adoption of the resolution.

MR. WATTS—I have a substitute for the resolution.

The substitute was read as follows:

"Be it resolved, that the Committee on Harmony be, and they are hereby instructed to report to this Convention the articles passed on by them, and that this Convention proceed to consider said report."

MR. LOWE (Jefferson)—I move that the substitute be laid upon the table.

MR. WATTS—I have the floor, I think if the gentleman from Jefferson will be kind enough.

MR. LOWE—I thought the gentleman had taken his seat.

MR. WATTS—I have the floor.

THE PRESIDENT—It is the custom to hear the author of the proposition in its favor.

MR. WATTS—If this Convention desires to lay that resolution upon the table, of course, they have a perfect right to do so, but I propose to state to this Convention the reason why the substitute is offered. I am informed that if this Convention adjourns to wait upon the Harmony Committee and the members return to their homes and come back here at a later day, it will cost the State something like $3,800, and furthermore, if the members go home to their constituents and come back at a later day, they will probably come back each with an amendment of some

sort which will start to tearing to pieces what we have already done, and the result will be innumerable votes to reconsider. By the rules of this Convention adopted last Saturday, the Convention has the right to consider the report of the Harmony Committee partially and not as a whole. I am informed that this Harmony Committee has passed six or more of the articles of this Convention, and if the Harmony Committee will report to this Convention the articles which they have passed upon, the Convention can take them up and consider them, and by the time we are through adopting those articles already passed upon, the Harmony Committee will no doubt be ready with the rest of them, thereby this Convention can proceed with its work without separation, and we can finish this Constitution a great deal quicker than we could by any other method. Therefore, I think the substitute should be adopted.

MR. WHITE—I hope that the substitute offered by the gentleman from Montgomery will not be adopted. And right here it is well enough to state that before a very well attended meeting of the Committee on Harmony, Consistency, etc., it was decided that it was not practicable to report the Constitution article by article. We had hoped that the suggestion made by the Committee on Rules allowing us to report in that way could be availed of, but after going over the entire subject and giving it careful, thoughtful consideration, the committee decided that it was not practicable to report it that way, and some of the reasons that moved the committee to act in this way might be given. The committee, say, will report one article. Well, somebody has to be on the floor of the Convention, with the Convention, to take care of it and to give the Convention to understand why the committee has made amendments, correction, etc. In other words, unless the Committee was on the floor of the House to give its reasons for its actions, the strong probabilities are that the Convention would decide that it had acted without reason, especially where it came in contact with the views of members of the Convention. We cannot sit in the hall, and at the same time sit in the committee. If we have to sit in the Convention during the time every article is being considered, we cannot sit in the committee. Then, another thing, all that we have done necessarily is tentative. We have, as has been suggested, agreed upon practically six or seven articles. In fact, nearly all of them that have reached us, but that is not final. After the whole instrument is before us and acted upon, then it will be an important task to go over to take one section from one article and put it in another. We cannot do that very well if it has been reported to the Convention by piecemeal. I would furthermore state, for the benefit of the Convention, that the committee also decided that in view of the fact that some of the articles had not been passed last night, it would take several days to have them printed, and that it will take at least two or

three days after we have agreed upon everything that we have to report, to have the Constitution either typewritten or printed, and our reports, and that we could not complete this work before tomorrow week. That was the deliberate decision of the committee. I feel it is my duty to impart that information to the Convention. I hope the substitute will not be adopted, because the committee, who have given that matter very careful consideration, have already decided that it was not practicable.

MR. deGRAFFENREID—I have an amendment. I want to offer as substitute for both motions.

The substitute was read as follows:

"Resolved, That the Convention, upon the completion of the business now on the calendar, recess until Wednesday, the 28th day of August, at 12 o'clock mid-day; that during such recess no member shall be allowed pay except the members of the Committee on Order, Consistency and Harmony of the whole Constitution, but that each member be allowed mileage of 5 cents per mile each way to and from his home."

MR. deGRAFFENREID—On last night the Committee on Order, Consistency and Harmony of the whole Constitution, after investigation, concluded that they could make a full report by 12 o'clock on Wednesday week, and that it could not be done before that time. As has been stated by the chairman of the committee, it was thought it would be not advisable for the committee to make its report by piece meal, and in view of the fact that the Committee on Harmony can make its report by Wednesday week, it seems to me that it would be well for the Convention to recess until that time, and for that reason I offer a substitute.

THE PRESIDENT—The question will be upon the adoption of the substitute offered by the gentleman from Hale for the resolution offered by the gentleman from Jefferson and the amendment offered by the gentleman from Montgomery.

MR. REESE—Mr. President, in view of the conflicting suggestions and opinions of the different members, it seems there has not been much concert of action or much concert of opinion about this matter. It is a matter of utmost importance and a matter that should be considered advisedly, and it is a resolution of too much importance to be flashed in the pan here and voted on here without any discussion or without any reflection, and for that reason, I move that the resolution and the pending amendments be referred to the Committee on Rules.

MR. OATES—Mr. President, after hearing the facts stated by the Chairman of the Committee on Harmony, etc., and our knowledge of the existing circumstances, I entirely concur in what has been said. I think it is decidedly better that we delay until

the Constitution can be reported by the Committee as a whole. I think that it is time well spent to delay until that can be done, and it seems to me that the substitute offered by the delegate from Hale for the others pending is very reasonable, and I am therefore in favor of its adoption. I do not see well how any objection can be made to it.

Now if a committee should be appointed to inquire into this matter I presume they would ascertain nothing more than that the Convention is now in possession of, and it seems to me an unnecessary delay, and therefore I move the previous question upon the adoption of the substitute.

THE PRESIDENT—The pending question is a motion to refer. The gentleman moves the previous question on the motion to refer and the amendment?

MR. HARRISON—I move to table the motion to refer.

MR. WATTS—I ask leave to withdraw my resolution, for the reason that I think the first one offered ought to be adopted.

Leave was given to withdraw.

THE PRESIDENT—The amendment offered by the gentleman from Montgomery is withdrawn. The question will be upon the motion to table the motion to refer.

Upon a vote being taken, the motion to table prevailed.

MR LOWE (Jefferson)—I move to table the substitute.

THE PRESIDENT—It is moved that the substitute offered by the gentleman from Hale be laid upon the table.

Upon a vote being taken, a division was called for, and the motion to table the substitute offered by the gentleman from Hale prevailed by a vote of 61 ayes and 45 noes.

THE PRESIDENT—The question recurs upon the motion for the previous question upon the original resolution. The question is shall the main question be now put?

A vote being taken the main question was ordered.

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

MR. PROCTOR—I ask for a reading of the resolution.

The resolution was read as requested.

Upon a vote being taken, the resolution was adopted.

Leaves of absence were granted as follows: To Mr. Craig for yesterday; to Mr. Lowe of Lawrence for today; to Mr. Sam-

ford of Pike for yesterday; to Mr. Henderson for yesterday, and Mr. Hinson for yesterday and today.

THE PRESIDENT—The question for consideration will be the report of the Committee on Corporations. The Secretary will read the next section of the report of the Committee on Corporations.

Section 17 was read as follows:

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.

MR. FERGUSON—The section reported by the committee is a new section copied bodily from the Constitution of Georgia. It prevents railroads and common carriers from giving rebates or bonuses in the nature of rebates. It is furthermore made the duty of the Legislature to enforce the provision by adequate penalties, and unless somebody desires to debate the question, I move its adoption and call for the previous question.

Upon a vote being taken, the main question was ordered.

Upon a further vote being taken, the section was adopted.

Section 18 was read as follows:

Sec. 18. Rights, privileges and easements for public utilities, 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.

MR. HARRISON—If the Convention will remember, the provisions of this section have been substantially adopted by the Convention and engrafted as a section in the article on Municipal Corporations, where the Convention then seemed to think it properly belonged, and by an understanding with the chairman of the Committee on Municipal Corporations, when certain sections of that article had been postponed for consideration with the pending article. I agreed with him that these other two sections should be laid upon the table, and that they have been considered and adopted as a part of this article. I further agreed that I would move to lay Section 18 upon the table, it being already engrafted in it.

MR. WATTS—What section in the Article on Municipal Corporation covers this section?

MR. HARRISON—I do not remember the number, but there is one substantially the same.

MR. WATTS—The reason I asked the question, is because I do not recall any such provision.

MR. HARRISON—I move, therefore, to lay this section on the table.

MR. O'NEAL (Lauderdale)—It occurs to me we struck it out of the report of the Committee on Municipal Corporations, on the ground that your Committee had reported it.

MR. HARRISON—No, sir; I am confident, and I am informed by the Clerk, that it is the same as Section 2 of the Article on Municipal Corporations.

Upon a vote being taken, the motion to table the section prevailed.

Section 19 was read as follows:

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.

MR. WILLIAMS (Marengo)—The Committee desire me to state that this is identically the same as Section 25 of the present Constitution on Corporations, and for that reason, I move its adoption.

Upon a vote being taken the section was adopted.

MR. HARRISON—I now move—

MR. SANFORD (Montgomery)—I offer an amendment to the report of the Committee.

MR. HARRISON—I move that this Article be engrossed and ordered to a third reading.

MR. WHITE—I hope the gentleman will not do that, but allow an opportunity to offer amendments, as has been done with every other Article of the Convention.

MR. THOMPSON—I have an amendment.

MR. HARRISON—Of course, if there is anything additional desired to be offered, I will withdraw the motion.

THE PRESIDENT—The motion of the gentleman does not cut off amendments.

The amendment offered by Mr. Thompson was read as follows:

Amend the report of the Committee on Corporations by adding the following section: Section —. No person, firm or corporation engaged in mining, shall have the authority to condemn a passage or right of way under the lands of another for more than five hundred feet in length except immediately along section or quarter section lines.

MR. THOMPSON—Mr. President and gentlemen of the Convention, the amendment which I have offered, I think ought to be incorporated in this Article. The only objection I have heard urged to it, by any member of the Committee on Corporations, to whom I submitted it, is that it is in its nature legislative, but I submit that it is not. It is a limitation upon the power of the legislature. It provides that no person, firm or corporation, engaged in the business of mining, shall have the authority to condemn a right of way under the lands of another for a distance of more than five hundred feet in length, except they follow section or quarter section lines. Now, to any one familiar with the way the lands of the State are divided into townships, sections and quarter sections, it will be easily understood what the effect of this amendment will be. Under the law as it stands at present, and has stood according to my recollection, since the adoption of the present code in 1896, a mining corporation is authorized to condemn a right of way under the lands of another for an indefinite length, for any length, indeed, and were only limited by the cost of constructing an underground passage. It would be possible, and likely, as the law stands at present, that by the condemnation of a right of way under the lands of another, to strike through the middle of a forty acres of land, and dig a tunnel without reference to the mineral that might be on the lands they had condemned. It could be constructed with reference to the coal or other mineral that was desired to be reached by the person or corporation offering to condemn, and it is very likely, very probable, that it would leave the forty acres of land cut in two, where it could not be used by the owner, and the damages that would be assessed by a jury in the condemnation proceedings, would be entirely inadequate to meet the damages that would naturally follow to the adjacent land. My amendment does not in any sense prevent condemnation. It merely limits it. While it may be convenient for a mining company to condemn through the center of forty acres of land, it will be seen that it will be a very easy matter to do it along the section or quarter section line until they strike down the line.

It could result in no considerable inconvenience to the mining company and would result in a great deal of saving to the land owner. It requires them to go down the line and not strike through the middle of the land. As to the practical effect of this, the only land that I have personal knowledge of, that I know would be likely affected by the provisions of this section in the future, are the lands of the University. In my county, the lands of the Uni-

versity are composed almost exclusively of detached forties, in themselves practically worthless, but by reason of their position, they might be worth a great deal more. This, as I say, does not, and will not, hinder development.

I can illustrate it. Suppose that (displaying three envelopes, and illustrating the relative position of quarter sections) represents three forties of land and a mining company owns this, and that, and an individual owns this one and the one corresponding down here; then I provide that they should have the right to condemn a distance of five hundred feet across there, which you could easily ascertain by a simple mathematical calculation would be 250 feet from the forty each way, making a distance of five hundred feet in width and five hundred in length, simply describing a square. Then the other provision is they may follow down a section line. Therefore, it could work no hardship. It could not prevent the development of any mineral region, and would likely result in a greater saving to the owner of a forty acres of land.

I can see no valid objection to this. I think it would be a good provision, and I hope the Convention will adopt it and that the Committee on Corporations will not offer objections, but that they will accept this amendment as a separate section to their article; therefore I move that it be adopted.

MR. PILLANS—I will ask the gentleman if he really thinks the State of Alabama can give to any private person the right to take the lands of another, for private use, by any constitutional provision, and if it cannot, what is the need of limiting the amount of land that it can take?

MR. THOMPSON—I think if the gentleman will refer to Section 1145 of the Code——

MR. PILLANS—I am aware that we have such a provision in our Code, but I think the Supreme Court of the United States has distinctly declared that the taking of private property for private use is a violation of the 14th amendment of the Constitution, as being a deprivation of property without due process of law. This is my recollection at the present time, and I ask the gentleman because he has probably had the matter under consideration.

MR. LONG (Walker)—I want to call the attention of the delegates on this floor to this amendment, which I think would do a great injustice to the large coal companies operating in this State. It does not allow them to go on the land of another, if the coal seams run in a certain direction. It would force a great many mining companies to go out of business. This is for underground rights of way and the section should be amended so as to allow them to go along the lines of sections or quarter sections or subdivision lines. Now, if the author of the section will do that, I do not see any harm in it.

The amendment reads as follows: "No person, firm or corporation engaged in mining shall have the right or authority to secure passage or right of way under lands of another more than 500 feet in length, except immediately along the section or quarter section line.

MR. THOMPSON—Repeat your objection. What is your suggestion?

MR. LONG—My objection to it is because it would not allow any provision to follow the line of a twenty acre tract of land, and a great deal of land is divided by twenty acre lines, and you have to go to a forty acre line or the quarter section line of a section of land means 160 acres of land, and it is all divided into 40's and 80's, and it means that a man with 40 acres of land could block a corporation with 40,000 acres of land. I move to lay the section upon the table.

THE PRESIDENT—It is moved that the section be laid upon the table.

MR. THOMPSON—I want to ask the gentleman a question. You state that land is divided into sections and quarter sections?

MR. LONG—Yes.

MR. THOMPSON — Don't that authorize any company to condemn along a quarter section?

MR. LONG—A quarter section is 160 acres.

MR. THOMPSON—Isn't it divided by 40's?

MR. LONG—The seam may run 500 feet from this line and the whole thing is a legislative matter, and I move to lay it upon the table.

Upon a vote being taken, the motion to table prevailed.

MR. SANFORD (Montgomery)—I wish to offer an amendment.

The Secretary read the amendment as follows: Amend the report of the Committee on Corporations by adding thereto the following additional section: No municipality or incorporated city or town shall grant a franchise or enter into a contract which may continue for fifty years, without first submitting such franchise or contract to the qualified electors of such cities or towns or municipalities at an election expressly held for this purpose, and unless the majority of such electors shall affirmatively approve by their votes such franchise, grant or contract, the same shall not be granted or made, and all franchises, grants or contracts not so approved shall be null and void."

THE PRESIDENT—The question will be upon the adoption of the section offered by the gentleman from Montgomery. Is the Convention ready for the question? Does the gentleman from Montgomery desire to debate the amendment?

MR. SANFORD (Montgomery)—Yes. The grant of a franchise by a municipality, city or town for a contract to endure for fifty years is too long to take from the people one of their great prerogatives, and to grant such privileges or favors to any class of men and it operates a great injustice. Our cities are changing, no day is precisely like yesterday, and therefore it is imprudent and unwise to grant a franchise to last two generations, as we are always altering and improving the condition of our country. If it be so wise, if it be so politic, so full of sagacity, the people will know it, and they will approve it; if it be against their interests, they will disapprove it. I hope that such an amendment will not be voted down or tabled. I can assure my friends who represent corporations upon the floor that they need not go into hysterics upon this subject for fear of affecting railroads. It is not intended to affect railroads, it is intended to affect the communities which undertake to grant such franchises, the municipalities, the cities and the towns, and I hope that inasmuch as the people have suffered from it—Montgomery has not recovered from a fifty years franchise or grant without the consent of the people, and from which they have endured great evil—that this amendment to the report will be accepted by the Convention.

MR. WEAKLEY (Lauderdale)—I sympathize, to some extent, and agree with the gentleman, that there should be a limitation upon the length of public franchises. I do not think, however, that the matter of a grant of franchises should be referred to a popular election. It seems to me that such a course would lead to corruption in municipal politics, and inasmuch as this subject has been fairly presented to this Convention and voted down, I do not see the need of any further discussion upon the subject, and I move to lay the amendment of the gentleman from Montgomery on the table.

Upon a vote being taken, the motion to table prevailed.

MR. WHITE—I wish to offer an amendment.

The Secretary read the amendment as follows:

Section —. A Railroad Commission is hereby created consisting of a President and two associates. One of said Commissioners shall be learned in the law, one of experience in railroad business, all of whom shall be elected by the qualified electors of this State. The term of office of said Commissioners shall be four years, and shall begin at the expiration of the term of the present Railroad Commission. One of the Commissioners shall

be elected at the general election in 1902, and every four years thereafter, the other two at the general elction in 1904, and every four years thereafter. Their compensation shall be fixed by the Legislature and paid as other State officers, and their duty shall be to carry out the provisions of this Constitution and all laws enacted relating to the transportation of freight and passengers by railroads in this State, and to discharge such other duties and exercises such other powers as may be conferred upon them by law. No person owning any stock or having any interest in any railroad, or who is the agent or employe of any railroad corporation or company, shall be eligible to the office of Railroad Commissioner.

THE PRESIDENT—The question will be upon the adoption of the amendment offered as an additional Section to the Article on Corporations.

MR. WHITE—I do not wish to discuss this matter, I think it is very well understood. This Section simply makes the Railroad Commissioners a constitutional office, makes them effective by the people, fixes their term of office at four years, and provides that they shall succeed the present Railroad Commissioners, that they shall discharge the duties imposed upon them by this Constitution and such other duties as may be imposed upon them by law. The principle is right. The people, especially the people of Alabama, are capable of self-government, and it is right that they should select all officers. They can select Supreme Court Justices, the Chief Justice and other State officers, they certainly have the capacity and can be trusted with the selection of Railroad Commissioners, and as a gentleman suggests, eighteen States of the Union now select their Railroad Commissioners in this way. As I said, I do not care to take up the time of this Convention, I have no doubt that every man in it has made up his mind one way or the other, and that a discussion of it will not change the result. I know one thing, that the business men of Alabama, the industrial people of Alabama, are anxious that something should be done to make the Railroad Commission effectual, to have it carry out the purposes for which it was designed, but I will not debate it further, I simply submit the question.

MR. MURPHREE—Mr. President, the gentleman's position is exactly in accord with mine, and my recollection is I introduced an ordinance to that effect. These matters were all considered by the Committee, and after mature deliberation, we came to the conclusion that we would adopt the Section reported by the Committee. I regret very much to have to take the position, but in justice to myself and the agreement entered into on the part of myself and the other members of the Committee, I must move to lay the amendment upon the table.

Upon a vote being taken, the motion to table prevailed.

MR. GRAHAM (Montgomery) — I ask unanimous consent from the Convention to add an amendment to Section 1 of the Article. I desire to explain it that the Convention may understand it. Section 4 of the Article exempts benevolent, educational and religious corporations from paying the franchise tax, that is, foreign corporations. In other words, the Section exempts foreign corporations from paying the franchise tax, that is, religious or educational institutions. Section 1 is applicable to domestic corporations, and they are not exempted from it. Therefore, I offer this amendment and ask unanimous consent that it be adopted.

The Secretary read the amendment as follows:

Add to Section 1 the following: But strictly benevolent, educational or religious corporations shall not be required to pay such tax."

THE PRESIDENT—The gentleman from Montgomery asks unanimous consent that this amendment may be incorporated in Section 1 of the Article. The Chair hears no objection, and it is so ordered.

MR. HARRISON—I now move that the Article be engrossed and ordered to a third reading, and on that I move the previous question.

MR. O'NEAL—I will ask the gentleman to withdraw that for a moment. I have an amendment.

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

MR. BURNS — I rise to a point of order. A motion was made a while ago to table the Section of the gentleman from Jefferson. The result of that vote has not been announced.

THE PRESIDENT—The Chair stated that it appeared that the ayes had it, the ayes had it and the Section was laid upon the table.

MR. BURNS—There was a call for the ayes and noes.

THE PRESIDENT—The Chair failed to hear the gentleman.

MR. BURNS—I didn't make it.

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 Article be ordered engrossed and to a third reading.

Upon a vote being taken, the motion was adopted.

MR. HEFLIN (Randolph)—I am directed by the Committee on Schedule, etc., to make a report.

MR. WHITE—I move to reconsider the vote whereby the amendment which I just offered was laid upon the table. We wanted an aye and no vote and called for it. The Chair did not hear it, I suppose—I am sure that he did not—and we feel that we are entitled to have an aye and no vote, and I move to reconsider the vote whereby that amendment offered by myself was laid upon the table, and upon that I call for the ayes and the noes—to reconsider the vote whereby it was laid upon the table.

MR. FOSTER—I would like to ask the gentleman how he voted?

THE PRESIDENT—The Chair would state that he paused for a moment to see if there would be a call for division, and then announced the result. He then heard something about a request for the ayes and noes.

MR. WHITE — The gentleman from Barbour and several others made the call.

MR. MERRILL—Between the time the Chair paused, I called for a division before the announcement was made.

MR. WILLIAMS (Marengo) — I make the point of order that the gentleman cannot make a motion to reconsider a motion to table.

MR. WHITE—Then, I move to take it from the table, and upon that I call for the ayes and noes.

MR. WILLIAMS (Marengo)—A motion to table cannot be reconsidered and further it has been ordered to a third reading, and his motion does not touch that proposition.

THE PRESIDENT—The article has been ordered engrossed and to a third reading, and a motion to reconsider an amendment would not now be in order.

MR. WHITE—Then, I move to reconsider the vote whereby the article was ordered engrossed and to a third reading, with a view of taking this from the table—and upon that I call for the ayes and noes.

MR. WILLIAMS (Marengo)—I rise to a point of order. On that he would have to suspend the rules, otherwise the motion to reconsider would go over until tomorrow.

THE PRESIDENT—The point of order is well taken. Does the gentleman from Jefferson move to suspend the rules?

MR. WHITE—Let it go over. The point of order has been made. I can take it up tomorrow as well as at any other time.

MR. VAUGHAN—I move that the rules be suspended and that the matter be taken up.

THE PRESIDENT—It is moved that the rules be suspended and that it be taken up and considered at this time.

Upon a vote being taken the rules were suspended.

THE PRESIDENT—The motion is to reconsider the vote whereby this article was ordered engrossed and to a third reading.

MR. WILLIAMS (Marengo)—I move to indefinitely postpone his motion to reconsider.

MR. WHITE—I call for the ayes and noes upon that.

THE PRESIDENT—It is moved to indefinitely postpone, and upon that the ayes and noes are call for. Is the call sustained?

The call was sustained.

THE PRESIDENT—As many as favor the motion to indefinitely postpone the motion to reconsider will say aye and those opposed no as your names are called.

During roll call:

MR. WHITE—I am paired with the gentleman from Choctaw, Mr. Carnathon, if he were present he would vote aye and I would vote no.

The roll call resulted as follows:

AYES

Messrs. President,
Almon,
Barefield,
Bartlett,
Blackwell,
Browne,
Bulger,
Burnett,
Byars,
Carmichael, of Colbert,
Cobb,
Cofer,
Coleman, of Greene,
Cornwall,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
deGraffenreid,
Greer, of Calhoun,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hood,
Howell,
Howze,
Inge,
Jenkins,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Long (Butler),
Long (Walker),
Macdonald,
McMillan (Wilcox),
Martin,
Miller (Wilcox),
Pearce,
Phillips,
Pillans,
Pitts,
Proctor,
Reynolds (Henry),
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Searcy,
Sentell,
Sorrell,
Stewart,
Studdard,
Tayloe,
Vaughan,
Waddell,
Watts,
Weakley,

Duke,
Ferguson,
Foster,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Grayson,
Murphree,
Norwood,
O'Neal (Lauderdale),
Opp,
Palmer,
Parker (Cullman),
Parker (Elmore),
Weatherly,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Wilson (Clarke),
Wilson (Washington),
Winn.

TOTAL—79

NOES

Ashcraft,
Banks,
Beddow,
Bethune,
Brooks,
Burns,
Chapman,
Dent,
Eley,
Espy,
Fletcher,
Foshee,
Handley,
Henderson,
Hodges,
Jackson,
Jones, of Bibb,
Jones, of Hale,
Kyle,
Ledbetter,
Lomax,
McMillan (Baldwin),
Malone,
Maxwell,
Merrill,
Moody,
Norman,
Oates,
Pettus,
Porter,
Reese,
Sanford,
Selheimer,
Sloan,
Smith, Mac. A.,
Spears,
Spragins,
Thompson,
Walker.

TOTAL—39

ABSENT OR NOT VOTING

Altman,
Beavers,
Boone,
Cardon,
Carmichael, of Coffee,
Case,
Coleman, of Walker,
Eyster,
Fitts,
Freeman,
Gilmore,
Greer, of Perry,
Hinson,
King,
Kirk,
Kirkland,
Leigh,
Locklin,
Lowe (Lawrence),
Lowe (Jefferson),
Miller (Marengo),
Morrisette,
Mulkey,
NeSmith,
O'Neill (Jefferson),
O'Rear,
Renfro,
Reynolds (Chilton),
Robinson,
Sanders,
Smith (Mobile),
Smith, Morgan M.,
Sollie,
Willet,
Williams (Elmore),

PAIRED

AYES	NOES
Carnathon,	White,

The motion to indefinitely postpone prevailed.

THE PRESIDENT—The next order of business will be consideration of the report of the Committee on Schedule.

The Secretary read the report of the committee as follows:

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 Ed C. Fowler Company of Montgomery, Alabama, in the sum of $113.15.

We find that the said State is indebted to the Brown Printing Co. of Montgomery, Ala., in the sum of $464.45 for printing.

We find that said State is indebted to J. W. Terry of Montgomery, Ala., in the sum of $5 for the use of a typewriter from July 24 to August 24.

All of the above accounts are for printing done, and for articles furnished the State of Alabama for the use of the Constitutional Convention and all of the above accounts are itemized as shown by bills hereto attached. Total amount $582.60. And we recommend the payment of the same, all of which is respectfully submitted.

John T. Heflin, Chairman.

Schedule, Printing and Incidental Expenses.

THE PRESIDENT—The report of the Committee will lay on the table and be printed.

MR. HEFLIN (Randolph)—I am directed by the Committee on Schedule and Printing to report back to the Convention without recommendation ordinance 446.

MR. WILLIAMS (Marengo)—I ask the President to inform the Convention, that I will ask a suspension of the rules in order that the ordinance may be considered. As I understand, it is an ordinance providing for the indexing of the stenographic report and it is necessary that work should be commenced on it if it is adopted.

The Secretary read Ordinance 446 as follows:

Ordinance 446, by Mr. Williams of Marengo:

To provide for the indexing the stenographic report and for supplying members of the Convention therewith, and to repeal Resolution No. 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.

Be it further ordained, That the Secretary of this Convention shall immediately, on the adjournment sine die of this Convention, contract with some reliable and competent person to make a full and complete 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 sixty days after the adjournment of this Convention, and shall by the Secretary be placed in the hands of a reliable printer, who shall not make less than twelve hundred (1200) copies thereof, and the contract entered into with such printer shall not exceed the sum of seventy-five dollars, or so much of the same as may be necessary for the printing of 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 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 out of any money in the State Treasury, not otherwise appropriated, the sums of money mentioned above for compensation for the services to be rendered, and when the Secretary certifies, under his hand to the Auditor, that the work above mentioned has been fully completed, 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.

Schedules, Printing and Incidental Expenses.

MR. WILLIAMS (Marengo)—I move a suspension of the rules in order that the ordinance may be put upon its passage.

MR. GRANT—I would like to hear the Chairman of the Committee on Schedule and Printing make some explanation of what that index means. What benefit will it be and all that kind of thing? There is confusion in the minds of several members in my immediate vicinity as to what that is going to do. Will it be to show the subject of speeches on certain dates. I ask the Chairman to make an explanation.

MR. HEFLIN (Randolph)—My information is that this ordinance provides for the appropriation of a certain amount of money, about $200 or $225 for the printing and indexing of the stenographic report. It is not to furnish members with the stenographic report, but by having these indexes, you can refer

to your stenographic report and find any speech you want or any motion made by any gentleman on any question. That is the only purpose, as I understand. It is not to furnish any member with the stenographic report. It does not provide for that at all.

MR. WILLIAMS (Marengo)—The delegates will notice that the first section of the ordinance provides for the repeal of a certain ordinance that this Convention has heretofore passed. To go back, the Convention will recall that soon after the stenographic reports were started, an ordinance was introduced whereby the Secretary of State was required to provide for the indexing of the stenographic report. I introduced that ordinance and therefore the Secretary of State came to me for advice in the matter, and wanted to know what his pay would be. I conferred with him and on looking the matter over, he told me that it would cost $250 or thereabouts for him to index the stenographic report; that he had his hands full, that he would have to learn something about the stenographic report and that it would be difficult for him to index it. He asked me if there was any other officer the State who could do it cheaper, and if necessary, to confer with him and ask the Convention to make a contract with some other officer. I did so I went to the Secretary and he told me he would get the work done for $150, possibly $125. The ordinance, you will see, does not absolutely appropriate the whole $150. It simply authorizes the expenditure of that much under the supervision of the Secretary. The Secretary finds that he can get a competent man to index the report for $150, saving the Convention $100 of what they said should be done. To go further now, into the matter, the Secretary investigated the printing of four pages of indexing, and finds it will cost $50 and each page thereafter would amount to $12.50 a page. On further consideration of the matter, I have discovered that there would not be exceeding six pages of indexing, possibly not exceeding four pages. That is four of these large pages. The idea is to make it conform to the stenographic report as nearly as it can in order that it might be bound with it. The ordinance proposes to appropriate not exceeding $225 and I will say to the Convention that they cut that down to $200 and say that it shall not exceed $200. The Committee on Schedule and Printing, desires the Convention to pass on this matter themselves. They do not oppose it, nor do they favor it, except as individual members, and I understand all of them intend to vote for it.

MR. HEFLIN (Randolph)—I would like to say that I cannot agree with the gentleman on that proposition. I understand not all of them will vote for it.

MR. WILLIAMS—Well, now the Secretary himself does not get $150 or $125. It does not go into his pocket, but he will employ a man and has practically contracted with a man who will

go to work on it. Now, should it be considered today? It is necessary to pass it today. The Secretary says he will go to work on it immediately, and although the ordinance provides it must be completed in sixty days, he is satisfied he will have the manuscript ready in ten days after the adjournment of the Convention. Now we know that it is an old expression that a book without an index is a sealed book.

MR. BURNS—And this will be a book without the pages being numbered, won't it?

MR. WILLIAMS—The Secretary and I discussed that proposition and the only way he could arrive at it would be to index it, by dates or pages, and that raises the question as to how the index would be paged. If you go into the office of any man that deals in figures very much, you will find a machine that cost about 50 cents, that strikes one, two, three, four, right straight on. The Secretary, of course, will have to number the stenographic report that he indexes.

MR. WATTS—I rise to a point of order. There is a special order for 11 o'clock this morning.

MR. WILLIAMS—The stenographic report, of course, will have to be numbered, but suppose a delegate has to go through and number his stenographic report with pen or pencil, that is a very small matter, very small indeed, and you can get one of these numbering concerns, you can borrow it from your neighbor in any town they have them, and in that way number the pages. There is a provision that five copies shall be sent to each member of the Convention, that will cover all that any one may desire for his stenographic report, and I want to say further that on investigation I find you can have your stenographic report bound with the index in it for about $2.50 or $3, and you will have a book that twenty-five years from now will be worth $25 to $100 to you. It is necessary to have the index to refer to speeches and articles, the reasons why a certain thing was passed. In the ratification of the Constitution, you will want to refer to these speeches and the different views of members, and the quicker you can get the index, the better.

MR. GRAHAM (Talladega)—The gentleman who makes the index would have sixty days in which to complete it.

MR. WILLIAMS—Yes sir, but the Secretary thinks it can be done in the sixty days.

MR. REESE—I rise to a point of order. This is not debatable.

THE PRESIDENT—The point of order is well taken.

MR. WILLIAMS—As the gentleman was arguing the proposition, I thought I might make a statement.

THE PRESIDENT—There is a special order for 11 o'clock this morning. The Chair thinks that the motion to suspend the rules does not relate to the order of business.

MR. WILLIAMS—I understand that it relates to everything. To suspend the rules and to consider this immediately.

THE PRESIDENT—It is moved that the rules be suspended.

MR. WATTS—There is a special order for this hour, and I ask that it be passed on one way or the other.

THE PRESIDENT—It would be in order for the Convention to displace the special order.

MR. WATTS—I understand that, but simply call attention to the fact that there is a special order for this hour.

Upon a vote to suspend the rules, a division was called for, and by a vote of 36 ayes and 31 noes, the motion to suspend the rules was lost.

MR. HEFLIN (Randolph)—I am directed to report to the Convention the contract made with the Brown Printing Company for the printing of the Journal and ask that it be read.

THE PRESIDENT—The gentleman asks unanimous consent to make a report of the Committee on Printing and Incidental Expenses. The special order for this hour is the consideration of another matter.

MR. WATTS—I object.

MR. HEFLIN (Randolph)—I have not finished my report, and I think I am entitled to finish that.

THE PRESIDENT—It seems to the Chair that the special order would displace the further consideration of the report.

MR. HEFLIN (Randolph)—Then I move that the rules be suspended and that I be permitted to take up the report.

THE PRESIDENT—The Chair will hear the report and then hear the special order of the gentleman from Montgomery.

The Secretary read the following report from the Committee on Schedule and Printing:

To the Honorable Committee on Schedule, Printing and Incidental Expenses:

Gentlemen—We will print one thousand (1,000) copies of the Journal of the Constitutional Convention as follows:

On 50-pound book paper, same quality as that in the Supreme Court of Alabama Reports, and in the same style of type (small pica) for 65 cents per page. Will bind in full cloth one thousand (1,000) copies for 17 cents each, lettered as may hereafter be decided. To be sewed on five bonds, cloth to be as sample shown (publication of Morris Papers, N. Y.)

(Signed.) The Brown Printing Co.

J. H. Crenshaw, Sec. and Treas.

We the Committee of the Constitutional Convention appointed as directed to contract for and let the printing and binding of the Journal of said Convention, hereby award the contract for the said printing and binding to The Brown Printing Company, in accordance with the bid hereinabove submitted and accepted by us. John T. Heflin.

Chairman Committee on Schedule, Printing and Incidental Expenses.

August 14th, 1901.

MR. HEFLIN—I will say to the Convention that we had authority to make this contract. We have closed the contract with the Brown Printing Company, and I now ask that it be printed in the journal, and that the contract be filed with the Secretary of State.

THE PRESIDENT—It is so ordered. The contract will be spread upon the journal and filed with the Secretary of State.

(Mr. Browne took the chair).

MR. BURNS—I rise to a question of privilege. I want to ask this Convention to extend the privileges of the floor to Hon. Benjamin H. Screws, President of the Democratic Caucus, and also a gallant Confederate soldier, and who was Secretary of the Convention of 1875.

The motion was carried.

The special order was taken up.

The Secretary read the amendment of Mr. Watts as follows:

"Amend Section 17 of the report of the Legislative Committee by adding thereto the following words, viz.: 'No negro shall be permitted to hold office in this State.'"

And the substitute offered by Mr. Burns was read as follows: "And no person who is not a white qualified voter shall hold office in this State."

MR. WATTS—I hope that the Convention will take up this proposition and settle it one way or the other today. I think that

the shape of it should be changed a little, and that it should be made a separate section in the Miscellaneous Provisions in the Constitution. It was put in as an amendment to Section 17 of the Legislative Department, but as it was laid on the table at that time, to be taken up at the pleasure of this Convention, I had the honor at that time to address this Convention and to demonstrate to them that the provision is thoroughly within the Constitution of the United States. I believe it would add greatly to the ratification of this Constitution, and it remains for the Convention to say whether or not they will adopt it, and in order to test the matter, I move that this proposition, the original proposition that no negro shall be permitted to hold office in this State, shall be a separate and distinct section in the Miscellaneous Provision in the Constitution of this State, and upon the vote on that, whenever it comes up, I ask for the ayes and noes.

THE PRESIDENT PRO TEM.—It seems to the Chair that the question before the Convention will be upon the adoption of the measure that has been set for special order.

MR. WATTS—That is what it is.

THE PRESIDENT PRO TEM.—I understood the gentleman to move that it be inserted at some particular place in the Constitution. That would not be in order until the measure has been adopted or passed by the Convention.

MR WATTS—I understood that we could not adopt it as an amendment to Section 17 of Legislative Department, because you have passed that; but I move that we adopt that proposition in the Convention and the Committee on Harmony can place it where it will.

THE PRESIDENT PRO TEM.—The question will be upon the adoption of the measure as reported by the Committee.

MR. BURNS—I rise to make a point of order. It seems to me the substitute would take precedence, and that the question would be on the adoption of the substitute, and I ask that the substitute be read.

The Secretary again read the substitute.

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Dallas to the substitute offered by the gentleman from Greene.

MR. COLEMAN—I have the floor.

MR. BURNS—The substitute covers everything the original does.

THE PRESIDENT—The gentleman is not in order. The Chair recognized the gentleman from Greene.

MR. BURNS—I put in a substitute, and I have never yielded the floor.

THE PRESIDENT—The Chair did not recognize the gentleman from Dallas to put in a substitute. The Chair understood the gentleman from Dallas would rise for the purpose of information. The Chair now finds that the Chair was wrong in stating that the question was on the substitute offered by the gentleman from Montgomery. The Chair is informed that the question is on the amendment offered by the gentleman from Dallas to the substitute offered by the gentleman from Montgomery.

MR. BURNS—If that is the question, I still have the floor.

THE PRESIDENT—That motion was not made by the gentleman today. The gentleman from Greene.

MR. BURNS—I still insist on the point of order.

THE PRESIDENT—The gentleman from Dallas is out of order.

MR. COLEMAN—Mr. President and Delegates of the Convention: We are nearing the completion of our labors. It is my opinion that we have a Constitution unassailable by the courts of this country. It is my deliberate opinion, and you know that I attended diligently to the framing of this Constitution; that when compared to the old Constitution, it is incomparably superior as can be demonstrated by any man acquainted with it. Now, it seems to me that at this late day, we should not introduce an ordinance here to revive again the feelings which prevailed in this Convention. Young men, do not anticipate the dangers and excitements and troubles which may arise like those of experience, and when we have that which will meet every emergency, why should we originate and bring forward opposition to it? If our people are possessed of the integrity that we give them credit for, and will carry out in good faith the provisions which we have adopted, there will be no danger of any such person ever being elevated to an office in this State. I know that we have as much to apprehend in my county as in any county in Alabama, but I feel perfectly secure that our people will so endorse and carry into effect the provisions of this Constitution as to obviate the necessity of any such ordinance as this. I believe the Convention has heard enough on the subject, and I, therefore, move to lay the substitute and the amendment both upon the table.

MR. WATTS—Upon that I call for the ayes and noes.

The call was not sustained.

THE PRESIDENT—The question is on the motion of the gentleman from Greene to lay the amendment to the amendment,

and the amendment upon the table, and upon that the ayes and noes have been called for. Is the call sustained?

The call was not sustained.

The question recurred on the motion of the gentleman from Greene to lay the amendment to the amendment, and the amendment upon the table.

Upon a vote being taken, a division was called for, and by a further vote of 50 ayes and 42 noes, the motion to table prevailed.

MR. COLEMAN (Greene)—I rise to a question of personal privilege.

THE PRESIDENT—The gentleman will state the question of privilege.

MR. COLEMAN (Greene)—I wish to be accurate as to the facts with reference to my using a free pass. It was my intention to say that during my official life extending over a period of nearly twenty-five years, down to the present hour, I never accepted a free pass or free transportation from any railroad as common carrier of passengers; this is absolutely true.

I believe it is due to myself now as we are nearing the end of our deliberations, to remove any wrong impressions that might have been made soon after this Convention assembled by a distinguished delegate with reference to my official conduct. It was stated that I resigned the office of Solicitor when the office was made a salaried one, instead of continuing the fee system which in my circuit yielded a much larger income than the salary, intimating that such change induced my resignation.

The facts are, the Legislature of 1886-7 changed the system and placed the salary of a Solicitor at $3,000. I was then elected for a term of six years, which I accepted. In the spring of 1887, while court was in session in Walker county, and I was present as Solicitor, the Hon. A. G. Smith, now of Birmingham, came to court and informed me of the creation of a new chancery division, and informed me that I could get an appointment as Chancellor if I would accept the office. This I agreed to do, notwithstanding the salary of the Chancellor was only $2,250, while that of Solicitor was $3,000. I had been Solicitor many years and was willing to accept an office to which was attached more honor though with less salary. The bar of Alabama and the decisions of the Supreme Court can determine whether my discharge of the duties of the office of Chancellor justified the appointment.

It was also intimated in the same discussion that while I was a member of the Supreme Court the salaries of the Judges were increased and no objection was heard from me. The facts are the salaries of the Supreme Court Judges were raised in 1886-7,

more than two years before I succeeded to that very high and honorable judicial position, and at no time while I was a member of the Supreme Court was there any increase of the salary or any movement within my knowledge to effect such a purpose. The distinguished delegate who gave utterance to the statements here referred to is and has been my personal and political friend and I know he would not intentionally do me a wrong, I feel quite sure he acted under the influence of heated debate and misinformation of the facts but I felt it was due myself that such public utterance should not go unchallenged and without correction.

However many errors and shortcomings may have entered into my long official life (and there are many) I am not conscious that any resulted from improper motives or influences. The above references are the only ones that I have ever heard of and fortunately for me the statutes of the State and the records of the court show that they are utterly without foundation.

Mr. President, just a moment more. I have revised the stenographer's reports before publication in only two instances during the meeting of the Convention, and have not taken up the time in making corrections in these reports after publication. I do not wish it to be understood that my silence is to be construed into an admission of these corrections. My attention has been frequently called by friends to some grave mistakes; in one instance I remember that where I had said "I do not believe corruption has permeated our entire judiciary," it was reported that "I do not believe corporation has permeated," etc., and there have been many equally glaring. In most cases, however, my meaning has been apparent and I have always been willing to let my position and argument be judged by their merits. I have felt it due myself to have this statement and explanation appear in the records of these proceedings.

I feel quite exhausted physically, and need rest, and I ask to be further excused from attendance upon the deliberations of this Convention.

The request was granted.

THE PRESIDENT—The Clerk will take up the next regular order on the calender.

MR. REESE—I think that Ordinance 410 was made a special order on yesterday, immediately after the special existing at this time.

PRESIDENT PRO TEM.—There is no record of it at the Clerk's desk.

The Chair will allow this ordinance to be taken up, while the records are being searched. The Clerk has sent to the office for

the records. Until it arrives, we do not know of any special order, so the Chair will take up this matter.

Ordinance 414 was read as follows:

An ordinance to provide for the succession in the office of Governor in event of his death, resignation, removal from office, disability or absence from the State occurring prior to the next election of a President of the Senate and Speaker of the House.

Section 1. Be it ordained by the people of Alabama in Convention assembled, That in event the Governor dies, resigns, is removed or under disability, or absent from the State for more than twenty days prior to the next election of the President of the Senate and Speaker of the House the powers and duties of the office shall devolve in the order named, upon Hon. D. J. Meador, the last President pro tem of the Senate; next, upon the Hon. A. M. Tunstall, the last Speaker pro tem of the House; next upon the Attorney General; next upon the Auditor; next upon the Secretary of State; next upon the Treasurer; but the power and duties of the person exercising the office of Governor in lieu of the Governor shall cease and terminate whenever a President of the Senate and a Speaker of the House shall be elected at the next meeting of any General Assembly.

Sec. 2. Be it further ordained, that this ordinance shall go into effect immediately.

THE PRESIDENT PRO TEM.—The question is on the passage of the ordinance as reported by the Committee on the Executive Department.

MR. WATTS—Governor Jones, the Chairman of the Committee, is not here, and as I had the honor of introducing the ordinance, for which that is a substitute, I will briefly explain to the Convention why that ordinance should be adopted. Under the provisions of the present Constitution, there is no provision for filling the Governor's Chair, if misfortune should overtake our present Executive, and there should be a vacancy in that office, and this ordinance is simply to fill the vacancy in the interim, until the next legislature meets, when the President of the Senate is elected and it is for the purpose of preventing anything like a complication in the State's affairs by a vacancy in the Governor's office. It ought therefore to be adopted.

MR. OATES—It seems to me that the ordinance ought to be amended so as not to call any persons by name. Suppose that person should die, it would not operate, and it ought to be designated by office.

THE PRESIDENT — The ordinance is subject to amendment, if the gentleman will propose an amendment.

MR. SAMFORD (Pike)—If the gentleman will permit me I will suggest why it was that the names of the officers were put in. It is because they were temporary officers. You see that the last Senate, Mr. Meador was elected as President pro tem., and Mr. Tunstall, by reason of the death of the Speaker of the House was elected Speaker pro tem. There had already arisen some question as to the validity of the Speaker pro tem of the House, and for that reason the Committee on Executive Department decided it was best to put it beyond any question. It is only to meet an emergency and to recognize the two temporary officers of the two Houses.

MR. OATES—I did not understand its reading, that there was any limitation on it.

MR. SAMFORD—Yes, sir; you observe that it is until the next legislature, when the next legislature meets, and new officers are elected, the whole thing ceases to have any operation.

MR. JONES (Montgomery) — Mr. President, in order that there may be no misunderstanding about this (I was absent when it was called up) the reason that the names were mentioned are these: Mr. Meador was elected President pro tem., when President Jelks became Acting Governor. When he returned to his duties in the Senate, that ended his office as President pro tem.; the same way with the Speaker pro tem. of the House. The Speaker of the House died after adjournment, and we were fearful that there might possibly become dispute as to who was the last Speaker pro tem., and the last President pro tem., and for that reason, to save any doubt about it, we named the individual who was the last President pro tem. of the Senate, and the last Speaker pro tem. of the House. This is a temporary provision, and it expires by limitation when the legislature meets or this Constitution is adopted.

MR. OATES—The explanation is satisfactory to me, though if the double contingency should occur—but I suppose there is no probability of it.

MR. JONES—We have provided, if all three die, by taking up the officers as named in Executive Department.

MR. OATES—That is all right.

The President here resumed the Chair.

THE PRESIDENT—The question is upon the adoption of the ordinance. The ordinance is now upon the second reading, and will be ordered to the third reading tomorrow.

MR. JONES (Montgomery)—It has had two readings. I move a suspension of the rules, and——

THE PRESIDENT—The Chair was misinformed. This is the third reading. The ordinance is upon its final passage.

Upon a call of the roll the vote resulted as follows:

AYES

Ashcraft,
Barefield,
Bartlett,
Beavers,
Beddow,
Bethune,
Blackwell,
Brooks,
Browne,
Bulger,
Burnett,
Burns,
Byars,
Carmichael, of Colbert,
Chapman,
Cobb,
Cofer,
Cornwall,
Craig,
Cunningham,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Espy,
Ferguson,
Fletcher,
Foster,
Glover,
Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Ledbetter,
Lomax,
Lowe (Jefferson),
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Martin,
Maxwell,
Merrill,
Miller (Wilcox),
Murphree,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pillans,
Pitts,
Porter,
Reese,
Reynolds (Chilton),
Reynolds (Henry),
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Sentell,
Sloan,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spears,
Spragins,
Stewart,
Tayloe,
Thompson,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
White,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Wilson (Washington),
Winn,

TOTAL—109

ABSENT OR NOT VOTING

Messrs. President,
Almon,
Altman,
Banks,
Boone,
Carden,
Carmichael, of Coffee,
Carnathon,
Case,
Coleman, of Greene,
Coleman, of Walker,
Davis, of DeKalb,

Davis of Etowah,	Leigh,	Renfro,
Fitts,	Locklin,	Robinson,
Foshee,	Long (Butler),	Rogers (Lowndes),
Freeman,	Long (Walker),	Smith (Mobile),
Gilmore,	Lowe (Lawrence),	Sollie,
Graham, of Talladega,	Malone,	Studdard,
Greer, of Perry,	Miller (Marengo),	Vaughan,
Hinson,	Moody,	Willet,
Hodges,	Morrisette,	Williams (Elmore),
King,	Mulkey,	Wilson (Clarke).
Kirk,	NeSmith,	
Kirkland,	O'Neill (Jefferson),	

And the ordinance was adopted.

MR. JONES (Montgomery)—This is a very short ordinance, and for the purpose of saving time and getting it before the Committee on Order, Consistency and Harmony, I move that the rules be suspended, and that it be referred to them without engrossment.

Upon a vote being taken the motion was carried.

THE PRESIDENT—The Clerk will read the next ordinance.

Ordinance 449 was read as follows:

Ordinance No. 449 by Mr. Browne.

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 east 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, be amended by striking out of the same all that applies to the county of Shelby.

MR. BROWNE—I desire to state that there is no objection to this ordinance, and the only effect of it is to take out Beats 8, 9 and 13 of the territory that has an extra Court House in Shelby County. The matter has been agreed to by all parties interested. I move its adoption.

THE PRESIDENT—As many as favor the adoption of the ordinance reported by the Committee will say aye and those opposed no as your names are called.

Upon a call of the roll, the vote resulted as follows:

AYES

Messrs. President,
Almon,
Ashcraft,
Banks,
Barefield,
Beavers,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Browne,
Burnett,
Byars,
Carmichael, of Colbert,
Chapman,
Cobb,
Cofer,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Espy,
Ferguson,
Fletcher,
Foster,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Montgomery,
Jones, of Bibb,
Jones, of Wilcox,
Knight,
Ledbetter,
Lomax,
Lowe, of Jefferson,
Macdonald,
McMillan (Baldwin),
McMillan, of Wilcox,
Martin,
Maxwell,
Miller, of Wilcox,
Murphree,
Norman,
Norwood,
Opp,
O'Rear,
Palmer,
Parker, of Cullman,
Parker, of Elmore,
Pettus,
Phillips,
Pillans,
Pitts,
Porter,
Proctor,
Reese,
Reynolds, of Chilton,
Reynolds (Henry),
Rogers, of Sumter,
Samford,
Sanders,
Sanford,
Searcy,
Selheimer,
Sloan,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spears,
Spragins,
Vaughan,
Waddell,
Weakley,
Weatherly,
White,
Williams, of Barbour,
Williams, of Marengo,
Winn,

TOTAL—98

NOES

Merrill,
Watts,

TOTAL—2

ABSENT OR NOT VOTING

Altman,
Bartlett,
Bulger,
Burns,
Cardon,
Carmichael, of Coffee,
Carnathon,
Case,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Fitts,
Foshee,
Freeman,
Gilmore,
Greer, of Perry,
Hinson,
Hodges,

Jones, of Hale,	Moody,	Smith, of Mobile,
King,	Morrisette,	Sollie,
Kirk,	Mulkey,	Stewart,
Kirkland,	Nesmith,	Studdard,
Kyle,	Oates,	Tayloe,
Leigh,	O'Neal, of Lauderdale,	Thompson,
Locklin,	O'Neill (Jefferson),	Walker,
Long, of Butler,	Pearce,	Whiteside,
Long, of Walker,	Renfro,	Willet,
Lowe, of Lawrence,	Robinson,	Williams, of Elmore,
Malone,	Rogers, of Lowndes,	Wilson, of Clarke,
Miller, of Marengo,	Sentell,	Wilson, of Washington,

So the ordinance was adopted.

MR. BROWNE—I move that the rules be suspended and that the ordinance be sent to the Committee on Order, Consistency and Harmony of the whole Constitution without engrossment or printing.

Upon a vote being taken, the motion was carried.

MR. PETTUS—I ask unanimous consent to introduce a short resolution.

MR. BROWNE—I object.

MR. PETTUS—This is the last day and we are nearing the close of the session, and I move that the rules be suspended and that I be allowed to introduce a short resolution to be referred.

Upon a vote being taken, the motion to suspend the rules was carried.

The resolution offered by Mr. Pettus was read as follows:

Resolution 416, by Mr. Pettus:

Resolved, That the Committee on Order, Consistency and Harmony of the Whole Constitution be and they are hereby instructed to report to this Convention as a part of the Constitution to be adopted, the following Section, to be properly numbered, by the Committee:

Section —. Persons who are not citizens of the United States or who are not descended from a father and a mother belonging to the white race, shall not be eligible to any office under the Constitution and laws of Alabama, except the office of policeman or deputy sheriff.

THE PRESIDENT—The resolution will be referred to the Committee on Suffrage and Elections.

MR. PETTUS—I make the point of order that it should go to the Committee on Rules.

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

The report of the Committee on Schedule, Printing and Incidental expenses was read as follows:

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 finds that the State of Alabama is indebted to the Ed. C. Fowler Company of Montgomery, in the sum of $113.15.

We find that said State is indebted to the Brown Printing Company of Montgomery, Ala., in the sum of $464.40 for printing.

We find that said State is indebted to J. W. Terry of Montgomery, Ala., in the sum of $5 for the use of a typewriter from July 24 to August 24.

All of the above accounts are for printing done, and for articles furnished to the State of Alabama for the use of the Constitutional Convention, and all of the above accounts are itemized as shown by bills hereto attached. Total amount, $582.60, and we recommend the payment of the same, all of which is respectfully submitted. John T. Heflin,

Chairman Committee on Schedule, Printing and Incidental Expenses.

MR. HEFLIN (Randolph)—I move that the report of the Committee on Schedules, Printing and Incidental Expenses be adopted and that the President of this Convention be authorized to draw his warrant upon the Treasury for the payment of the respective amounts mentioned in the report.

THE PRESIDENT—It occurs to the Chair that the report should be adopted by an aye and nay vote, as it provides for an appropriation. As many as favor the adoption of the report will say aye and those opposed no as your names are called.

Upon a call of the roll, the vote results as follows:

AYES

Messrs. President,	Beavers,	Browne,
Almon,	Beddow,	Bulger,
Ashcraft,	Bethune,	Burnett,
Banks,	Blackwell,	Burns,
Barefield,	Boone,	Bvars,
Bartlett,	Brooks,	Carmichael, of Colbert,

Chapman,
Cobb,
Cofer,
Cornwall,
Craig,
Cunningham,
Davis, of Etowah,
deGraffenreid,
Dent,
Duke,
Eley,
Eyster,
Espy,
Ferguson,
Fletcher,
Foshee,
Foster,
Glover,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Lomax,
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Martin,
Maxwell,
Merrill,
Miller (Wilcox),
Murphree,
Norwood,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pillans,
Pitts,
Porter,
Proctor,
Reese,
Reynolds (Chilton),
Reynolds (Henry),
Rogers (Sumter),
Searcy,
Selheimer,
Sentell,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Stewart,
Tayloe,
Thompson,
Waddell,
Watts,
Walker,
Weakley,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Wilson (Washington),

TOTAL—102

ABSENT OR NOT VOTING

Altman,
Cardon,
Carmichael, of Coffee,
Carnathon,
Case,
Coleman, of Greene,
Coleman, of Walker,
Davis, of DeKalb,
Fitts,
Freeman,
Gilmore,
Graham, of Montgomery,
Greer, of Perry,
Hinson,
Hodges,
King,
Kirk,
Kirkland,
Kyle,
Ledbetter,
Leigh,
Locklin,
Long (Butler),
Long (Walker),
Lowe (Lawrence),
Lowe (Jefferson),
Malone,
Miller (Marengo),
Moody,
Morrisette,
Mulkey,
NeSmith,
Norman,
Oates,
O'Neill (Jefferson),
Renfro,
Robinson,
Rogers (Lowndes),
Samford,
Sanders,
Sanford,
Sloan,
Smith (Mobile),
Sollie,
Spears,
Studdard,
Vaughan,
Weatherly
White,
Willet,
Williams (Elmore),
Wilson (Clarke),
Winn.

So the report was adopted.

Ordinance 410 was read as follows:

Ordinance 410, by Mr. Reese.

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

ARTICLE ——.

Sec. —. In all prosecutions for rape, adultery, fornication, sodomy or crime against nature, the court may, in its discretion, exclude from the court room all persons except such as may be necessary in the conduct of the trial.

Referred to the Committee on Judiciary.

The substitute by the Committee on Judiciary was read as follows:

Substitute by Committee on Judiciary for Ordinance 410, by Mr. Reese:

In all prosecutions for rape and assault with intent to rape, the court may, in its discretion, exclude from the court room all persons except such as may be necessary in the conduct of the trial.

THE PRESIDENT—The question will be upon the passage of the substitute reported by the Committee. Those who favor the passage of the substitute will say aye and those opposed no as your names are called.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,
Almon,
Ashcraft,
Banks,
Barefield,
Bartlett,
Beavers,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Browne,
Bulger,
Burnett,
Burns,
Byars,
Carmichael, of Colbert,
Chapman,
Cobb,
Cofer,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Espy,
Ferguson,
Foster,
Glover,
Graham, of Montgomery
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hodges,
Hood,
Howell,
Howze,
Jackson,
Jenkins,

Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Lomax,
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Martin,
Maxwell,
Merrill,
Murphree,
Norwood,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pillans,
Pitts,
Proctor,
Reese,
Reynolds (Chilton),
Reynolds (Henry),
Rogers (Sumter),
Sanders,
Sentell,
Sloan,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Stewart,
Tayloe,
Thompson,
Waddell,
Walker,
Weakley,
White,
Williams (Barbour),
Williams (Marengo),
Wilson (Clarke),
Wilson (Washington),
Winn,

TOTAL—102

NOES

Foshee,
Spears,
Watts,
Whiteside,

TOTAL—4

ABSENT OR NOT VOTING

Altman,
Cardon,
Carmichael, of Coffee,
Carnathon,
Case,
Coleman, of Greene,
Coleman, of Walker,
Cornwall,
Fitts,
Fletcher,
Freeman,
Gilmore,
Greer, of Perry,
Hinson,
Inge,
King,
Kirk,
Kirkland,
Ledbetter,
Leigh,
Locklin,
Long (Butler),
Long (Walker),
Lowe (Jefferson),
Lowe (Lawrence),
Miller (Marengo),
Miller (Wilcox),
Moody,
Morrisette,
Mulkey,
NeSmith,
Norman,
Oates,
O'Neill (Jefferson),
Porter,
Renfro,
Robinson,
Rogers (Lowndes),
Samford,
Sanford,
Searcy,
Selheimer,
Smith (Mobile),
Sollie,
Studdard,
Vaughan,
Weatherly,
Willet,
Williams (Elmore),

So the substitute was adopted.

(Mr. Fletcher here took the Chair).

MR. REESE—I move that the rules be suspended and that the ordinance be referred to the Committee on Order, Consistency and Harmony without engrossment.

Upon a vote being taken the motion was carried.

A substitute for Rule 53 was read as follows:

Amendment by Rules Committee:

Amend Rule 53 so as to read as follows:

Rule 53. The Committee on Order, Consistency and Harmony of the Constitution shall report the proposed Constitution to the Convention, or any part or parts thereof, from time to time, as they may think proper, and the Constitution, or the parts thereof so reported, shall be read and acted upon Article by Article, and submitted to a vote of the Convention: if a majority of the members present shall vote therefor, the same shall be adopted, but if amended in any particular, it shall be re-referred, with such amendments to the said Committee, who shall cause the Article or Articles amended, with such amendments so adopted, to be rewritten and report the same to the Convention for its adoption. When the Constitution shall have finally been adopted by the Convention, it shall be enrolled, and when enrolled, it shall be again read, and attested by the President and Secretary, and each delegate to the Convention shall personally sign his name thereto. The signatures of the majority of the delegates present, or a majority of the Convention, shall constitute a sufficient attestation.

THE PRESIDENT PRO TEM.—The question will be upon the passage of the substitute.

MR. WHITE—I move to lay it on the table.

Upon a vote being taken the motion to lay on the table prevailed.

(The President here resumed the Chair.)

THE PRESIDENT—The Chair is gratified to state to the delegates that this completes all the business on the regular order.

MR. HEFLIN (Randolph)—I move that the rules be suspended and that the article reported by the Committee on Schedule be put upon its passage.

THE PRESIDENT—It is moved that the rules be suspended and that the article reported by the Committee on Schedules be taken up for consideration, amendment and passage.

Upon a vote being taken, a division was called for and by a vote of 66 ayes and 1 no the motion was carried.

THE PRESIDENT—Does the gentleman move that it be considered section by section?

MR. HEFLIN—Yes, sir.

Upon a vote being taken the motion to consider the report section by section was carried.

ARTICLE ——.

Schedule.

In order that no injury or inconvenience may arise from the alterations and amendments made by this Constitution to the existing Constitution of this State, and to carry this Constitution into effect, it is hereby ordained and declared:

First—That all laws in force at the ratification of this Constitution and not inconsistent therewith, shall remain in full force until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims and contracts, of this State, counties, individuals or bodies corporate, not inconsistent with this Constitution, shall continue to be valid as if this Constitution had not been ratified.

MR. HEFLIN (Randolph)—There is no change made in this section except the words "General Assembly" are stricken out and the word "Legislature" inserted in place thereof. I move the adoption of the section.

MR. FERGUSON—I wish to make an inquiry. The Clerk read it "altered and repealed." Should it not be "altered or repealed?" In the old Constitution, it is "or."

THE PRESIDENT — The gentleman from Jefferson suggests that the committee has made a change in the Constitution; that they have put the word "and" where in the old Constitution the word "or" appears.

MR. HEFLIN—That is a typographical error, and I ask unanimous consent to change the word "and" to the word "or."

The consent was given.

Upon a vote being taken the section was adopted.

Section 2 was read as follows:

Section—That all bonds executed by or to any officer of this State, all recognizances, obligations and all other instruments executed to this State, or any subdivision or municipality thereof, before the ratification of this Constitution, and all fines, taxes, penalties and forfeitures due and owing to this State, or any subdivision, or any municipality thereof; and all writs, suits, prosecutions, claims and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the ratification of this Constitution. All indictments which may have been found, or which may hereafter be found, or for crime or offense committed before the ratification of this Constitution, shall be proceeded

upon in the same manner as if this Constitution had not been ratified.

MR. HEFLIN—There is no change in that section, and I move its adoption.

Upon a vote being taken the section was adopted.

Section 3 was read as follows:

3—That all the executive and judicial officers and all other officers in this State, who shall have been elected at the election held in this State on the first day of August, 1898, or who may have been appointed since that time, and all members of the present General Assembly, and all that may hereafter be elected members of the present General Assembly, and all other officers holding office at the time of the ratification of this Constitution, shall continue in office, and exercise the duties thereof until their respective terms shall expire, as provided by the present Constitution and laws of this State.

MR. HEFLIN—The only change made in Section 3 is that the words "except such as may hold office under any act of the General Assembly" are stricken out; and also "all those who may have been elected and hold office in this State on the first day of August, 1875," is changed and "1898" inserted instead.

MR. PILLANS—I would suggest that the chairman of the Committee change the words "General Assembly" to "Legislature."

MR. HEFLIN — I ask unanimous consent to accept the amendment.

The consent was given.

MR. ASHCRAFT—I have the Article before me, and I think we have already enacted a section that takes the place of this Article, which says that "nothing in this Constitution shall be so construed as to abridge the term of any person now holding office."

MR. HEFLIN—I have been informed that I was in error in accepting the amendment suggested by the gentleman from Mobile (Mr. Pillans), because the present General Assembly will be the present General Assembly until the ratification of this Constitution, when it will be changed to the Legislature, and I think it is better that it should remain as it is reported.

THE PRESIDENT—The question will be upon the adoption of the section.

Upon a vote being taken, Section 3 was adopted.

Section 4 was read as follows:

4—This Constitution shall be submitted to the qualified electors of this State for ratification or rejection, as authorized and required by an act of the General Assembly of this State, entitled "An Act to provide for holding a Convention to revise and amend the Constitution of this State," approved December 11th, 1900.

MR. HEFLIN (Randolph)—There is no change in this section, except that it recites the date of the bill that was passed calling the Constitutional Convention, and I move the adoption of the section.

Upon a vote being taken, Section 4 was adopted.

Section 5 was read as follows:

5—That instead of the publication as required by Sections 6 and 24 of an act to provide for holding a Convention to revise and amend the Constitution, the Governor of the State is hereby authorized to take such steps as will give general publicity and circulation to this Constitution in as economical manner as practicable.

MR. HEFLIN—This section is practically the same as the section in the old Constitution, and I move its adoption.

Upon a vote being taken, Section 5 was adopted.

Section 6 was read as follows:

6—The unexpired portion of the present terms of the Trustees of the State University shall not be computed as part of the twelve successive years for which, under the provisions of this Constitution, Trustees of the University may hold office, but members of the existing Board of Trustees may, if elected thereto, hold office as such Trustees for twelve successive years in addition to the unexpired portion of their present terms.

MR. HEFLIN (Randolph)—I move the adoption of the Section.

Upon a vote being taken, Section 6 was adopted.

Section 7 was read as follows:

7—The salaries of the executive and judicial and all other State officers of this State who may be holding office at the time of the ratification of this Constitution, and the pay of the present members of the General Assembly, shall not be affected by the provisions of this Constitution.

MR. HEFLIN (Randolph)—This is the same as Section 9 of the old Constitution, and I move its adoption.

Upon a vote being taken, the section was adopted.

MR. HEFLIN (Randolph)—I move that the rules be suspended and that the report of this Committee be sent to the Committee on Order, Consistency and Harmony of the Whole Constitution without engrossment.

MR. HARRISON—I desire to ask the gentleman one question before that motion is put. It was a hurried reading of Section 3 (and I have not examined it). I will ask the Chairman of the Committee if the adoption of that section will not have the effect to legislate out of office the Railroad Commission, the supernumerary judge and other offices that have been created by the Legislature?

MR. HEFLIN (Randolph)—No, sir; I think not. If it does, I am willing to accept an amendment on behalf of the Committee.

THE PRESIDENT—Does the gentleman offer an amendment?

MR. HARRISON—I have not had time to prepare it yet.

MR. HEFLIN (Randolph)—In answer to that question, I will say that I was informed by some gentleman that perhaps if those words were not stricken out, that it would legislate these officers out of office.

MR. HARRISON—What words?

MR. HEFLIN—"Except such as hold office under any act of the General Assembly.

MR. SAMFORD (Pike)—This article is an important one, and I hope the gentleman will not insist upon his motion to suspend the rules. There is no necessity for it.

MR. HEFLIN—I have no special interest in the matter. The reason I made that motion was because I was requested by several gentleman to do so.

MR. HARRISON—If the motion of the gentleman is insisted upon, I will ask for a reading of the Section.

MR. LOWE (Jefferson)—I rise to a point of order. I understand the article has been read by sections and the rules require that it be adopted as a whole.

THE PRESIDENT—The course we pursued has been to refer it to the Committee on Engrossment and when reported back from the Committee on Engrossment, it is put upon its passage by an aye and no vote on the whole article.

MR. LOWE—But if I understand the motion of the Chairman of the Committee it is to suspend the rules and refer it to the Committee on Order, Consistency and Harmony.

THE PRESIDENT—That would place it upon its third reading and final passage.

MR. HEFLIN—If there is objection to that I will withdraw the motion.

MR. BROWNE—I would suggest that if there is anything inadvertently put in it in the way of not providing for offices that now exist under the act of the General Assembly, the Committee on Consistency, Order and Harmony can make that correction and this Convention will probably not be in session tomorrow. I refer to the matter brought to the attention of the Convention by the gentleman from Lee. I have looked over it, and I do not see anything wrong with it, but if there is anything wrong it could be remedied when the whole report is upon final passage. The rules have already been suspended for the purpose of putting this article upon its passage and I submit that the question is now upon the final passage of it. It having been read by sections and adopted by a viva voce vote, it will be necessary now to take an an aye and no vote, and I hope the Convention will pass it.

THE PRESIDENT—It occurs to the Chair that some motion should be made to dispense with the usual order of engrossing.

MR. deGRAFFENREID—I move a suspension of the rules for that purpose.

MR. WHITE—I want to ask the Chairman of the Committee a question. One provision of your schedule provides for the submission of the Constitution to the electors to be ratified. Has your Committee determined just who are electors and who will be entitled to vote?

MR. HEFLIN—No, sir; but I supposed that this Constitution would settle that question.

MR. WHITE—I just wanted to know if that had been considered by the Committee as to who would be entitled to vote.

MR. JONES (Montgomery)—The present Constitution fixes that.

MR. O'NEAL (Lauderdale)—Those who have a right to vote now.

MR. WHITE—I doubt that very much.

MR. deGRAFFENREID—Did we not provide in the Article on Suffrage and Elections that all persons who are now qualified to vote can vote up to the general election in 1902?

MR. WHITE—It is provided that they may vote in the general election of 1902. I am talking about the vote to ratify this Constitution.

MR. JONES (Montgomery)—How can you change the qualification of voters now without putting the Constitution in effect before it is ratified?

MR. WHITE—Well, you are not changing the qualifications, but simply giving people a chance to qualify who have not the opportunity now. As I understand the registration law in cities of five thousand people, they cannot vote unless they have registered before the election.

MR. JONES—Then the gentleman's proposition is to provide for the registration of voters who would otherwise be qualified.

MR. WHITE—Why of course.

THE PRESIDENT—The question is on the motion of the gentleman from Hale to dispense with the reference of this ordinance for engrossment, and that it be now placed upon its passage.

Upon a vote being taken the motion was carried.

THE PRESIDENT—The question will be upon the question of the passage of the article as reported. As many as favor the passage of the article will say aye and those opposed no, as your names are called.

Upon a call of the roll the vote resulted as follows:

AYES.

Messrs. President,
Ashcraft,
Barefield,
Bartlett,
Beavers,
Beddow,
Bethune,
Blackwell,
Brooks,
Browne,
Burns,
Byars,
Carmichael, of Colbert,
Chapman,
Cobb,
Cofer,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Espy,
Ferguson,
Fletcher,
Foster,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hodges,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Ledbetter,
Lomax,
Long, of Butler,
Lowe, of Jefferson,
Macdonald,
McMillan (Baldwin),
McMillan, of Wilcox,
Malone,
Martin,
Maxwell,
Merrill,
Miller, of Wilcox,
Moody,
Murphree,
Norman,

Norwood,	Porter,	Spragins,
Oates,	Proctor,	Stewart,
O'Neal, of Lauderdale,	Reese,	Tayloe,
Opp,	Rogers, of Sumter,	Thompson,
O'Rear,	Samford,	Vaughan,
Palmer,	Sanders,	Waddell,
Parker, of Cullman,	Sanford,	Watts,
Parker, of Elmore,	Searcy,	Weakley,
Pearce,	Selheimer,	Weatherly,
Pettus,	Sentell,	Whiteside,
Phillips,	Smith, Morgan M.,	Williams, of Marengo,
Pillans,	Sorrell,	Wilson, of Washington,
Pitts,	Spears,	Winn.

Total—104.

ABSENT OR NOT VOTING.

Almon,	Gilmore,	Renfro,
Altman,	Greer, of Perry,	Reynolds, of Chilton,
Banks,	Hinson,	Reynolds (Henry),
Boone,	Jenkins,	Robinson,
Bulger,	King,	Rogers, of Lowndes,
Burnett,	Kirk,	Sloan,
Cardon,	Kirkland,	Smith, of Mobile,
Carmichael, of Coffee,	Kyle,	Smith, Mac. A.,
Carnathon,	Leigh,	Sollie,
Case,	Locklin,	Studdard,
Coleman, of Greene,	Long, of Walker,	Walker,
Coleman, of Walker,	Lowe, of Lawrence,	White,
Cornwall,	Miller, of Marengo,	Willet,
Craig,	Morrissette,	Williams, of Barbour,
Fitts,	Mulkey,	Williams, of Elmore,
Foshee,	NeSmith,	Wilson, of Clarke.
Freeman,	O'Neill (Jefferson),	

So the Article was adopted.

THE PRESIDENT—The Article will be printed and referred to the Committee on Order, Consistency and Harmony of the whole Constitution.

MR. SAMFORD (Pike) — I desire to make a report from the Committee on Engrossment.

THE PRESIDENT—The Chair will inquire of the Chairman of the Committee on Order, Consistency and Harmony if it is desired that the ordinance just passed be referred without printing.

MR. WHITE—We have not expressed any such desire; but on the contrary there are a number of other articles that have not

yet been printed, that have to be printed, and I don't think it will delay anything to have that printed.

THE PRESIDENT—The Chair will direct that it be printed.

THE PRESIDENT—Before the reading of the Article the Chair will announce the special committee to consider the question of adjournment. The Committee will consist of Messrs. Howze of Jefferson, Watts of Montgomery, deGreffenreid of Hale, and Sanders of Limestone. The Committee will meet at 2 o'clock at the Exchange Hotel, Room 208.

Leaves of absence were granted as follows: To Mr. Smith for Wednesday and Thursday; indefinite leave to Mr. Coleman of Greene.

THE PRESIDENT—The Secretary will read the Article reported by the Committee on Engrossment.

The Article was read as wollows:

ARTICLE ——.

Section 1. The Legislature shall have the power to declare who shall constitute the militia of the State, and to provide for organizing, arming and disciplining the same; and the Legislature may provide for the organization of a State Naval Militia.

Sec. 2. The Legislature in providing for the organization, equipment and discipline of the militia shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

Sec. 3. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, they may be appointed by the Governor.

Sec. 4. Volunteer organizations of infantry, cavalry and artillery and naval militia may be formed in such manner and under such restrictions and with such privileges as may be provided by law.

Sec. 5. The militia and volunteer forces shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters, parades and elections and in going to and returning from the same.

Sec. 6. The Governor shall, except as otherwise provided therein, be commander-in-chief of the militia and volunteer forces of the State, except when in the service of the United States, and shall, with the advice and consent of the Senate, appoint all general officers whose terms of office shall be for four years. The Governor, the generals and regimental battalion commanders shall appoint their own staffs, as may be provided by law.

Sec. 7. The Legislature shall provide ammunition and accoutrements, military records, banners and relics of the State.

Sec. 9. The officers and men of the militia and volunteer forces shall not be entitled to or receive any pay, rations, or emoluments when not in active service.

THE PRESIDENT—The question is on the final passage of the Article as read. As many as favor the passage of the Article will say aye and those opposed no as your names are called.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,
Almon,
Ashcraft,
Barefield,
Bartlett,
Beavers,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Browne,
Bulger,
Byars,
Burns,
Chapman,
Cobb,
Cofer,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Espy,
Ferguson,
Foster,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jenkins,
Jones,, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Ledbetter,
Lomax,
Long, of Butler,
Lowe, of Jefferson,
Macdonald,
McMillan, of Baldwin,
McMillan (Wilcox),
Malone,
Martin,
Maxwell,
Merrill,
Miller (Wilcox),
Murphree,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pillans,
Pitts,
Proctor,
Reese,
Reynolds (Chilton),
Reynolds, of Henry,
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Searcy,
Selheimer
Sentell,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Stewart,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,

Weakley,	Williams (Marengo),	Winn.
White,	Wilson (Clarke),	
Williams (Barbour),	Wilson (Washington),	

TOTAL—108

ABSENT OR NOT VOTING

Altman,	Greer, of Perry,	O'Neill, of Jefferson,
Banks,	Harrison,	Porter,
Burnett,	Hinson,	Renfro,
Cardon,	Hodges,	Robinson,
Carmichael, of Colbert,	King,	Rogers (Lowndes),
Carmichael, of Coffee,	Kirk,	Sloan,
Carnathon,	Kirkland,	Smith (Mobile),
Case,	Leigh,	Sollie,
Coleman, of Greene,	Locklin,	Spears,
Coleman, of Walker,	Long, of Walker,	Stoddard,
Cornwall,	Lowe, of Lawrence,	Weatherly,
Fitts,	Miller (Marengo),	Whiteside,
Fletcher,	Moody,	Willet,
Foshee,	Morrisette,	Williams (Elmore),
Freeman,	Mulkey,	
Gilmore,	NeSmith,	

So the Article was adopted.

THE PRESIDENT — The Article will be referred to the Committee on Order, Consistency and Harmony of the Whole Constitution.

MR. EYSTER—I desire to offer a petition, to have it read and referred.

THE PRESIDENT — The gentleman from Morgan desires to offer a petition to have it read and referred. The Chair hears no objection.

The Secretary read the petition as follows:

To the Delegates to the Constitutional Convention from Morgan County, and to the Honorable Constitutional Convention, Montgomery, Ala.:

Dear Sirs:—We respectfully represent that whereas, the Railroad Commission appointed by the Governor and paid by the railroads has not proven satisfactory to the people and whereas, the shipper and consumer should have some representation in the naming of rates and making of rules by what is otherwise alien and arbitrary powers. That whereas, the express, telephone, telegraph and railroad franchises are given by the State, the power of these franchises to tax should be limited by the State. We therefore request that your Honorable Body will give the State a Com-

mission, elected and paid by the people and place all franchises, which have power to tax, within their review.

F. H. Pointer, Ferris and Pointer, grocers; S. J. Philipson, Roy A. Brown, John A. English, J. B. Mitchell, H. H. Skepp and Co., W. J. Nesbit and Co., J. H. Patyens, F. A. McGough, Wm. H. Ayeres, A. Spillinger, E. Lyons, John L. Brock, Brock and Spight, wholesale grocers; Samuel Tyler, M. E. Woodward, H. Cartwright, Z. Linable, Max J. Cohn, B. Spellberger and Co., J. S. Patterson, J. Black, J. A. Nelson, J. Goodman and Co., W. W. Littlejohn, G. D. Williamson, Williamson and Echols, H. W. Garnett, wholesale grocer; E. D. White, general merchandise.

MR. deGRAFFENREID — If it is in order now—I believe that we have finished the calendar—I desire to make a motion to recall from the Committee on Banks and Banking an ordinance, No. 436, which was referred to that Committee on the 20th day of July. The ordinance is as follows: "Amendments to the fourth section of the Article heretofore adopted on Banks and Banking: Strike out of Section 4 the words, 'shall for such notes and deposits' and insert in lieu thereof the following words: 'The purchasers of exchange from the bank, and all persons to whom the bank is indebted for the proceeds of notes, bills of exchange and other claims collected by it shall for such notes, deposits, exchange and collection."

I will state for the information of the Convention that Section 4, referred to here, is the identical section which is numbered 17 in the old Constitution, which provides that the holders of bank notes and the depositors who have not stipulated for interest, shall be entitled, in cases of insolvency, to preference of payment over other creditors. Now, that was the Constitution of 1875, and the section unchanged has been brought forward into the new Constitution. After this section had been adopted by this Convention, attention was called to the fact that under Section No. 17 of the old Constitution, under the Article of Banks and Banking, hardships in some instances occurred which should be corrected by this Convention. The reason why the old Constitution provided that notes and depositors without interest in cases of insolvency should be preferred above all other creditors, was because of the peculiar trust character of the indebtedness. Now, it has been ascertained since the adoption of that Constitution that there are other debts which may be owing by a bank when it becomes insolvent of as high a trust character as the debts due depositors without interest, and those debts are undertaken to be provided for by this amendment which I offered to the section after the section had been adopted. For instance, a merchant in Louisville draws a draft upon a customer in Montgomery. The draft comes to a bank here for collection. It is not intended for a deposit, it is intended that that bank shall collect that money and remit it in due course of business to its correspondent in Louis-

ville for the benefit of the drawer. The money is collected and the bank goes into insolvency before this money has been remitted. Under the law, as it stands, under the old Constitution, and under the law as it stand now under the new Constitution, that creditor, occupying as high a position so far as the trust is concerned as a depositor without interest, is without a remedy. My attention was called to a fact by a gentleman from Dallas, where they recently had a failure of a bank, and where money was collected the day before the insolvency became known, and those collections went into the bank for the benefit of depositors without interest. The same is true with reference to those who trade with banks in the purchase of exchange. As an illustration, in the city of Mobile a woman walked into a bank one day and bought $1,500 of exchange. The next day a receiver was appointed, and that receiver telegrapher to the New York correspondent not to pay the draft. What was the result? The draft was not paid, the woman lost her money, and the money went to the benefit of depositors without interest. This is a matter in which I have no interest, but it is an evil which I think the Constitution should provide for, and for that reason I move that this amendment be recalled from the Committee on Banks and Banking.

MR. FLETCHER—Those ordinances were referred to the Committee on Legislative Department and finally came back, and are now in the hands of the Committee on Banks and Banking. The Committee thought, after they had been considered and reconsidered, after the Article had been adopted and reported to the Committee on Harmony, that the best disposition was an indefinite postponement. The gentleman also at the same time introduced a resolution to repeal that part of the ordinance, which I presume it is his intention to get back before the Convention. It is to prevent inspection of private banks. The committee thought that inasmuch as all that was acted upon, it is all before the Committee on Harmony, how can the gentleman get it back from the Committee unless the majority of the Convention favors it; and I take it that at this late hour it is an effort to try and take snap judgment on the condition of things as they exist. That matter was considered in the Committee, the report of the Committee was unanimous at the time this action was taken, and it was reported to this Convention after due consideration, and the purpose and effect of it was, as I understand, to enable who deposit money in these institutions, to be protected after it was deposited. How any fair-minded man of a national or any other sort of bank can be opposed to making a statement to his depositors, I don't understand. The purpose of the Committee was to protect that kind of depositors who were innocent and have no means to protect themselves — women and children and charitable institutions. After we got the matter before us and fully considered it in all its details, and brought it before the Convention, there was an effort made to reconsider it, and it has been going that way from

that hour to this, and it seems to me that the purpose is to protect some individual interest, rather than to protect the people. That was the only object that the Committee had in the matter, and it is now with this Convention. I have no pride of opinion in it; I have no interest in it; in fact, I was not the instigator or introducer of the resolution, or ordinance, but it was duly considered in our Committee, and I have no further interest in it than any other gentleman on the floor, except to protect the public good and public interest. The question is now before you, and you can dispose of it as you see proper, but it does seem to me coming here and springing the thing on the very eve of adjournment that the purpose is to take snap judgment, and I move to lay the motion on the table.

MR. ASHCRAFT—I desire to ask the gentleman a question.

THE PRESIDENT—The question is not debatable.

MR. ASHCRAFT—I am sure the gentleman from Madison does not——

THE PRESIDENT—The gentleman from Lauderdale is not in order. It is to be presumed that the gentleman from Madison knows what ordinances are before his committtee.

MR. ASHCRAFT—I certainly did not refer to it——

THE PRESIDENT—It is not in order for the gentleman to criticise the speech of the gentleman from Madison.

Upon a vote being taken the motion to table prevailed.

MR. HEFLIN (Chambers)—I would like to call up a resolution referring to the indexing of the stenographic report and I move that the rules be suspended, and that resolution put upon its passage.

THE PRESIDENT—It is moved that the rules be suspended, and that the Convention take up for consideration the resolution with reference to indexing the stenographic report.

MR. WILSON (Washington)—The rules have been suspended for consideration of the report of the Committee on Schedule and Incidental Expenses. This is a part of that report and has not been considered, and the point is, is it necessary to again suspend the rules for the consideration of a part of this report?

MR. HEFLIN (Randolph)—I think the gentleman is entirely mistaken. It was an ordinance reported back without recommendation.

THE PRESIDENT—The Chair recollects that the gentleman from Randolph confined his motion to the consideration of the article reported by the committee.

Upon a vote being taken the motion to suspend the rules was lost.

MR. HOWZE—I rise for the purpose of moving that we adjour until four o'clock to give time for the committee to make their report.

MR. O'NEAL—I move that the Convention do now adjourn.

MR. HOWZE—I withdraw my motion.

Thereupon the Convention adjourned.

AFTERNOON SESSION

The Convention met pursuant to adjournment, there being one hundred and four delegates present upon the call of the roll.

MR. SAMFORD (Pike)—I desire to make a report from Committee on Engrossment.

The Secretary read: "Report of Committee on Engrossment, third reading of the bill, Article on Corporations."

MR. HARRISON—I move that the rules be suspended, and the report just made on the article on Corporations be read a third time and placed upon its passage.

Upon a vote being taken the motion was adopted.

The Article was read as follows:

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 it shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal at the will of the legislature; and shall pass general laws under which charters may be altered or amended. The legislature shall, by general laws, 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. But strictly benevolent, educational or religious corporations shall not be required to pay such a tax. The charter of any corporation shall be subject to amendment, alteration or repeal under general laws.

Sec. 2. All existing charters 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 a contract, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

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. 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, but based on actual amount of capital employed in this State. Strictly benevolent, educational 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 authorized in its charter, or articles of incorporation.

Sec. 6. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all ficticious 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 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 paid into court in money the amount of the damages assessed and shall have given bond in not less than

double the amount of the damages assessed, with good and sufficient sureties to pay such damages as the property owner may sustain; and the amount of damages in all cases of appeals shall, on the demand of either party, 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 alter, amend or revoke any charter of incorporation now existing and revokable 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 stockholders.

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 association 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 railroads 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 freight and passenger tariffs, the location and building of passenger and freight depots, correcting abuses, and preventing unjust discrimination and extortion, and requiring reasonable and just rates of freight and passenger tariffs, 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 discrimination in 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 or 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, providing 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 railroads 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 and passage; and any such payments shall be illegal and void; and these prohibitions shall be enforced by suitable penalties.

Sec. 18. 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 — The question will be upon the final passage of the Article. As many as favor the passage of the Article will say aye and those opposed as their names are called.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,
Almon,
Ashcraft,
Barefield,
Bethune,
Blackwell,
Brooks,
Browne,
Bulger,
Burnett,
Burns,
Carmichael, of Colbert,
Cobb,
Cofer,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Espy,
Fletcher,
Foster,
Glover,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hodges,
Hood,
Howell,
Howze,
Inge,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Ledbetter,
Lowe (Lawrence),
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Martin,
Maxwell,
Merrill,
Miller (Wilcox),
Moody,
Murphree,
Norman,
Norwood,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pitts,
Reese,
Reynolds (Henry),
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Sanders,
Searcy,
Selheimer,
Sentell,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spears,
Spragins,
Stewart,
Studdard,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Williams (Barbour),
Williams (Marengo),
Wilson (Clarke),
Wilson (Washington),
Winn.

TOTAL—99

NOES

Banks,	Byars,	Reynolds (Chilton),
Bartlett,	Chapman,	Whiteside,
Beddow,	Long (Walker),	

TOTAL—8

ABSENT OR NOT VOTING

Altman,	Hinson,	Oates,
Beavers,	Jackson,	O'Neill (Jefferson),
Boone,	Jenkins,	Pillans,
Cardon,	Jones, of Hale,	Porter,
Carmichael, of Coffee,	King,	Proctor,
Carnathon,	Kirk,	Renfro,
Case,	Kirkland,	Robinson,
Coleman, of Walker,	Leigh,	Sanford,
Cornwall,	Locklin,	Smith (Mobile),
Ferguson,	Lomax,	Sollie,
Fitts,	Long (Butler),	Weatherly,
Foshee,	Lowe (Jefferson),	White,
Freeman,	Miller (Marengo),	Willet,
Gilmore,	Morrisette,	Williams (Elmore),
Graham, of Montgomery,	Mulkey,	
Greer, of Perry,	NeSmith,	

PAIRED

AYES	NOES
Coleman, of Greene,	Sloan.

So 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 Convention.

MR. HEFLIN (Chambers)—I move that the ordinance reported this morning by the Committee on Printing and Incidental Expenses be recommitted to that Committee.

THE PRESIDENT—It is moved that Ordinance 446 on indexing the stenographic report be recommitted to the Committee on Schedules, Printing and Incidental Expenses.

Upon a vote being taken the motion was carried.

MR. HEFLIN (Randolph) — I ask unanimous consent that the Committee on Schedule, Printing and Incidental expenses be allowed to sit during the evening session.

The consent was given, and notice of meeting announced.

MR. REESE—I move to take from the table the ordinance which was tabled by the House this morning, I believe it is ordinance 210 or 410. I will ask that the ordinance be read. It was the ordinance of Mr. Watts and the substitute by Mr. Burns.

THE PRESIDENT—It would not be in order to read the ordinance until it is taken from the table.

MR. REESE—It is the ordinance that provides that no negro shall hold office in Alabama. It was read to the Convention and the distinguished gentleman from Greene obtained the floor and made an argument in opposition to the proposition, and then moved to table it without allowing the friends of it any opportunity to discuss the provisions of the ordinance. I therefore move to take it from the table.

MR. O'NEAL—Upon that I all for the ayes and noes.

The call was not sustained.

MR. O'NEAL—I ask for a verification of the vote by which the call was declared not sustained.

The request for a verification was withdrawn.

Upon a vote being taken, a division was called for and by a vote of 33 ayes and 62 noes the motion to take the ordinance from the table was lost.

MR. HOWZE—The Special Committee would like to make a report in regard to the recess.

The report was read as follows:

Your Committee having under consideration the matter of recess pending the work of the Committee on Order, Consistency and Harmony of the Constitution, beg leave to report as follows:

Your Committee recommends that the Convention take a recess until Wednesday, August 28, at noon; that the delegates and pages shall not draw per diem during the recess, but that delegates shall draw mileage in lieu thereof; that the clerk of all committees except the Committee on Order, Consistency and Harmony of the Constitution shall be dispensed with; that the delegates who are members of said Committee shall be entitled to their per diem during the recess of the Convention, but no mileage. Signed by Messrs. Knox, deGraffenreid, Sanders and Howze.

MR. OPP—I desire to amend by making it Monday, September 2, instead of August 28, at 12 o'clock.

MR. MERRILL—I move to lay that amendment on the table.

MR. OPP—I believe I have the floor.

THE PRESIDENT—The gentleman will proceed.

MR. OPP—From all I have been able to ascertain, I think that the date proposed by this amendment would be more acceptable to a large majority of the delegates than the date named by the Committee. If it is fixed for Wednesday, as the Committee recommends, we will have an intervening Saturday and Sunday, and I think it highly desirable to avoid that. It will really expedite the work of the Convention, instead of retarding it by fixing the date September 2, 1901. I have also understood that it will subserve the convenience of the clerks of the Convention; that it will afford Mr. Julian an opportunity to catch up with his work, which he would not have if the date fixed by the Committee is adopted. But the great thing we desire to avoid, as I said before, is the intervening Saturday and Sunday. Then the Committee on Order, Harmony and Consistency would be sure by that time to have their report ready, and the printing would be done, whereas it would be highly problematical whether all these things will be attended to if the date is fixed for Wednesday. The whole matter has been thoroughly considered and I think a large majority of the delegates favor the date fixed by this amendment, and I call for the previous question upon it.

MR. deGRAFFENREID—And I move to lay it upon the table.

Upon a vote being taken a division was called for, and by a vote of 58 ayes and 57 noes the amendment was tabled.

MR. PETTUS—I move the previous question on the report of the committee.

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

The main question was ordered.

MR. HOWZE—I desire to ask unanimous consent to add an item to the report which we omitted.

MR. BURNS—I call for the ayes and noes.

MR. OPP—We want to add to the report that the doorkeeper and assistant doorkeeper shall not be entitled to per diem during recess.

THE PRESIDENT—The question is upon the amendment that the doorkeeper and assistant doorkeeper and doorkeeper in gallery be not allowed per diem. Is there objection? There being no objection it is so ordered. The question is on the adoption of the report of the committee amended by unanimous consent.

MR. BURNS—I rise to a point of order. The delegates from Montgomery should not vote. They are interested. (Laughter.)

THE PRESIDENT—The point of order is overruled.

Upon a vote being taken the resolution as amended was adopted.

MR. CUNNINGHAM—I ask unanimous consent to introduce a short resolution.

The Secretary read the resolution as follows:

"Resolved, that when the Convention reassembled no amendment to any article of the Constitution shall be considered except by two-thirds of those voting unless such an amendment shall be necessary for the order, consistency and harmony of the Constitution."

MR. CUNNINGHAM—I move that the rules be suspended and that the resolution be placed upon its immediate passage.

MR. deGRAFFENREID—The resolution is a recission of one of the rules. Under the rules of this Convention we cannot rescind a rule unless one day's notice is given, and no notice has been given of that resolution.

MR. CUNNINGHAM—It has been the custom here to suspend rules constantly for the purpose of passing resolutions.

THE PRESIDENT—It seems to the Chair that the motion to suspend the rules would always be in order. If this action were taken under the rules, the point of order of the gentleman from Hale would be correct, but the motion is that the rules be suspended and when suspended they do not govern the case. The point of order is overruled.

MR. LONG (Walker)—I move to lay the motion on the table.

THE PRESIDENT—The gentleman is not in order. The question is on a motion to suspend the rules.

MR. REESE—Under the rules of this Convention as they now stand the resolution should be referred to the Committee on Rules.

THE PRESIDENT—The motion is to suspend the rules and the Chair has just announced the ruling overruling the point of order.

MR. O'NEAL—I rise to a point of order. The motion of the gentleman from Jefferson is to suspend the rules in order to rescind the rules. The rules absolutely prohibit any rescision of any rule except on one day's notice. I make the point that one day's notice has not been given. You can always make a motion to suspend the rules, put not to rescind the rules without notice. I call attention to this rule——

THE PRESIDENT—The Chair does not care to hear any debate on the question. In the opinion of the Chair the Conven-

tion can suspend the rules and take such action as it pleases. It takes a two-thirds vote to suspend and when the rules are suspended the rules do not govern. The question will be upon the motion of the gentleman from Jefferson.

MR. O'NEAL—On that I demand the ayes and noes.

THE PRESIDENT—The ayes and noes are demanded. Is the call sustained?

MR. HARRISON—Many of us do not know the contents of the resolution, and we would like to hear it read.

MR. BURNS—I rise to a point of information, and that is who are authorized to count this vote. Shall the Secretary and Assistant Secretary of this Convention, or shall their assistants, or shall the Reading Clerk, or who shall count?

THE PRESIDENT—If the gentleman after his long attendance upon this Convention has not ascertained who counts the votes, the Chair will not undertake to enlighten him.

MR. BURNS—I have read the rules from No. 1 to No. 446 and they do not show in those rules who shall count. (Laughter.)

The Secretary again read the resolution.

MR. CUNNINGHAM—Now Mr. President, the motion is to suspend the rules and I understand it is not debatable——

THE PRESIDENT—It is not debatable.

MR. CUNNINGHAM—It is a mighty good resolution to pass.

MR. O'NEAL—On that I call the ayes and noes.

The call was not sustained.

Upon a vote being taken to suspend the rules, a division was called for and by a vote of 55 ayes and 53 noes the motion to suspend the rules was lost.

MR. CUNNINGHAM—I ask that it be referred to a Committee on Rules.

THE PRESIDENT—It is so referred.

MR. MURPHREE (Pike) — I rise to a point of personal privilege. I wish to make an explanation.

MR. PRESIDENT—I feel that without an explanation on my part, that some persons not knowing the circumstances and surroundings, may condemn my votes and position on the Railroad Commission and free pass questions which have been considered by this Convention in the last few days. My position on these

questions are well known by the delegates, but others not familiar with my connection with these matters should also be made acquainted with the difficulties under which I had to labor. I was placed on the Committee on Corporations, and all the ordinances bearing upon and pertaining to the Railroad Commission and free railroad passes introduced were referred to said Committee. When said ordinances were reached for action by the Committee it was discovered that I was, as then appeared, in a hopeless minority. The Committee, however, was very kind and respectful to me in deferring final action for several weeks, which gave me and my friends an opportunity of presenting our views upon these questions, showing, as best we could,why and when, the existing laws, should be amended that the interest of the people might be protected against the evil of free passes and unjust discrimination in freight charges. I am happy to say that our views were duly considered by the Committee, and, after considering these matters at nearly all our meetings for six or eight weeks, the majority of the Committee, greatly to my surprise, manifested a desire that an effort be made to arrive at an agreement so as to be able to make a unamimous report. Knowing or believing I stood solitary and alone on these questions in the Committee, I was rejoiced to find there was such a feeling. One of the Committee made a motion, which was adopted, that a sub-committee be appointed, consisting of Chairman Harrison, Mr. Graham and myself, whose duty should be to formulate such ordinances as would be acceptable to all the Committee. The sub-committee met and in order to arrive at an agreement it became necessary that concessions should be made by both the majority and minority of the Committee. This was done, which resulted in an agreement as set forth in Sections 15 and 16 of the Committee's report.

Thus it will be seen that my course has been consistent in that of securing the best possible report on the subject referred to.

I wish to say that I shall always feel grateful to the majority of the Committee on Corporations for their kind treatment of the minority, in giving me and my friends a respectful hearing, which, I am glad to know, were not void of good results.

MR. HARRISON—I desire to heartily endorse all that has been said by Mr. Murphree, and I believe he accomplished more with the Committee than any other man could have done. We all respect him and are glad that these matters are settled.

MR. CRAIG—I ask unanimous consent to offer a resolution.

The resolution was read as follows:

Resolution 318, by Mr. Craig.

Resolved, That the thanks of this Convention are due and are hereby tendered to the publishers of The Mobile Register and Tuskegee News for their courtesy in supplying the members of this Convention daily with a copy of these papers.

MR. CRAIG—I move a suspension of the rules and that the resolution be adopted.

THE PRESIDENT—The gentleman from Dallas moves to suspend the rules.

MR. GREER (Calhoun)—I want to amend by adding The Tuskegee News.

THE PRESIDENT — The question is on the suspension of the rules.

Upon a vote being taken, the rules were suspended.

THE PRESIDENT—The gentleman from Calhoun moves to add The Tuskegee News.

Upon a vote being taken the amendment was adopted.

THE PRESIDENT—The question is on the resolution as amended.

Upon a vote being taken, the resolution as amended was adopted.

MR. BURNS—A point of information: Does the gentleman mean to compare The Tuskegee Weekly News to The Mobile Register? (Laughter.)

MR. PARKER (Elmore)—I desire to offer a resolution and I will ask that the rules be suspended so that it may be placed upon its immediate passage.

The Secretary read the resolution as follows:

Resolution 317, by Mr. Parker:

Whereas, Thos. W. Coleman, whose services as Chairman of the Committee on Suffrage and Elections especially has been of inestimable value to this Convention, and whose age, experience and wisdom has entitled him by common consent the Nestor of the Convention, has taken indefinite leave of absence, for a much needed rest and this Convention may not have the benefit of his wise counsel or the pleasure of greeting him again.

Now therefore be it resolved:

First—That this Convention hereby expresses its high appreciation of his great services to the State of Alabama in the formation of the proposed Constitution.

Second—That we commend him and his posterity to the people of Alabama, for the purity of his motives, his distinguished ability and lofty patriotism which has characterized his long services to the State, and especially the self-sacrifice that he has freely made as a member of this Convention.

Third—That this Convention hereby tenders him individually and collectively their generous regards for his future welfare and express the hope that in a green old age the lines may continue to fall about him in pleasant places, and that he may live to realize the full fruition of the hope that his beloved State may see apples of gold and pictures of silver from the tree of the Constitution that he has helped to plant.

THE PRESIDENT—The question will be upon a suspension of the rules.

Upon a vote being taken the rules were suspended.

THE PRESIDENT—The ayes seem to have it.

The attention of the Chair is called to the fact that it requires a two-thirds vote to suspend the rules. It seems to the Chair that under that rule that the noes would have it.

A division was called for.

Upon a vote being taken there were, ayes, 56; note, 26, and the rules were suspended.

MR. PETTUS—I move that the resolution be adopted.

Upon a vote being taken the resolution was adopted.

MR. HEFLIN (Randolph)—I am directed to report an ordinance with an amendment favorably by the Committee on Schedule, Printing, etc.

The Secretary read the report as follows:

The Committee begs leave to report back Ordinance 446 favorably with the following amendment. Strike out paragraphs 2, 3 and 4 and insert in lieu thereof the following: This Convention accepts the proposition of Hon. James E. Cobb to make and superintend the indexing of the stenographic reports of the proceedings of this Convention, and does hereby appropriate the sum of one hundred dollars for such services and as soon as the President of this Convention certifies to the Auditor that the work is completed, he shall draw his warrant on the Treasurer for the same in favor of said Cobb, and the President is authorized to contract with some reliable party to publish said index, and distribute to each member of this Convention as many as five copies each and for whatever this is reasonably worth, the President of this Convention shall certify that fact to the Auditor, who

shall draw his warrant on the Treasurer for such sum, not to exceed fifty dollars.

MR. COBB — I hope I will be indulged a moment. This morning when that proposition came before the Convention I was upon my feet to oppose it and was cut off by a motion to lay on the table. Incidentally I remarked that the amount was far too much for that work even if it was done at all. Very much to my surprise I was afterwards approached to know if I would do the work. I said yes, I would do the work. I had not thought of such a thing, I was not hunting a job at all, and from all that conversation came that proposition. I don't want this Convention to understand that I am bidding for work of that sort, while if you were to give it to me in that way I will do the best I can. I am opposed to the whole scheme, however.

MR. HEFLIN (Chambers)—I move the adoption of the report of the Committee, and upon that I call for the previous question.

THE PRESIDENT—It is moved that the original ordinance as amended be adopted.

MR. ASHCRAFT—I rise to a question of parliamentary inquiry. Is it proposed to index the stenographic report or Journal. I did not catch it.

THE PRESIDENT—The stenographic report.

A vote being taken the previous question was ordered.

MR. MALONE—I move to table the amendment proposed by the Committee.

A vote being taken the motion to table was lost.

THE PRESIDENT—On the question of the adoption of the report of the Committee, as it provides for an appropriation of money, it will be necessary to have an aye and no vote.

During roll call:

MR. COBB—I am paired with the gentleman from Greene, Mr. Coleman, if he were here he would vote aye and I would vote no.

The roll call resulted as follows:

AYES

Messrs. President,	Bethune,	Burns,
Ashcraft,	Blackwell,	Carmichael, of Colbert,
Banks,	Browne,	Craig,
Barefield,	Bulger,	Cunningham,
Beddow,	Burnett,	Dent,

deGraffenreid,
Duke,
Eyster,
Espy,
Foster,
Glover,
Graham, of Montgomery,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Jones, of Montgomery,
Jackson,
Jones, of Wilcox,
Long (Walker),
Macdonald,
McMillan (Baldwin),
Maxwell,
Miller (Wilcox),
Murphree,
Norwood,
Oates,
O'Neal (Lauderdale),
O'Rear,
Palmer,
Parker (Cullman),
Pettus,
Pillans,
Pitts,
Proctor,
Rogers (Lowndes),
Rogers (Sumter),
Sanders,
Sanford,
Searcy,
Selheimer,
Sentell,
Sorrell,
Spears,
Stewart,
Tayloe,
Thompson,
Vaughan,
Williams (Marengo),
Wilson (Washington),
Winn,

TOTAL—65

NOES

Almon,
Byars,
Chapman,
Cofer,
Davis, of DeKalb,
Davis, of Etowah,
Eley,
Fletcher,
Foshee,
Graham, of Talladega,
Grant,
Hodges,
Hood,
Howze,
Jenkins,
Jones, of Bibb,
Kyle,
Ledbetter,
Lowe (Jefferson),
Lowe (Lawrence),
McMillan (Wilcox),
Malone,
Martin,
Merrill,
Moody,
Norman,
Opp,
Parker (Elmore),
Porter,
Reynolds (Chilton),
Reynolds (Henry),
Smith, Mac. A.,
Smith, Morgan M.,
Spragins,
Waddell,
Walker,
Weakley,
White,
Whiteside,
Williams (Barbour),

TOTAL—40

ABSENT OR NOT VOTING

Altman,
Bartlett,
Beavers,
Boone,
Brooks,
Carden,
Carmichael, of Coffee,
Carnathon,
Case,
Coleman, of Walker,
Cornwall,
Ferguson,
Fitts,
Freeman,
Gilmore,
Greer, of Perry,
Hinson,
Howell,
Inge,
Jones, of Hale,
King,
Kirk,
Kirkland,
Knight,
Leigh,
Locklin,
Lomax,
Long (Butler),
Miller (Marengo),
Morrisette,
Mulkey,
NeSmith,
O'Neill (Jefferson),

Pearce,	Samford,	Watts,
Phillips,	Sloan,	Weatherly,
Reese,	Smith (Mobile),	Willet,
Renfro,	Sollie,	Williams (Elmore),
Robinson,	Studdard,	Wilson (Clarke),

PAIRED

AYES	NOES
Coleman, of Greene,	Cobb.

MR. CUNNINGHAM—I move that this Convention do now recess until Wednesday week at 12 o'clock.

The motion was adopted, and thereupon the Convention adjourned.

CORRECTIONS

In proceedings of seventy-fourth day, page 4, third column, fifty-ninth line, the word "pledged" should read "plants"; in seventieth line read: "Southern Coal and Foundry Company."

In proceedings of seventy-fifth day, third page, fourth column, sixty-first line, the word "Section" should appear after "fifteen"; in sixty-ninth line read: "If you will tell me that the Railroad Commission can do anything else than what is mentioned," etc.; third page, first column, read: "When the Legislature will meet only once in four years," and further down same column, read: "It is merely a tub thrown to the whale to fool the fishes—I am not a fish."

In proceedings of seventy-fifth day, third page, third column, forty-third line, the word "contrarily" should be "concurrently."

SEVENTY-SEVENTH DAY

MONTGOMERY, ALA.,
Wednesday, Aug. 28, 1901.

The Convention was called to order by the President, and opened with prayer by the Rev. Mr. Marshal as follows:

Our Father who art in Heaven, we thank Thee for Thy Fatherly care, which has been manifested over us since we last met together. We come before Thee this morning with a sense of our unworthiness and of our helplessness without Thee, praying that

Thou wouldst give us strength and grace to discharge the duties of this day. Bless each and every one of us as we need; guide us by Thy spirit; give us the wisdom necessary to direct our lives right, and grace that we may endure trial and overcome temptation. Be with us through this day, through all life and guide us unto all truth, we ask it for Christ's sake. Amen.

Upon a call of the roll 115 delegates responded to their names.

Leaves of absence were granted to the following delegates:

Mr. Ledbetter for today; Mr. Proctor for today; Mr. Maxwell indefinite on account of sickness; Mr. Lomax for today; Mr. Almon, Mr. Williams of Elmore; Mr. Jenkins, Mr. Pitts, all indefinite leave on account of sickness.

MR. SAMFORD (Pike)—I ask unanimous consent to introduce a short resolution.

Unanimous consent was given, and the resolution was read as follows:

Resolved, That a committee of five be appointed to prepare and to issue an address to the people of the State setting forth the advantage of the new Constitution.

Resolved further, That the President of this Convention shall be the chairman of said committee, and that the other four shall be appointed by the President.

Resolved further, That when said address is prepared the Secretary of this Convention shall cause to be printed 50,000 copies thereof for distribution.

The resolution was referred to the Committee on Rules.

MR. WHITE (Jefferson)—In behalf of the Committee on Order, Consistency and Harmony of the Constitution, I desire to state that the committee determined that it would be best to have the report of the committee, with the proposed Constitution printed, and have it ready for the members today. Under the rules there is no provision for the printing of a report until it is submitted to the House, but to save time the committee thought it would be well to have it printed in advance, and therefore contracted to have the proposed Constitution printed with the report of the Committee, under an agreement that it should be finished on yesterday. The committee assembled on yesterday and found that the printing had not been completed, though the Constitution had been delivered to the printer on last Friday, and the report of the committee, which is short, had been delivered on Sunday morning. This morning the committee was furnished 25 copies. There are a number of typographical errors in these copies, which it is necessary to have corrected before it is sub-

mitted to the Convention. A sub-committee has been at work on that since yesterday, and are at work on it now. We hope to be able to make a report at the beginning of the afternoon session today.

THE PRESIDENT—The regular order of business would be the call of the roll of delegates for the introduction of ordinances, etc.

MR. HARRISON—I would say it is impossible for us to do anything without the report of the Committee on Order, Consistency and Harmony. I therefore move that the Convention do now adjourn until 3:30 this afternoon.

The Convention thereupon adjourned.

AFTERNOON SESSION

The Convention met pursuant to adjournment, there being 117 delegates present upon the call of the roll.

MR. SMITH (Mobile)—The Committee on Rules desire to make a report. The Committee offers a substitute for Resolution 320 by Mr. Samford of Pike.

The Secretary read the original resolution as follows:

Resolved, That a committee of five be appointed to prepare and issue an address to the people of the State, setting forth the advantages of the new Constitution.

Resolved further, That the President of this Convention shall be the chairman of said committee, and that the other four shall be appointed by the President.

Resolved further, that when said address is prepared, the Secretary of this Convention shall cause to be printed 50,000 copies thereof for distribution.

Substitute by the Committee on Rules:

Resolved, That a committee composed of the President of the Convention, and of one delegate from each Congressional District, to be appointed by the President, prepare and issue an address to the people of the State setting forth the advantages of the new Constitution, and that the President of the Convention be the chairman of Such Committee.

Resolved further, That when such address is prepared the Secretary of this Convention shall cause 50,000 copies thereof to be printed for distribution.

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

THE PRESIDENT—The gentleman from Mobile moves the adoption of the substitute reported from the Committee on Rules for the resolution offered by the gentleman from Pike.

Upon a vote being taken the substitute was adopted and upon a further vote being taken the original resolution as amended by the substitute was adopted.

MR. SMITH (Moblie)—I have a report from the Committee on Rules on Resolution No. 319, with a substitute.

The Secretary read the original resolution as follows:

Resolved, That when the Convention reassembles no amendment to any Article shall be considered except by two-thirds vote of those voting, unless such amendment be necessary for the Order, Consistency and Harmony of the Constitution.

Substitute by the Committee:

Resolved, That no amendment to any Section or Article of the Constitution, or to any ordinance, shall be considered or adopted except by a two-thirds vote, unless such amendment be necessary for the Order, Consistency or Harmony of the Constitution.

MR. HEFLIN (Chambers)—I have a minority report, Mr. President.

The Secretary read the minority report as follows:

Resolved, That two hours be allowed for amendments and debate on each Article of the Constitution, and after that time the previous question shall be considered as ordered, unless a majority of the Convention order otherwise.

Minority report signed by Mr. Heflin (Chambers), and Mr. O'Neal (Lauderdale.)

THE PRESIDENT—That is offered as a substitute for the report of the Committee on Rules. The minority report will be treated as an amendment, and the question will be upon the adoption of the minority report.

MR. COBB—I have but a few words to say upon this report and the amendment. There never was a time during the sitting of this Convention when more prudence and care should be exercised in what we do than now. We have reached the point in our labors when we think they are finished. We are about to round up what we have done, and present it to the people of Alabama, as the result of our deliberations and our actions. We think we have done our work well, and I hope we have, but in this our last hour additional care and prudence is required and we should not be in haste about it. I know how the members of

this Convention feel. I am one of those who want to get away from here speedily. There is not a member of this body who has not attended it at a sacrifice of his private business and his interests. It has not been a question of enjoyment to us particularly, although there has been great enjoyment as suggested by the gentleman from Montgomery (Mr. Sanford). Certainly no personal profit has been presented to us. We are trying to build an instrument here that will do for our descendents for fifty years to come, and I pray this Convention not to be in haste in this last hour. If it takes a week, two weeks or a month, let us consent to remain here and do our work well, so that we can go before our constituents with confidence and present to them the result of our labors and challenge them for their support. Now, I think to require two-thirds of this Convention before any amendment or change can be made, is wrong.

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

THE PRESIDENT—Will the gentleman consent to the interruption?

MR. COBB—Yes.

MR. BAREFIELD—You will remember Mr. Long introduced a resolution to allow the sheriffs to succeed themselves?

MR. COBB—Yes.

MR. BAREFIELD—Reported favorably by the Committee on Executive Department?

MR. COBB—Yes.

MR. BAREFIELD—If this rule be adopted, it would stand no chance in the world.

MR. COBB—Chance for what?

MR. BAREFIELD—Chance to adopt that resolution.

MR. COBB—That is all stuff. I give no sort of credence to the statement that if we do this or don't do that, this Constitution is not going to be adopted. It is going to be adopted by fifty thousand majority vote of the people of Alabama, and all the sheriffs in the State of Alabama cannot prevent it. (Applause).

MR. BAREFIELD—I say if they adopt the two-thirds rule, then the Convention or members who want to vote to allow sheriffs to succeed themselves, cannot get that resolution before the Convention.

MR. COBB—I beg pardon—I did not understand. I though the gentleman was putting a threat at me, and I never in my life could be governed by a threat. I understand it now, and he is along on my line. Let us go along as we have done. Let the

rule stand as it is, and let the majority of this Convention control it, whatever we do, and if it takes a month, let us do it. That is where I stand. I want to get away from here, Mr. President; I have some interests to look after; they are not much, but still they require attention now and again. The President of this Convention would like to get away, and so would all the balance; all of us are in that same boat in that particular, but, for God's sake, for the sake of justice and the happiness and prosperity of the people of Alabama, do not let us get impatient.

MR. SANFORD (Montgomery) — Rule 53 provides for amendment.

MR. COBB—If amendments are required, let us have them; don't let us hamper ourselves so that we cannot do what is best for the interests of the State. I hope this Convention will go slow upon this proposition and look well to what they do. I move to lay the report of the Committee on Rules and the substitute on the table.

THE PRESIDENT—The gentleman from Macon moves to lay the report of the Committee and the substitute on the table.

MR. GRAHAM (Talladega)—I hope the gentleman will not take advantage of the Committee.

THE PRESIDENT—Does the gentleman withdraw his motion?

MR. COBB—I will withdraw it.

MR. GRAHAM (Talladega)—I am not a member of the Committee, but I am for the Committee's report.

MR. SAMFORD (Pike)—I desire to say that while the delegates to this Convention may be somewhat restive under our continued session, that the people who sent us here are perhaps getting more restive than we are, if the combined wisdom of a hundred and fifty-five delegates in seventy-six days of their labor has not been sufficient deliberation to get this Constitution in the condition that it ought to be gotten into, and in which the report of the Committee on Harmony has accepted it, we might stay here four hundred and seventy-six days, and not improve on it. I am heartily in favor of the report of the Committee. I think that the report ought to be adopted, but for fear that it will not be adopted, I have prepared an amendment to the minority report, which, I hope, will be adopted, and then let us vote both of them down, and take the report of the Committee. We ought by all means to get away from here and submit our work back to the people.

The amendment by Mr. Sanford of Pike was read as follows:

"Amend minority report by striking out 'two hours' and inserting 'one hour.'"

MR. SANFORD (Montgomery) — That is equivalent to nothing.

MR. OATES—I rise more to make a suggestion that an argument. I quite agree with the delegate from Macon that this is a time when the Convention ought to move slowly in reviewing its work, because in the course of the review it may become perfectly apparent to some delegates who have supported a proposition that it ought to be amended or changed, and if so, it ought to be done if the Convention or a majority think it best. My suggestion is not in advance at this stage to try to tie the Convention down by a two-thirds rule, or such a strict limitation. I think the motion which the delegate from Macon made is a good one, probably not exactly for the purpose he made it, if he made it for the purpose of killing the report and getting rid of it. I do not agree to it for that, but I think it a good motion by way of putting it on the table and letting it await future development if it is found that too much time is going to be consumed so that it may be where it can be taken from the table by a vote of the majority of the Convention and adopted.

As to the number of days consumed, while they are considerably greater than I expected to be consumed, yet, in comparison with similar bodies in other States we have not been here such a great length of time. The Convention of South Carolina, which made the present Constitution of that State, was in session either eighty-four or eighty-six days; that of Mississippi was in session ninety-four working days; that of Louisiana over one hundred days. We have had seventy-six days, and think it is well to make haste slowly just at this time, because we might adopt that report and regret it afterwards, but I think it well to hold it in hand where the Convention can have recourse to it if we find that too much time is being unnecessarily consumed. I make the motion to lay the amendment and substitute on the table. I do not make the motion if any one desires to speak.

MR. GRAHAM (Talladega)—I have but a word to say. I came back here with the view of trying to get back home, and if I were to condense the messages that I have received from my constituents and a number of them, at least, while at home, it is this: Go back to Montgomery and adopt what you have already done, and then come back to us as soon as you can, and we will ratify your work. I believe that is the prevailing sentiment in this State, and I therefore hope the report of the majority of the committee will prevail and that we will proceed to ratify what we have done.

MR. SANFORD (Montgomery)—I hope these rules will not be adopted——

MR. BURNS—I want to ask the gentleman from Talladega a question.

MR. GRAHAM (Talladega) — I have already yielded the floor, but I do not object to answering the question if I can.

MR. BURNS—I want to know if he has accomplished what he was sent here to do, if he has disfranchised the negro in the State of Alabama.

MR. GRAHAM—I do not know whether we have or not. We will have to wait and see about that in the future.

THE PRESIDENT—The Chair will recognize the acting chairman of the committee, the gentleman from Mobile.

MR. SANFORD (Montgomery)—I was up before he arose.

THE PRESIDENT—Does the gentleman from Mobile yield to the gentleman from Montgomery?

MR. SMITH (Mobile)—Yes, sir.

MR. SANFORD (Montgomery)—I was going to say that I hope that this report would not be adopted, because, under Rule 53, many members of the Convention have waited until the final report to make some suggestions or amendments. Rule 53, which has been in vogue three months, says that on the final report of the Committee on Order, Consistency and Harmony of the Constitution, amendments may be made, and if amendments should reconsider what they had done, and prepare a proper report for the consideration of this body. Under the rule introduced by the Committee on Rules, it is impossible to do so. It cuts off all amendments. It cuts off all debate, and under the amendment of my friend from Pike, I do not see why he should want any debate at all, because by the time the President gets his watch out and begins to time the speaker and some gentleman asks a question, his time is at an end, and the discussion amounts to nothing. I agree with the gentleman from Macon that we need not get in hot haste in the very concluding hours of this Convention. All evils come from hasty legislation, in Congress, in the Legislature, in Democratic conventions and it may be in this very constitutional body, and therefore I hope you will proceed under the same rules. No man will make many amendments. I myself do not intend to make but one, and that is upon a question of taxation in regard to which I wish to appeal to this body, but with that exception I have no proposition to make. I trust therefore that this rule will not be adopted. There are gentlemen here in the same condition I am, and out of respect to them I hope no rule that will exclude all amendments, that will shut off all dis-

cussion, and that will keep silent men who wish to talk to the people will be adopted by this Convention. I make no threats, but I know what will be the effect of it.

MR. SMITH (Mobile)—The Rules Committee had no idea in recommending this rule to encourage hasty legislation. On the contrary it seemed to us that the rule is to protect the Convention against hasty consideration. We have considered the Constitution now under all the safeguards that are generally deemed requisite for the mature and deliberate consideration of the questions that are to be presented to the people for ratification. These questions have been referred to the committees, and those committees have in each instance, I believe, given time, investigation and patience to the consideration of the questions that have been presented to this Convention. The Convention has then had every opportunity to review the action of the committee, and step by step, through each provision that is found in this Constitution, the questions there have been deliberately discussed, voted and passed on by this Convention, and we have now formed a Constitution, not in haste, but deliberately, and we were looking forward to but one purpose, and that was to the accomplishment of a good, enduring and wise instrument. It is now completed and we have returned for the purpose of consummating the work. Almost every delegate has anticipated a delay of but a few days. The people, as has been said, have become somewhat restless at the time we have consumed in this work and the expense we have imposed upon them. They have thought and felt that we have almost been too deliberate in our work, and they have understood that we have come back practically to adopt this Constitution unless there be found some radical mistake in its provisions, and I believe they expect us to adopt it, and not reopen the matter to meet every question that may be raised by delegates who may have met some adverse criticism from one or two of his individual constituents. If there is any matter that is glaringly erroneous, certainly that can be demonstrated to the satisfaction of two-thirds of the members of this Convention. If there is no such matter, then I submit that we ought not to again reopen our work and consume any more time of the people in the consideration of these matters. I believe, Mr. President, that we have considered them all fully, and that there are no such glaring errors, and that to open these questions by a majority vote will raise a number of issues which, if we pass on, we will not pass on with the same deliberation with which we have already considered them, but will do so in haste. I believe therefore, that the recommendation of the Rules Committee will guard against hasty legislation and not foster it, and I therefore advocate the adoption of the rule as recommended by the Committee.

MR. LONG (Walker)—I for one have no amendment to offer to the Constitution. There is an ordinance there and a very

important ordinance, relative to the sheriffs, which has been favorably and unanimously reported by the Committee on the Executive Department, and it will be a great injustice to require the consent of two-thirds of the delegates before putting it upon its passage. There is no good reason why a majority of this Convention should not be trusted anywhere and everywhere, and I am willing to support the amendment offered by the gentleman from Pike to allow one hour for debate on amendments, and even if one hour on every Article in this Constitution were consumed in one day we could finish our labors. I can see no good reason why it should take two-thirds of this Convention to do anything. It is not Democratic, and I ask the members of the Convention to consider well how they gag and bind themselves here. It is wrong in principle to adopt any rule requiring two-thirds of the members of this Convention to pass upon any question. A majority should have the right to amend any article. I am as anxious to get home as anybody. I served notice some weeks ago that I would offer an amendment to the whole Constitution with the exception of the Article on Suffrage and Elections. I will not do that. I have decided to take the turkey feathers and all, and I think the people of Alabama will take it, but there are some amendment which the members of this Convention may wish to offer, and I think with the consent of a majority they should at least have the right to offer them, and I think the delegates should vote down the report of the Committee on Rules.

MR. HEFLIN (Chambers)—The majority report of the Committee that no amendment shall be offered unless by two-thirds vote does not say whether by a two-thirds vote of the members present or a two-thirds vote of the entire membership of this entire Convention. It says a two-thirds vote.

MR. CUNNINGHAM—It says two-thirds of those voting.

MR. HEFLIN (Chambers)—I have just read it, and it says two-thirds vote. If that is true it would take one hundred members of this Convention to allow an amendment to be offered.

I agree with the gentleman from Macon when he says that we ought not to be too hasty now. I am as anxious to get away from here as any member. Circuit Court begins in our county next Monday and it is very necessary that we lawyers be there who live in the county at least, but my time belongs to the people. When I allowed them to send me here, I took the responsibility on me that rests on any member of this Convention, and until the labors of the Convention are completed, my time belongs to them. I do not think that by adopting the substitute or the minority report of the Rules Committee, that we will be here longer than Saturday night. There are only two or three amendments to be offered, but delegates have been home and they have seen the people who are interested very much in this Constitution, and

delegates can not get too close to the people in this matter. Suggestions may have been made to them, and those delegates, it may be, will desire to offer some amendment. Now our report says "not over two hours" shall be devoted to any Article, not to an amendment, but to any entire Article, and if the Convention sees fit, any delegate can move the previous question or a suspension of the rules. There is only one amendment that I shall favor that I now know of, and that is to allow the Sheriff to succeed himself, and to allow him to be impeached as provided by Governor Jones in his report on the Executive Department. I believe a majority of the delegates in this Convention will favor that amendment. We ought at least to have a little time to consider that. If the gentlemen here think that that would be a wise provision, and I do not see why it would not, they ought to be allowed a little time to consider that and when that is offered, I do not know of any other material amendment that will be proposed. I favor, Mr. President, the adoption of our substitute, and it is the first time I have ever dissented from the report of the Rules Committee, and I would not do it at this late hour, but I feel that it is due the delegates of this Convention who are the people in Convention assembled, to offer amendments if they see fit to the wisdom of this Convention for their adoption or rejection.

MR. CUNNINGHAM — The purpose of the author of the original resolution was, as well stated by the acting Chairman of the Committee on Rules, to prevent hasty legislation. That was the first reason. I do not believe that delegates on this floor have had an opportunity during the last few days, certainly I have not, to hear from the people generally in regard to the Constitution as it has been proposed by this Convention. What I have heard, however, has been that it is our duty to finish our work, adjourn and come home. Certainly that is practically the universal opinion in my section of the State. Now, I want to call attention to the fact that the rules we are now operating under provide that every amendment offered must be referred back to the Committee and by them reported. That will take two days.

MR. O'NEAL—Where is that rule?

MR. CUNNINGHAM—Rule 53. You will find that when these amendments come up for discussion, that the same straw that has been threshed over time after time will be threshed over again, and I am quite sure that the people of Alabama will not commend the action of this Convention in reconsidering and readopting matters which we have had up so often. There is scarcely a proposition of any importance in this proposed Constitution that a motion was not made to reconsider after it was adopted. The amendment that my friend from Chambers alludes to in regard to the Sheriff matter has been considered, I think, four distinct times. That is my recollection in regard to the matter. An

amendment was adopted allowing the Sheriff to succeed himself. That was reconsidered and voted down. The original Article of the Committee on Executive Department had a provision that the Governor could suspend the Sheriff after hearing the Sheriff in a case of lynching or bodily harm to a prisoner. That was repealed, I think, by special ordinance, and was stricken out. So you see upon that particular question we have not only consumed hours, but days.

Another thing, take the question of quadrennial sessions of the Legislature. I have no doubt some gentlemen entertain the purpose of introducing an amendment on that line. That again will excite a good deal of discussion and if there is anything in Alabama that is universally approved, it is the quadrennial sessions of the Legislature I do not know what other amendments gentlemen may have up their sleeves. I came to this Convention without an ordinance or resolution and offered none except a few resolutions relating to business. I came simply to hear and listen and study and vote upon questions, and upon the whole, so far as I am concerned, I not only approve the Constitution as a whole, but Mr. President, I believe in detail it is an instrument that every delegate on this floor should be proud of, and I believe the people will ratify it. Then, do not let us undo our work and remain here days in and days out. I hope that the report of the Committee on Rules will be adopted.

MR. HEFLIN (Chambers)—I move to lay all the reports on the table.

MR. WHITE—I have an amendment which I think the Chairman of the Committee will accept.

THE PRESIDENT—Except by unanimous consent, it would not be in order. The Chair will state to the gentleman there is an amendment and an amendment to the amendment pending.

MR. HEFLIN—I desire to hear it read before giving unanimous consent.

The proposed amendment was read as follows:

"Amend by adding at the end thereof the following: 'Or unless recommended by the Committee on Order, Consistency and Harmony of the Constitution.'"

There was objection.

MR. HEFLIN—I move to lay the report of the Committee on the table together with the substitute.

MR. O'NEAL—I understood the gentleman from Jefferson to say that under Rule 53 if an amendment is made, it would have to be referred back to the Committee. Rule 53 is just to the Contrary. Let me read it.

"Rule 53. The Committee on Order, Consistency and Harmany of the Constitution shall report the entire proposed Constitution to the Convention, and the Constitution so reported shall be read and acted upon Article by Article and Section by Section and submitted to a vote of the Convention; if a majority of the members present shall vote therefor, the same shall be adopted, but if amended in any particular, it shall be referred with such amendments to the said Committee, who shall cause the Constitution, with such amendments so adopted to be rewritten and report the same to the Convention for its action."

That means this: If any Article of the Constitution is amended, it is referred back to the Committee and it reports it back, and then it is not subject to amendment again. We adopt it as a whole. Of course the Committee on Order, Consistency and Harmony of the Constitution would have to redraft it.

MR. CUNNINGHAM—That is what I referred to.

MR. O'NEAL—We do not have to refer amendments to the Committee. We adopt the amendments in this Convention and then it goes to the Committee on Harmony, and that Committee reports it back for final adoption.

MR. CUNNINGHAM—It has to go to the Committee anyway.

MR. HEFLIN (Chambers)—I move to lay the report of the Committee on the table, together with the substitute and amendment of the gentleman from Pike. If we desire to take it up afterward we can do so.

MR. CUNNINGHAM—I call for the ayes and noes.

MR. GRAHAM (Talladega)—I call for a division of the question.

THE PRESIDENT—The question will be first upon the motion to table the amendment to the amendment offered by the gentleman from Pike. The ayes and noes have been demanded. Is the call sustained?

The call was not sustained.

Upon a vote being taken the amendment to the minority report was tabled.

THE PRESIDENT—The question will be upon the motion to table the amendment offered by the minority report.

Upon a vote being taken the motion to table prevailed.

THE PRESIDENT—The question will be upon the motion to table the resolution reported by the Committee on Rules.

Upon a vote being taken, a division was called for and upon a further vote of 55 ayes and 51 noes the resolution was tabled.

MR. SMITH (Mobile)—I have a further report in the form of a resolution.

"Be it resolved that the attestation clause to the Constitution to be adopted by this Convention be as follows, viz.: Done by the people of the State of Alabama through their delegates in Convention assembled at Montgomery, Alabama, this the ..... day of ....., 1901, as hereby attested."

MR. SMITH (Mobile)—I move the adoption of the resolution. I desire to state the purpose of the resolution. There has been some question and therefore some exhibitions of dissatisfaction arising out of the doubt as to what the signatures to the Constitution by the various delegates would mean; whether it would mean that they favor each and every section or subdivision of the Constitution, or whether it be a mere attestation of the Constitution. The Committee thought it would be a mere attestation of the Constitution, but to prevent any doubt on that question, it has recommended that form of attestation to show that it is an attestation of the Constitution. I move the adoption of the resolution.

Upon a vote being taken the resolution was adopted.

MR. SMITH (Mobile)—I have a resolution upon which the Committee reports adversely.

The Clerk read as follows:

"Resolution 316 by Mr. Pettus of Limestone. Reported adversely—

MR. HARRISON—I call for the regular order.

MR. WHITE—I was waiting on the Chairman of the Committee on Rules. I will state, Mr. President, that I have had the report of the Committee on Order, Consistency and Harmony distributed, to which is attached the proposed new Constitution. They have been placed on the desks of the members, and if the members have not secured their copy, they can apply to the Clerk and get copies. I will state, however, that there were only a few copies, and the members had better take care of them. This is not exactly the report of the Committee, because there are some corrections to be made in this report. The sub-committee is now at work on these corrections, but I thought it would be better to distribute these and let the members begin to read them over and get familiar with them. I do not believe that any time would be gained by remaining in session this afternoon——

MR. HARRISON—I would like to ask as to the first Article, has that been passed upon by the Committee?

MR. WHITE—Mainly so, but I think there are some corrections there.

MR. SAMFORD (Pike)—Is the report of the Committee on the Secretary's desk?

MR. WHITE—No, sir; the report of the Committee has not yet been completed. This is the printed report which the sub-committee is now at work on correcting. These corrections are merely typographical errors and things of that kind.

MR. SAMFORD—Haven't you the orginal report of the Committee?

MR. WHITE—The original report is not with the Clerk; it is with the Committee.

MR. SAMFORD—Is not that ready?

MR. WHITE—It is ready, but we want to submit it in the form of a printed report, because the original report is made up itself with a great many interlineations which would be very difficult to read or understand except by a member of the committee.

MR. BURNETT—When the sub-committee completes their work, will that be printed, and will we be better informed as to how to proceed with the work?

MR. WHITE—We will have a correct report at the Clerk's desk and the reading clerk can read it over and each member can correct his copy on his desk.

MR. BURNETT—Does the gentleman think that we can do that with accuracy?

MR. WHITE—I think so. I think that there are such a set of men here as can do that.

MR. BURNETT—The corrections would be few?

MR. WHITE—Merely typographical errors. Some matters of punctuation. Errors that have crept into it since it left the hands of the Committee.

MR. BULGER—Do you think your Committee will be ready with the report by tomorrow morning?

MR. WHITE—I have no doubt of it. They sent me word that it would be ready in half an hour, but I do not think that any time would be saved, because I think the members want to read the report and get at what is in it.

stitution, and that would go regularly to the enrolling clerk, and we will save some time by going on after a recess until 5 o'clock.

MR. WHITE—I would suggest that a sub-committee of about four members are at work. The Committee itself has not seen the work, and really the work ought to be submitted to our Committee this afternoon, and I want to announce now, or have the President to do it, if we do adjourn, that the Committee on Order, Consistency and Harmony will meet at 4:30 o'clock this afternoon.

THE PRESIDENT—Do you withdraw your motion and yield temporarily to the gentleman from Walker?

MR. WHITE—Yes.

MR. LONG (Walker)—I wish to introduce a short resolution.

The Secretary read the resolution as follows:

"Resolution 322: Whereas, this Convention has fixed State elections every four years, commencing in 1902, and, whereas, Judges, Sheriffs, Probate Judges, Clerks, Tax Collectors, Tax Assessors, County Treasurers, etc., terms of office expire in 1904, therefore, in order to fix all offices in the State of equal length, and have them expire at the same time, in the same years in which regulation State elections are here, be it

"Resolved, That the Committee on Order, Consistency and Harmony of the Whole Constitution be, and they are hereby, requested to report an ordinance or amendment extending for two years the terms of all officers whose terms of office expire in 1904, or some other method, so as to fix the length of all State and County officers at four years after 1906."

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

MR. WHITE—I now renew the motion to adjourn.

Upon a vote being taken, the motion was adopted, and thereupon the Convention adjourned.

SEVENTY-EIGHTH DAY

MONTGOMERY, ALA.,
Thursday, Aug. 29, 1901.

The Convention was called to order by the President, and opened with prayer by the Rev. Mr. Marshall as follows:

O, Eternal God, Creator and Conserver of all mankind, giver of all spiritual grace, we most humbly beseech Thee to prepare

I want to make this suggestion. I believe that the rules of the Convention now require this entire document to be read. If that be true, I would suggest, as a matter of economy of time that the reading of a document of that kind does not convey anything to the members; they get it from reading the Article itself, and it would take a day for the reading clerk to read it to the Convention.

THE PRESIDENT—The Chair would suggest that the difficulty could be met by a motion to dispense with the reading.

MR. WHITE—Some gentlemen indicate that they would like me to make that motion now, but it can be made in a moment in the morning; it is not necessary now probably. There is one other thing to which I would like to call the attention of the Convention. It is going to take, as I am informed, a number of days to enroll this Constitution. Some gentlemen think three days, and some think four or five days. It has to be enrolled on parchment, and nobody but an expert can write on it. I know it will take quite a while. The suggestion has occurred to me, we might so arrange the rules that as we adopt one Article, that Article might be turned over to the enrolling clerk, and by that means keep up with us in the work. I suggest that the Convention now adjourn until tomorrow morning. I do not think any time will be lost by it.

MR. LONG (Walker)—I hope the gentleman will withdraw that motion a moment for the purpose of allowing me to introduce a short resolution.

MR. PILLANS—I would like to ask the Chairman a question.

THE PRESIDENT—Will the gentleman yield to the gentleman from Mobile?

MR. WHITE—Yes.

MR. PILLANS—I was going to ask the Chairman whether, by an adjournment to 5 o'clock we could not have a complete report? I am aware, having been on the Committee, that the report went into the printers' hands, and as it came from the printer it needs corrections which are now being made. I would ask him whether it would not be best, under the intimations that have come from the gentleman, that the sub-committee is at work correcting the errors, so as to restore the report to what it was, for us to recess until 5 o'clock, and then go on as far as we may at 5 o'clock this afternoon and get through the Preamble and Bill of Rights, and have those sent to the engrossing clerk. That might save us a half day's time, and every moment's time saved is something. I would ask the gentleman not to move adjournment of this afternoon's session, but to take a recess. The idea I have is that there will be practically no debate on the first part of the Con-

our hearts and lives for this day's work. May our works, words and thoughts be well pleasing in Thy sight. Forgive us for all of our past offenses, blot out our transgressions, and may we have clean records before Thee this day. Guide us through this day by Thy spirit, keep us from danger and from sin. Hear us and answer us we beseech Thee through Christ our Lord, Amen.

Upon a call of the roll ninety-four delegates responded to their names.

THE PRESIDENT—The regular order is the report of the Committee on the Journal.

MR. CARMICHAEL (Colbert)—The Committee asks the indulgence of the Convention.

THE PRESIDENT—The Chair would call attention to the fact that the Committee made no report on yesterday.

MR. CARMICHAEL—I have the report for yesterday.

The report of the Committee on Journal was read stating that the journal for the seventy-sixth day had been examined and found correct and the same was adopted.

THE PRESIDENT—The Chair will announce for the information of delegates that the proceedings of the first three days of this Convention have been printed, in order to complete the official report of the proceedings, and they will be distributed this morning to the delegates.

THE PRESIDENT—The regular order of business will be the call of the roll of delegates for the introduction of ordinances, resolutions, etc.

Upon a motion of Mr. Samford of Pike the rules were suspended and upon a further vote the regular order was dispensed with.

MR. HEFLIN (Randolph)—I ask unanimous consent to make a report from the Committee on Schedule and Printing.

There being no objection Ordinance No. 415 was submitted with a favorable report and was read as follows:

Ordinance No. 415 by Mr. Jones (Montgomery) for the relief of E. L. May:

Be it ordained by the people of Alabama, in Convention Assembled, That the sum of $35 be, and the same is hereby appropriated to pay E. L. May for his services as clerk, for attending the meetings of the Committee on Executive Department, and transcribing the article on Executive Department as finally adopted and reported by the committee."

MR. JONES (Montgomery)—Some young ladies did part of that work and have been out of their pay for some time. I move to suspend the rules in order that the ordinance may be adopted.

Upon a vote being taken the rules were suspended and upon a call of the roll the vote resulted as follows:

AYES.

Messrs. President,
Altman,
Ashcraft,
Banks,
Barefield,
Bartlett,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Burnett,
Byars,
Cardon,
Carmichael, of Colbert,
Carnathon,
Case,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Ferguson,
Fletcher,
Foshee,
Foster,
Freeman,
Glover,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hodges,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Lowe (Lawrence),
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Martin,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Mulkey,
Murphree,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
Opp,
O'Rear,
Pearce,
Pettus,
Porter,
Proctor,
Reese,
Reynolds (Henry),
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Searcy,
Sentell,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spears,
Spragins,
Stewart,
Tayloe,
Thompson,
Vaughan,
Walker,
Watts,
White,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Winn.

Total—106.

ABSENT OR NOT VOTING.

Almon,
Beavers,
Browne,
Bulger,
Burns,
Carmichael, of Coffee,

Cofer,	Long (Butler),	Reynolds (Chilton),
Cornwall,	Long (Walker),	Robinson,
Espy,	Lowe (Jefferson),	Selheimer,
Fitts,	Maxwell,	Sloan,
Gilmore,	Morrisette,	Smith (Mobile),
Graham, of Montgomery,	NeSmith,	Sollie,
Hinson,	O'Neill (Jefferson),	Studdard,
Jenkins,	Palmer,	Waddell,
King,	Parker (Cullman),	Weakley,
Kirk,	Parker (Elmore),	Weatherly,
Kirkland,	Phillips,	Willet,
Ledbetter,	Pillans,	Williams (Elmore),
Leigh,	Pitts,	Wilson (Clarke),
Locklin,	Renfro,	Wilson (Wash'gton).
Lomax,		

The ordinance was adopted.

MR. BAREFIELD—I move that the rules be suspended and that the privileges of the floor be extended to Hon. John C. Anderson, Judge of the First Circuit.

Upon a vote being taken the motion prevailed.

THE PRESIDENT—The next in order will be the report of Committee on Order, Consistency and Harmony. Does the Chairman of the Committee desire the entire report read?

MR. WHITE—My idea is that it will be unnecessary to read the entire proposed Constitution. It will consume a great deal of time. It will have to be read section by section anyway, and I move that the reading of the proposed Constitution be dispensed with, but I would like to have the report read as it is corrected, there being a great many typographical errors in the printed report.

MR. JONES (Montgomery)—I move that the rules be suspended and the suggestion of the gentleman be adopted.

Upon a further vote being taken, the motion was carried.

THE PRESIDENT—The Sescretary will read the report.

The report was read as follows:

The report of the Committee on Order, Consistency and Harmony of the Constitution, to whom were referred the several articles of which the proposed Constitution is to consist, and also certain ordinances and resolutions not proposed to be incorporated in the Constitution, have requested me to make the following report:

We have carefully considered all of the articles, ordinances and resolutions submitted to us, and have made no changes in substance except such as were rendered necessary by the pro-

visions of the articles referred to us, to which changes your attention will be specifically called further on in this report. We have made a number of changes in transposition of clauses, omissions of unnecessary or redundant clauses, and in phraseology, verbiage, punctuation and capitalization to which we deem it unnecessary to call your special attention. We have preserved the article arrangement as in the present Constitution, but have changed the section numbers, so that the proposed constitution is numbered as a whole, without reference to articles, beginning with section one and ending with section two hundred and eighty-five; such change, in our opinion, will greatly simplify and facilitate reference thereto.

We respectfully recommend to the Convention the adoption of the following provisions to be incorporated in the article on corporations.

1. No city or town, having a population of more than six thousand, shall have authority to grant to any person, firm, corporation or association, the right to use its streets, avenues, alleys or public places for the construction or operation of water works, gas works, telephone or telegraph lines, electric light or power plants, steam or other heating plants, street railroads, or any other public utility, except railroads other than street railroads, for a longer period that thirty years.

2. Foreign corporations doing business in this State may be sued by resident citizens of this State, in any county where such corporations do business, whether the cause of action arose in this State or beyond the limits thereof.

We further recommend the adoption of an ordinance providing for the registration of electors who are to vote at the election to be held for the ratification of the proposed Constitution; also the adoption of an ordinance making subject to repeal, alteration or amendment by the Legislature all ordinances adopted by the Convention which are not included in the proposed Constitution, except the ordinance relating to the refunding of the bonded indebtedness of the State. The two ordinances referred to will be submitted to the Convention for its consideration.

Ordinance No. 414, relating to the succession of the present Governor is in proper form; no changes have been made therein, and we report it back with the recommendation that it be enrolled and signed.

Ordinance No. 410, relating to the exclusion of persons from the court house during the trial of certain cases has been incorporated in the article on the Judiciary.

Ordinance No. 390, relating to the establishment of court houses in the counties of St. Clair and Shelby, has been amended

in accordance with the provisions of ordinance No. 449, and we recommend that the same as amended be enrolled and signed. All articles, ordinances and resolutions, which were referred to the committee, are herewith returned.

In order that the Convention might not be compelled to wait for several days after the assembling, the committee have had the report and the proposed Constitution printed, and respectfully ask that their action in this particular be ratified.

The attention of the Convention is respectfully called to the following list of changes which embraces all the material alterations made by this committee:

Declaration of Rights.

1. The words "preamble and" have been dropped from the title of the article.

2. Section 36 of the engrossed article has been transferred to the article on distribution of powers of government, as appears in Section 43 of the Constitution herewith reported.

State and County Boundaries.

1. No changes have been made in the engrossed article.

Distribution of Powers of Government.

1. No ordinances were referred to the committee relating to this subject; but Article 3 of the Constitution of 1875 without change, except the incorporation thereunder of Section 36 of the engrossed article on Declaration of Rights, has been adopted by the committee as Article 3 of the proposed Constitution.

Executive Department.

1. Throughout this article the order of arrangement of the officers of the Executive Department is changed so as to correspond with the order of their succession to the office of Governor.

2. Section 5 is changed so as to provide that the executive officers named therein shall hold their respective offices for four years from the first Monday after the second Tuesday in January next succeeding their election.

3. The provision in Section 6 relating to the Lieutenant Governor's duties as President of the Senate, has been stricken out, because the same provision is contained in the article on the Legislative Department.

4. The last sentence of Section 7 has been rewritten so as to prevent the possible construction that the Governor is to receive no salary while the Lieutenant Governor is temporarily acting Governor.

5. Section 16 was changed so as to provide that if both the Governor and Lieutenant Governor should die, resign, or be removed from office,

more than 60 days prior to the next general election for any State officers, successors to both such offices shall be elected at said election.

6. Section 17 was rewritten so as to read as it appears in Section 128 of the Constitution herewith reported.

Legislative Department.

1. Section 3 of the engrossed article has been rewritten and is made Section 46 of the Constitution herewith reported. It was necessary to recast this section because of the provisions requiring quadrennial elections, and the election of all Senators at the same time.

2. Section 5 of the engrossed article has been so written as to fix the time for the meeting of the Legislature on the first Tuesday after the second Monday in January. This alteration was made necessary by the change of the time of elections from August to November.

3. Section 62 has been included in section 5 as a part thereof.

4. Section 52 has been added to section 32 of the article on the Judicial Department.

5. Section 61 is stricken out, a similar provision being contained in the article on the oath of office.

Local Legislation.

1. The entire engrossed article has been transferred to the article on the Legislative Department.

2. Section 17 was rewritten so as to make clear the requirement that a vote of the people in favor of the issuance of municipal bonds shall precede the passage of a local or special act authorizing such issue.

3. Section 18 was so changed as to allow the passage of special acts permitting cities and towns to alter and rearrange the boundaries thereof.

Judicial Department.

1. In Section 1 the words "according to the next preceding federal census" were inserted in line seven after the words "twenty thousand."

2. In Section 19 the words "justices of the Supreme Court" were inserted before the word "judges," in line one, and the words "for any State officer" after the word "election" in line three.

3. Section 20 was changed so as to provide that when a new circuit or chancery division is created, a judge or chancellor therefor shall be elected at the next general election for any State officer, instead of at the next election for representatives to the legislature.

4. In Section 21 the words "any part of" were inserted after the word "having" in line two, and the words "of general jurisdiction" after the word "court" where it appears the second time in line two. In the same section the words "such incompetent chancellor or judge could have rendered" were

inserted in the place of the words "a chancellor or 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.

5. Section 28 was changed so as to require that at any election for the circuit solicitors only those counties in the circuit in which the solicitors prosecute criminal cases can participate in the election.

6. Section 32 was transferred to the article on the Legislative Department, and constitutes the last sentence of Section 95 of the constitution herewith reported.

Impeachments.

1. To Section 2 was added the following provision: "The legislature may provide for the impeachment or removal of other officers than those named in this article."

Suffrage and Elections.

1. In Section 1 the word "adoption" was changed to "ratification." In the same section the provision relating to foreigners who have declared their intention to become citizens of the United States was changed so as to read as follows: "Provided, that all foreigners who have legally declared their intention to become citizens of the United States, shall, if they fail to become citizens thereof at the time they are entitled to become such, cease to have the right to vote until they become such citizens."

2. In Section 4 the proviso relating to persons of foreign birth was stricken out, and the following inserted in lieu thereof after the words United States in line three "except those who having had an opportunity to perfect their citizenship prior to the 20th day of December, 1902 have failed so to do."

3. In subdivision one of Section 5 the words "unless prevented by physical disability" in line one were stricken out and the proviso at the end changed so as to read: "Provided that inability to read and write shall not disqualify any elector if such disability is due to physical infirmity.

4. In sub-division two of Section 10 in line twenty-six the words "one thousand" were stricken out and "nine hundred" inserted in lieu thereof; and in line thirty-three the figures "900" were stricken out and the words "one thousand" inserted in lieu thereof.

5. In subdivision eight of Section 10 the word "person" was substituted for "elector" in lines one, two and three, and a penalty clause was added for the offenses mentioned therein, as appears in subdivision 8 of Section 188 of the Constitution herewith reported.

6. In Section 12 a penalty clause was added for the offense mentioned herein, as appears in Section 188 of the Constitution herewith reported.

7. Section 19 was made a part of Section 18, as appears in Section 194 of the Constitution herewith reported.

8. To Section 20 a penalty clause was added, as appears in Section 195 of the Constitution herewith reported.

Representation.

1. No material change was made in the engrossed article.

Taxation.

1. In line six of Section 2, after the word "for" the words "shall be absolutely void" were inserted.

2. The section relating to municipal taxation in the article on municipal corporations was taken from said article and inserted as a section of this article, as will appear in Section 216 of the Constitution reported.

3. Section 8 was added to by the Committee, and as changed was transferred to the article on municipal corporations, as will appear in Section 224 of the Constitution herewith reported.

4. Section 9 was transferred to the article on muinicipal corporations, as will appear in Section 225 of the Constitution herewith reported.

Corporations.

1. No material changes were made in the engrossed article on corporations.

2. The article on municipal corporations was made a subdivision of this article.

Municipal Corporations.

1. The first part of Section 3 was rewritten as will appear in Section 222 of the Constitution herewith reported.

2. Section 5 was rewritten, and as rewritten was transferred to the article on taxation, as will appear in Section 216 of the Constitution herewith reported.

Banks and Banking.

1. No material change was made in the engrossed article.

Education.

1. The word "school" before the word "children" was stricken out of line four of Section 1.

2. Section 9 was divided into two sections, that part relating to the University numbered 263, and that relating to the Alabama Polytechnic Institute numbered 265 in the Constitution herewith reported.

3. Changes were made in the terms of office of the trustees of each of these institutions, as will appear in the two sections above referred to.

4. To section 12 a proviso was added authorizing a one mill tax upon the property in the separate school district of Tuscaloosa, for school purposes.

Exemptions.

1. No material change was made in the engrossed article.

Militia.

1. No material change was made in the engrossed article.

Oath of Office.

1. This article was copied from the Constitution of 1875, and was made a separate article in the Constitution herewith reported.

Miscellaneous Provisions.

1. No material change was made in the engrossed article.

Mode of Amending the Constitution.

1. No material change was made in the engrossed article.

Schedule.

1. Section 6 was stricken out, the matter therein provided for having been incorporated in the article on education as appears from Section 263 of the Constitution herewith reported.

Respectfully submitted,
Frank S. White, Chairman.

CONSTITUTION OF THE STATE OF ALABAMA

We, the people of the State of Alabama, in order to establish justice, insure domestic transquility and secure the blessings of liberty to ourselves and our posterity, invoking the favor and guidance of Almighty God, do ordain and establish the following Constitution and form of government for the State of Alabama:

THE PRESIDENT—The Clerk will read Article 1.

MR. WHITE—I think the rules require that we should adopt it section by section.

THE PRESIDENT—The rule was reported by the Committee on Rules and adopted that the Constitution should be taken up article by article.

MR. WHITE—Very well.

Article I was read as follows:

ARTICLE 1.

Declaration of Rights.

That the great, general and essential principles of liberty and free government may be recognized and established, we declare:

1. That all men are equally free and independent; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness.

2. That all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and that, therefore, they have at all times an inalienable and indefeasible right to change their form of government in such manner as they may deem expedient.

3. That no religion shall be established by law; that no preference shall be given by law to any religious sect or society, denomination or mode of worship; that no one shall be compelled by law to attend any place of worship or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this State; and that the civil rights, privileges and capacities of any citizen shall not be, in any manner, affected by his religious principles.

4. That no law shall ever be passed to curtail or restrain the liberty of speech or of the press; and any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

5. That the people shall be secure in their persons, houses, papers and possessions from unreasonable seizures or searches; and that no warrant shall issue to search any place or to seize any person or thing without probable cause, supported by oath or affirmation.

6. That in all criminal prosecutions the accused has the right to be heard by himself and counsel, or either; to demand the nature and cause of the accusation and to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to testify in all cases in his own behalf, if he elects so to do; and in all prosecutions by indictment, a speedy public trial by an impartial jury of the county or district in which the offense was committed; and he shall not be compelled to give evidence against himself, nor be deprived of life, liberty or property, except by due process of law; but the Legislature may, by a general law, provide for a change of venue at the instance of the defendant in all prosecutions by indictment, and such change of venue, on application of the defendant, may be heard and determined without the personal presence of the defendant so applying therefor; provided, that at the time of the application for the change of venue, the defendant is imprisoned in jail or some other legal place of confinement.

7. That no person shall be accused, or arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed, and no person shall be punished but by virtue of a law established and promulgated prior to the offense and legally applied.

8. That no person shall for an indictable offense be proceeded against criminally by information, except in cases arising in the militia and volunteer forces when in actual service, or when assembled under arms as a military organization, or by leave of the court, for misfeasance, misdemeanor, extor-

tion and oppression in office; otherwise than is provided in this Constitution; provided, that in cases of misdemeanor, the Legislature may by law dispense with a Grand Jury and authorize such prosecutions and proceedings before justices of the peace or such other inferior courts as may be by law established.

9. That no person shall, for the same offense, be twice put in jeopardy of his life or limb; but courts may, for reasons fixed by law, discharge juries from the consideration of any case, and no person shall gain any advantage by reason of such discharge of the jury.

10. That no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

11. That the right of trial by jury shall remain inviolate.

12. That in all prosecutions for libel or 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.

13. That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial or delay.

14. That the State of Alabama shall never be made a defendant in any court of law or equity.

15. That excessive fines shall not be imposed, nor cruel or unusual punishments inflicted.

16. That all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident for the presumption great, and that excessive bail shall not in any case be required.

17. That the privilege of the writ of habeas corpus shall not be suspended by the authorities of this State.

18. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, except on the testimony of two witnesses to the overt act, or his own confession in open court.

19. That no person shall be attained of treason by the Legislature; and no conviction shall work corruption of blood or forfeiture of estate.

20. No person shall be imprisoned for debt.

21. That no power of suspending law shall be exercised except by the Legislature.

22. That no ex post facto law, nor any law impairing the obligation of contracts, or making any irrevocable or exclusive grants of special privileges or immunities, shall be passed by the legislature; and every grant of a franchise, privilege or immunity shall forever remain subject to revocation, alteration or amendment.

23. That the exercise of the right of eminent domain shall never be abridged nor so construed as to prevent the legislature from taking the property and franchises of incorporated companies, and subjecting them to public use in the same manner in which the property and franchises of individuals are taken and subjected; but private property shall not be taken for, or applied to, public use, unless just compensation be first made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner; provided, however, the legislature may by law, secure to persons or corporations, and by general laws provide for and regulate the exercise by persons and corporations of the right herein reserved; but just compensation shall in all cases be first made to the owner; and, provided, that the right of eminent domain shall not be so construed as to allow taxation or forced subscription for the benefit of railroads or any other kind of corporations, other than municipal, or for the benefit of any individual or association.

24. That all navigable waters shall remain forever public highways, free to the citizens of the State and the United States, without tax, impost or toll; and that no tax, toll, import or wharfage shall be demanded or received from the owner of any merchandise or commodity for the use of the shores or any wharf erected on the shores, or in or over the waters, of any navigable stream, unless the same be expressly authorized by law.

25. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress of grievances or other purposes, by petition, address or remonstrance.

26. That every citizen has a right to bear arms in defense of himself and the State.

27. That no standing army shall be kept up without the consent of the legislature, and, in that case, no appropriation for its support shall be made for a longer term than one year; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

28. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor, in time of war, but in manner to be prescribed by law.

29. That no title of nobility or hereditary distinction, privilege, honor or emolument, shall ever be granted or conferred in this State; and that no office shall be created, the appointment to which shall be for a longer time than during good behavior.

30. That immigration shall be encouraged; emigration shall not be prohibited, and no citizen shall be exiled.

31. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

32. That no form of slavery shall exist in this State; and there shall not be any involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

33. The privilege of suffrage shall be protected by laws regulating elections and prohibiting, under adequate penalties, all undue influence from power, bribery, tumult or other improper conduct.

34. Foreigners who are, or who may hereafter become, bona fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens.

35. That the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty and property, and when the government assumes other functions it is usurpation and oppression.

36. That this enumeration of certain rights shall not impair or deny others retained by the people; and, to guard against and encroachments on the rights herein retained, we declare that everything in this declaration of rights is excepted out of the general powers of government, and shall forever remain inviolate.

MR. WHITE—As stated, in the report, the only change made in this article was dropping the words "preamble and," and in transferring Section 36 to another article, namely, that on the distribution of powers, which is 43 in this Constitution. I move the adoption of the article as read.

MR. EYSTER—In order that Section 34 may conform to the other section, I move that the word "that" be put before the word "foreigners."

MR. WHITE—I will state that this is precisely like the old Constitution, though the Committee have no objection if it is the sense of the Convention that the word "that" ought to be inserted. We think, however, there is no necessity or occasion for it. It is an exact copy of the old Constitution.

The amendment was read as follows:

Amend Sections 33 and 34 by commencing the said sections with the word "that."

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

Upon a vote being taken, the motion to table the amendment prevailed.

THE PRESIDENT—When the gentleman from Jefferson, the chairman of the Committee, called attention to Rule 53. ——

MR. WHITE—Will the President please state the rule. I have not the rule before me.

THE PRESIDENT—It has reference to the adoption of the Constitution article by article and section by section. The Chair was then under the impression that a rule reported by the Committee on Rules had been adopted amending this rule. Upon investigation, the journal seems to show that it was laid upon the table, upon the motion of the gentleman from Jefferson.

MR. WHITE—I move that the rules be suspended and that the article be adopted, or that we dispense with the reading and adoption of the articles section by section.

THE PRESIDENT—Possibly the same point could be reached by taking the rule from the table.

MR. WHITE—If that will accomplish the same purpose, I move to take that resolution establishing that rule from the table.

MR. O'NEAL (Lauderdale)—The objection to that rule which was laid upon the table was that it provided that this Committee on Order, Consistency and Harmony should report this Constitution by articles as fast as it was completed, and that was objectionable to a great many members, and we would have to amend that rule if we take it from the table.

THE PRESIDENT—The motion is to take from the table the substitute for Rule 53.

MR. PETTUS—I ask for a reading of the rule before the question is put.

The rule was read as follows:

Amendment by Rules Committee. Rule 53, amendment thereto.

"The Committee on Order, Consistency and Harmony of the Constitution shall report the proposed Constitution to the Convention, or any part or parts thereof, from time to time, as they may think proper, and the Constitution or the parts thereof so reported, shall be read and acted upon article by article, and submitted to a vote of the Convention. If a majority of the members present shall vote therefor, the same shall be adopted; but if amended in any particular, it shall be re-referred with such amendments to the said Committee, who shall cause the article or articles amended, with such amendments so adopted, to be rewritten, and report the same to the Convention for its action.

"When the Constitution shall have been finally adopted by the Convention, it shall be enrolled, and when enrolled, it shall be again read and attested by the President and Secretary, and each delegate to the Convention shall personally sign his name thereto.

"The signatures of a majority of the delegates present or a majority of the Convention shall constitute a sufficient attestation."

MR. O'NEAL—Is that before the Convention now for action.

THE PRESIDENT—The question is upon the motion to take from the table this resolution reported by the Committee on Rules as a substitute for Rule 53.

Upon a vote being taken the motion to take from the table the resolution reported by the Committee on Rules as a substitute for Rule 53 was carried.

MR. WILLIAMS (Marengo)—I have a substitute for the rule now. The substitute to Mr. Williams of Marengo was read as follows:

"Amend Rule 53 by striking out the words 'section by section.'"

MR. WILLIAMS—Strike out the words "section by section," is the meaning of the amendment. It leaves Rule 53 then reading to be adopted "article by article." It is the effect, as I understand it that the Chairman of the Committee wants to establish.

THE PRESIDENT—It seems that there is no such word in the substitute, and the substitute itself is an amendment and the amendment offered by the gentleman from Marengo would be an amendment to the amendment and should relate to the substitute.

MR. WILLIAMS—Doesn't it relate to the substitute?

MR. O'NEAL (Lauderdale)—I will offer as a substitute Rule 53 with the words "section by section" stricken out.

THE PRESIDENT—The Chair cannot entertain an amendment unless it is in writing.

MR. COLEMAN—There was so much confusion during the reading of the rule we could not catch it over here.

THE PRESIDENT—The Chair understands the substitute reported by the Rules Committee makes no change in Rule 53, except in two particulars, one was to authorize the Committee on Harmony to report from time to time, as they were completed, and the other was to strike out the words "section by section," so as to read "adopted article by article."

MR. COLEMAN—The amendments can be made section by section as we pass along, and then the question will be on the article.

THE PRESIDENT—The substitute offered by the committee was to strike out the words "section by section," and it is proposed to have a vote taken article by article.

MR. SANFORD (Montgomery)—At what time can an amendment be made to any section if it is desired?

THE PRESIDENT—After the article is read it is open to amendment in respect to any section.

MR. SMITH (Mobile)—The amendment offered by the gentleman from Marengo would leave in there a provision whenever an amendment was made, the whole Constitution would have to be referred back to the Committee on Harmony, and rewritten, although there might be only one amendment to one section of one article. I think at the present time the amendment offered by the committee is the same in effect as that of the gentleman from Marengo with that exception. I think the amendment should not be adopted, as it would require the committee to rewrite the Constitution every time there was an amendment to some particular section.

MR. HOOD—Is an amendment to the article in order?

THE PRESIDENT—The question is on the substitute for Rule 53—does the gentleman from Mobile make any motion?

MR. SMITH (Mobile)—I move that the amendment of the gentleman from Marengo be laid upon the table.

MR. WILLIAMS (Marengo)—I ask leave to withdraw my amendment. I understood the Chair to rule it was not in order because it is not germane.

Leave was granted and the amendment withdrawn.

THE PRESIDENT—The Chair will call attention to another point, whether or not it would require an aye and no vote upon the passage of these articles at this time. Rule 49 says upon the final adoption of any article or section of the Constitution the vote shall be taken by yeas and nays and spread upon the journal and be referred to the Committee on Order, Consistency and Harmony of the Constitution."

MR. HARRISON—They have been adopted by an aye and no vote. It occurs to me that rule has exhausted itself. It has been complied with by the adoption of the articles, and it would be unnecessary consumption of time to do it again, but if the Chair holds that, I would move to amend it so as to dispense with a call.

MR. BEDDOW—I desire to offer a substitute.

THE PRESIDENT—The pending question is a substitute reported by the Committee on Rules for Rule 53.

The Secretary read the substitute offered by Mr. Beddow as follows: "Resolved that the Constitution be considered article by article instead of section by section, that when the reading of any article is completed, any section thereof will be open to amendment."

MR. ASHCRAFT—In response to the suggestion made by the Chair, I desire to call attention of the Chair to the latter part of Rule 53 which says: "When the Constitution shall have been finally adopted by the Convention, it shall be enrolled, and when enrolled, it shall be again read and attested by the President and Secretary, and each delegate to the Convention personally shall sign his name thereto." It does not say whether it is to be finally adopted by an aye and no vote, or a viva voce vote. Rule 49 precedes the action of the Committee on Harmony, Rule 53 provides for action afterwards.

THE PRESIDENT—Rule 49 requires the vote to be taken by ayes and noes, the other rule does not, and in the absence of some express instruction upon that point express instruction upon that point the ordinary rule would prevail. The Chair calls attention to it to consult the pleasure of the Convention. If the Convention wishes to have an aye and no vote it can be demanded, or the rule can be so amended as to require it.

MR. ASHCRAFT—It seems to me when we have made all the amendments we propose to make, the whole Constitution has been completed, and the passage of the whole Constitution by a call of the house would be the proper thing.

THE PRESIDENT—The question now is whether the Convention shall re-adopt these articles, article by article, upon an aye and nay vote. The question will be upon the substitute offered by the gentleman from Jefferson for the substitute offered by the Committee on Rules, to Rule 53.

Upon a vote being taken the substitute was lost.

MR. CUNNINGHAM—I move the previous question on the committee's report.

THE PRESIDENT—The gentleman from Jefferson moves the previous question. The question is shall the main question be now put?

MR. O'NEAL (Lauderdale)—I was going to move that it be recommitted to the Committee on Rules.

THE PRESIDENT—A motion for the previous question has precedence of a motion to recommit. The question is shall the main question be now put?

MR. ASHCRAFT—I rise to a question of inquiry. This is a matter that we want to get right. If the rule of the committee is adopted what will become of that part of Rule 53 which requires "when enrolled it shall be attested by the President and Secretary and each member of the Convention shall sign his name thereto?"

THE PRESIDENT—The substitute covers that.

Upon a vote being taken, the previous question was ordered.

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

MR. SANFORD (Montgomery)—On that I call for the ayes and noes.

The call was not sustained.

Upon a vote being taken, the substitute was adopted, and a further vote being taken, the rule as amended was adopted.

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

Upon a vote being taken, the Article was adopted.

MR. WHITE—I move that as the Articles as passed by the Convention, they be enrolled by the enrolling clerk, so as to keep up with the work of the Convention.

MR. CARMICHAEL (Colbert)—I ask unanimous consent to introduce a resolution along that line.

MR. OATES—I did not understand. I thought the vote taken just now was on the amendment. I would like to make a suggestion to the Convention on one of the sections; it is a novelty as it is.

THE PRESIDENT—The Chair submitted the question on the adoption of the Article. There seemed to be no gentleman who had an amendment to the Article.

MR. OATES—I do not wish to offer an amendment, but I think a change ought to be made in Section 34.

THE PRESIDENT—The Chair would state that there were two amendments offered, one by the gentleman from Morgan, and voted down, and the other related simply to the supplying of a word, and that was by unanimous consent.

MR. OATES—I understand it was on another amendment. I want to call the attention of the Convention to Section 34, which

is in the same language as in the present Constitution, but, in my judgment, it ought never to have been there. It reads: "Foreigners who are or who may hereafter become, bona fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens." That is of more consequence than would occur to most delegates. This is a favor to foreigners, which in many countries, is not granted to our own citizens at all. Now, sir, a citizen of Alabama, or even of the United States, in other countries cannot inherit real estate unless by virtue of a treaty or some innate provision of a statute there, and many have no such provisions. Permit me to give an illustration to this Convention of its importance here. I think it wise, prudent and just for our laws to protect even a foreigner in the ownership of his property; he ought to be protected, but when you go further than that and extend the right of inheritance to a foreigner who owes no allegiance to this country at all, but who sees proper to be domiciled here for the time being, it is a courtesy of the most extraordinary kind, which you will not find in any other Constitution in the United States or in any country, and it seems to me that this Convention ought not to go that far. A controversy arose in this State in 1895, while I was the Chief Executive. An Act was passed by the Legislature in regard to the A. G. S. Road, and as to who should become its officers, and the Act evidently gave that right to the resident stockholders, while there were many who were only temporary residents, under this provision in the Constitution, and our statute following it, who had the same right of property in all respects here as our citizens—even the native-born citizens. Then it was not competent for the Legislature to change the statutes to affect the right of those not citizens here, though some of them were temporary residents here, and it required of the Executive a veto for that reason. That is one of the consequences and other consequences may arise. While I do not offer any amendment, I think that section ought to be changed, and the language modified so as not to go as far as it does.

THE PRESIDENT—The Chair will state to the Convention that the Article has been adopted, and that no motion in reference to this Article would be in order without a motion to reconsider.

MR. COBB—Mr. President——

THE PRESIDENT—For what purpose does the gentleman from Macon rise?

MR. COBB—I want to offer an amendment.

THE PRESIDENT—The Article has been adopted.

MR. COBB—I will move to reconsider. I want to strike out line 22 "native-born citizens," and insert in lieu thereof "as may be prescribed by the Legislature."

THE PRESIDENT—The question will be upon the motion of the gentleman to reconsider, which will not be in order at this time, and will have to go over until tomorrow, unless the gentleman moves to suspend the rules.

MR. COBB—Then I move to suspend the rules.

Upon a vote being taken, the motion to suspend the rules was lost.

MR. CARMICHAEL (Colbert)—I have a resolution.

The Secretary read the resolution as follows:

"Resolved, That the President of this Convention shall appoint a Committee on Enrollment, consisting of five members, whose duty shall be to appoint an expert penman to enroll the proposed Constitution, and it shall be the duty of said Committee to superintend said enrollment."

THE PRESIDENT—Unless the gentleman desires to have it considered presently, it will go to the Committee on Rules.

MR. CARMICHAEL—In line with the suggestion made by the Chairman of the Committee and for the purpose of allowing his motion to prevail, I move that the rules be suspended and that the resolution be immediately considered.

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

MR. WHITE—I move that the Articles as passed by the Convention be enrolled by the Enrolling Clerk hereafter to be selected without waiting for the entire Constitution to be adopted.

MR. JONES (Montgomery)—I would like to inquire if we are not in danger of doing useless work. You send it to the Enrolling Clerk and it is enrolled, and a little later the Convention makes a change which may require a recasting of the whole thing.

MR. WHITE—That may be true, but I think the waste of that much parchment will be inconsiderable compared with keeping the Convention in session four or five days after we have finished the Constitution.

MR. COBB—A parliamentary inquiry. What would become of my motion to amend, if it is reconsidered tomorrow?

THE PRESIDENT—The gentleman will have to take care of his own motion. The Chair cannot do it for him.

MR. COBB—I am going to take care of it, but I want to call your attention to the enrollment matter.

THE PRESIDENT—The question is on the motion of the gentleman from Jefferson.

Upon a vote being taken, the motion was adopted.

The Secretary read Article II.

ARTICLE II.

State and County Boundaries.

37. The boundaries of this State are established and declared to be as follows, that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido River; thence east to the western boundary line of the State of Georgia; thence along said line to the southern boundary line of the State of Tennessee; thence west along the southern boundary line of the State of Tennessee, crossing the Tennessee river, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear Creek; thence by direct line to the northwest corner of Washington County, in this State, as originally formed; thence southwardly along the line of the State of Mississippi, to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore to the Perdido river; thence up the said river to the beginning; provided that the limits and jurisdiction of this State shall extend to and include any other land and territory hereafter acquired by contract or agreement with other States, or otherwise; although such land and territory are not included within the boundaries hereinbefore designated.

38. The boundaries of the several counties of this State, as they now exist, are hereby ratified and confirmed.

39. The Legislature may by a vote of two-thirds of each house arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered except by a like vote; but no new county shall be formed hereafter of less extent than 600 square miles; and no existing county shall be reduced to less than 600 square miles; and no new county shall be formed unless it shall contain a sufficient number of inhabitants to entitle it to one representative under the ratio of representation existing at the time of its formation, and leave the county or counties, from which it is taken with the required number of inhabitants to entitle such county or counties each, to separate representation; provided, that out of the counties of Henry, Dale, and Geneva a new county of less than 600 square miles may be formed under the provisions of this article, so as to leave said counties of Henry, Dale and Geneva with not less than 500 square miles each.

40. No county line shall be altered or changed, or, in the event of the creation of new counties, shall be established, so as to run within seven miles of the county court house of any old county.

41. No court house or county site shall be removed except by a majority vote of the qualified electors of said county, voting at an election held for such purpose, and when an election has once been held no other election shall be held for such purpose until the expiration of four years; provided, that the county site of Shelby county shall remain at Columbiana, unless removed by a vote of the people as provided for in an act entitled

"An act to provide for the permanent location of the county site of Shelby county, Alabama, by a vote of the qualified electors of said county," approved the 9th day of February, 1899, and the act amendatory thereof, approved the 20th day of February, 1899, or by an election held under the provisions of this article.

MR. FOSTER—I move the adoption of the article. There has been no change made in it.

MR. CORNWELL—**I have an amendment.**

The amendment was read as follows: Add to Section 39, after the word each, the following: Provided further, that the provisions of this article shall not apply to the formation of a new county to be carved out of the southern portion of Jefferson County and the northern portions of Tuscaloosa and Bibb counties which new county may be formed by legislature and provided such new county shall not contain less than four hundred square miles."

MR. CORNWELL—At the beginning of this Convention I introduced an ordinance which provided for the formation of counties of four hundred square miles, which applied generally throughout the State. It became very evident that this Convention for good reasons, I presume, did not deem it to the interest of the State to form four hundred square mile counties. Since that was the case there is nothing else left for my people whom I represent in Jefferson, and I claim that my people have every right and every requisite to form a good and substantial county of four hundred square miles. In the territory that we have and propose to cut off we have between six and seven million dollars of taxable wealth; we have between twenty-five and thirty thousand inhabitants and you gentleman who know the counties of Alabama will readily see that it is greater in wealth and larger in population than one half of the counties of this State. Now is it right, gentlemen, that we should be denied the privilege of forming a county here for twenty, thirty or fifty years perhaps? Do you want to deny to those people there the right of local self-government? Should you not treat us as you would like to be treated if you were situated as we are, gentlemen? Your people would want what we are asking for. We are asking for only what is right in the matter and we hope that this Convention will allow us that privilege and that the legislature will have the right to allow us to form this county. We do not ask the Convention to give it to us, we simply ask the right, as this Convention has already given to another section of the State to form this County out of these portions of Tuscaloosa, Bibb and Jefferson. I think that we are not asking anything unreasonable, and that we ought to be entitled to have this county, provided we can get the legislature to give it to us. Even after we have this right from this Convention, it does not neessarily mean that we will get the county because the fight will come up in the legislature and I hope that this Con-

vention will allow us at least the privilege of having this fight in the legislature.

MR. OPP—I rise merely to suggest the impropriety of going into this question and I do not think at this stage this matter should be broached. As I understand it a majority of the members from those counties, at least from Jefferson County, are opposed to it, and so is Tuscaloosa County, if I am not in error and I therefore move to lay the amendment on the table.

MR. CORNWELL—I call for the ayes and noes on that.

The call was sustained.

THE PRESIDENT—The question is on the motion to table the amendment offered by the gentleman from Jefferson.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,
Altman,
Ashcraft,
Barefield,
Beddow,
Bethune,
Boone,
Cardon,
Carmichael, of Colbert,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Ferguson,
Foster,
Greer, of Perry,
Haley,
Handley,
Heflin, of Randolph,
Hood,
Howze,
Inge,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Ledbetter,
McMillan (Baldwin),
Martin,
Merrill,
Miller (Marengo),
Moody,
Murphree,
O'Neill (Jefferson),
Opp,
O'Rear,
Parker (Elmore),
Phillips,
Pillans,
Reese,
Reynolds (Henry),
Samford,
Selheimer,
Sloan,
Smith (Mobile),
Spears,
Spragins,
Stewart,
Thompson,
Waddell,
Walker,
Watts,
Weatherly,
White,
Williams (Barbour),
Williams (Elmore),
Wilson (Clarke),
Winn,

TOTAL—61

NOES

Banks,
Beavers,
Blackwell,
Browne,
Burnett,
Burns,
Byars,
Carmichael, of Coffee,
Carnathon,
Case,
Chapman,
Cobb,
Coleman, of Walker,
Cornwall,
Eley,
Eyster,
Fletcher,
Foshee,

Freeman,	Lowe (Lawrence),	Reynolds (Chilton),
Gilmore,	Macdonald,	Sanford,
Glover,	McMillan (Wilcox),	Searcy,
Graham, of Montgomery,	Miller (Wilcox),	Sentell,
Graham, of Talladega,	Mulkey,	Smith, Mac. A.,
Grant,	Norwood,	Smith, Morgan M.,
Grayson,	Oates,	Studdard,
Greer, of Calhoun,	O'Neal (Lauderdale),	Tayloe,
Harrison,	Palmer,	Vaughan,
Henderson,	Parker (Cullman),	Whiteside,
Hodges,	Pearce,	Williams (Marengo),
Howell,	Pettus,	Wilson (Washington),
Long (Butler),	Porter,	

TOTAL—56

ABSENT OR NOT VOTING

Almon,	Jones, of Hale,	Norman,
Bartlett,	King,	Pitts,
Brooks,	Kirk,	Proctor,
Bulger,	Kirkland,	Renfro,
Cofer,	Leigh,	Robinson,
Coleman, of Greene,	Locklin,	Rogers (Lowndes),
Craig,	Lomax,	Rogers (Sumter),
Espy,	Long (Walker),	Sanders,
Fitts,	Lowe (Jefferson),	Sollie,
Heflin, of Chambers,	Malone,	Sorrell,
Hinson,	Maxwell,	Weakley,
Jackson,	Morrisette,	Willet,
Jenkins,	NeSmith,	

By a vote of 61 ayes and 56 noes the amendment was tabled.

MR. MURPHREE—I have an amendment.

"Strike out the word 'majority' in the first line and insert the word 'two-thirds.'"

MR. MURPHREE—I offer this amendment because the people have invested their money, built court houses and jails, churches and school houses, and the county site ought not to be moved by a mere majority vote. I think it should be two-thirds.

MR. GREER (Calhoun)—I dislike to do so, but a majority of the people own the court houses and have a right to move them. The table is crowded, but there is room for one more and I move to table the amendment.

Mr. Oates took the Chair.

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

Upon a vote being taken a division was called for and by a vote of 75 ayes and 27 noes the amendment was tabled.

THE PRESIDENT PRO TEM.—The question is on the adoption of the Article as read.

Article III was read as follows:

ARTICLLE III

Distribution of Powers of Government.

42. The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confined to a separate body of magistracy, to-wit: Those which are legislative, to one; those which are executive to another; and those which are judicial to another.

43. In the government of this State, except in the instances in this Constitution hereinafter expressly directed or permitted, the Legislative Department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end that it may be a government of laws and not of men.

MR. SPRAGINS—I ask unanimous consent to make a correction. In the 6th line of Section 43, at the end of the line to strike out "or" and substitute "and."

By unanimous consent the amendment was ordered.

THE PRESIDENT PRO TEM—The question is upon the adoption of the article as read.

MR. DAVIS (Etowah) — The Convention referred to the Committee on Harmony no article on distribution of powers of government. We therefore took from the old Constitution the section therein under that title and in addition thereto we added the present Section 43, which was taken from the Preamble and Declaration of Rights, and I move the adoption of the article as read.

MR. COLEMAN—As there has been no vote upon this at all, it seems to me it would require an aye and no vote.

THE PRESIDENT PRO TEM.—The Chair is of the opinion if the Convention adopts the article as read it would be sufficient.

Upon a vote being taken the article as read was adopted.

Article IV was read as follows:

ARTICLLE IV

Legislative Department

44. The legislative power of the State shall be vested in a Legislature, which shall consist of a Senate and a House of Representatives.

45. 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 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.

46. Senators and Representatives shall be elected by the qualified electors on the first Tuesday after the first Monday in November, unless the Legislature shall change the time of holding elections, and in every fourth year thereafter. The terms of office of the Senators and Representatives shall commence on the day after the general election at which they are elected, and expire on the day after the general election held in the fourth year after their election, except as otherwise provided in this Constitution. At the general election in the year nineteen hundred and two all the Representatives, together with the Senators for the even numbered districts and for the thirty-fifth district, shall be elected. The terms of those Senators who represent the odd numbered districts under the law in force prior to the ratification of this Constitution, are hereby extended until the day after the general election in the year nineteen hundred and six; and until the expiration of his term as hereinbefore extended, each Senator shall represent the district established by this Constitution, bearing the number corresponding with that for which he was elected. In the year nineteen hundred and six and in every fourth year thereafter, all the Senators and Representatives shall be elected. Whenever a vacancy shall occur in either House the Governor shall issue a writ of election to fill such vacanacy for the remainder of the term.

47. Senators shall be at least 25 years of age, and Representatives 21 years of age at the time of their election. They shall have been citizens and residents of this State for three years, and residents of their respective counties or districts for one year next before their election, if such county or district shall have been so long established; but if not, then of the county or district from which the same shall have been taken, and they shall reside in their respective counties or districts during their terms of office.

48. The Legislature shall meet quadrennially at the Capitol, in the Senate chamber, and in the hall of the House of Representatives on the second Tuesday in January next succeeding their election, or on such other day as may be prescribed by law; and shall not remain in session longer than 60 days at the first session held under this Constitution, nor longer

than 50 days at any subsequent session. If at any time it should from any cause become impossible or dangerous for the Legislature to meet or remain at the Capitol, or for the Senate to meet or remain in the Senate chamber, or for the Representatives to met or remain in the hall of the House 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.

49. The pay of the members of the Legislature shall be four dollars per day, and ten cents per mile in going to and returning from the seat of government, to be computed by the nearest usual route traveled.

50. The Legislature shall consist of not more than thirty-five Senators, and not more than one hundred and five members of the House of Representatives, to be apportioned among the several districts and counties as prescribed in this Constitution; provided that in addition to the above number of Representatives, each new county hereafter created shall be entitled to one Representative.

51. 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 pro tem. 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 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 the temporary disability 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 during the continuance of his disability; and such temporary officer, while performing duty as such, shall receive the same compensation to which the permanent officer is entitled by law, and no other. Each house shall choose its own officers, and shall judge of the election, returns and qualifications of its members.

52. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner, and under such penalties, as each house may provide.

53. Each house shall have power to determine the rules of its proceedings, and to punish its members and other persons for contempt or disorderly behavior in its presence; to enforce obedience to its processes, to protect its members against violence, or offers of bribes or corrupt solicitation; and, with the concurrence of two-thirds of the house, to expel a member, but not a second time for the same offense; and the two houses shall have all the powers necessary for the Legislature of a free State.

54. A member of the Legislature 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.

55. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house on any question shall, at the request of one-tenth of the members present, be entered on the journal. Any member of either house shall have liberty to dissent from, or protest against any action or resolution which he may think injurious to the public or to an individual, and have the reason for his dissent entered on the journal.

56. 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 sessions of the 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.

57. 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 other persons to whom either house, by unanimous vote, may extend the privileges of its floor.

58. 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, except as otherwise provided in this Constitution.

59. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people.

60. 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.

61. No law shall be passed except by bill, and no bill shall be so altered or amended on its pass go through either house as to change its original purpose.

62. 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.

63. Every bill shall be read on three different days in each house, and no bill shall become a law unless on its final passage it be read at length, and the vote be taken by yeas and nays, the names of the members voting for and against the same be entered upon the journal, and a majority of each house be recorded thereon as voting in its favor, except as otherwise provided in this Constitution.

64. 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 a vote be taken by yeas and nays and the names of the members voting for and against the same be recorded at length on the journal; and no report of a committee of 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.

65. The legislature shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery; and all acts or parts of acts heretofore passed by the legislature of this State authorizing a lottery or lotteries, and all acts amendatory thereof, or supplemental thereto, are hereby avoided.

66. 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 be also entered on the journal.

67. 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.

68. The legislature shall have no power to grant, or to authorize or require any county or municipal authority to grant, nor shall any county or municipal authority have power to grant, any extra compensation, fee or allowance to any public officer, servant or employe, agent or contractor, after service shall have been rendered or contract made; nor 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.

69. 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, binding and repairing, and furnishing the halls and rooms used for the meeting of the legislature and its committees, shall be performed, under contract, to be given to the lowest responsible bidder below a maximum price, and under such regulations as shall be prescribed by law; no member or officer of any department of the government shall be in any way in-

terested in such contracts, and all such contracts shall be subject to the approval of the Governor, Auditor and Treasurer.

70. 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 bill shall be passed during the last five days of the session.

71. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the Executive, Legislative and Judicial Departments of the State, for 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 therein for any officer or employe, unless his employment and the amount of his salary have already been provided by law. All other appropriations shall be made by separate bills, each embracing but one subject.

72. 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.

73. 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.

74. No act of the legislature shall authorize the investment of any trust fund by executors, administrators, guardians or other trustees in the bonds or stock of any private corporation; and any such acts now existing are avoided, saving investments heretofore made.

75. 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.

76. 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. Special sessions shall be limited to thirty days.

77. 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.

78. 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.

79. 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, association 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 for 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 and penalties provided thereby for such offense, and such additional punishment as is or shall be provided by law.

80. Any person who shall, directly or indirectly, offer, give or promise any money or thing of value, testimonial, privilege, or personal advantage to any executive or judicial officer, or member of the Legislature, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as may be provided by law.

81. 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 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.

82. 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.

83. In all elections by the Legislature the members shall vote viva voce, and the votes shall be entered on the journal.

84. 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 shall choose that mode of adjustment.

85. 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 revising, digesting and pro-

mulgating the public statutes of this State of a general nature, both civil and criminal.

86. The Legislature shall pass such penal laws as it may deem expedient to suppress the evil practice of dueling.

87. It shall be the duty of the Legislature to regulate by law the cases in which deduction shall be made from the salaries of compensation of public officers for neglect of duty in their official capacities, and the amount of such reduction.

88. 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.

89. The Legislature shall not have power to authorize any municipal corporation to pass any laws inconsistent with the general laws of this State.

90. In the event of the 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 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.

91. The Legislature shall not tax the property, real or personal, of the State, counties, or other municipal corporations, or cemeteries; nor lots in incorporated cities or towns, or within one mile of any city or town to the extent of one acre, nor lots one mile or more distant from such cities or towns to the extent of five acres, with the buildings thereon, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable.

92. The Legislature shall by law prescribe such rules and regulations as may be necessary to ascertain the value of real and personal property exempted from sale under legal process by this Constitution, and to secure the same to the claimant thereof as selected.

93. 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.

94. The Legislature shall not have 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.

95. There can be no law of this State impairing the obligation of contracts by destroying or impairing the remedy for their enforcement; and the

Legislature shall have no power to revive any right or remedy which may have become barred by lapse of time, or by any statute of this State. 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 existing defense to such suit.

96. The Leagislature 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.

97. The Legislature shall not authorize payment to any person of the salary of a deceased officer beyond the date of his death.

98. The Legislature shall not retire any officer on pay, or part pay, or make any grant to such retiring officer.

99. Lands belonging to or under the control of the State shall never be donated directly or indirectly to private corporations, associations, or individuals or railroad companies; nor shall such lands be sold to corporations or associations for a less price than that for which they are subject to sale to individuals; provided, that nothing contained in this section shall prevent the Legislature from granting a right of way, not exceeding one hundred and twenty-five feet in width, as a mere easement, to railroads or telegraph or telephone lines across State land, and the Legislature shall never dispose of the land covered by such right of way except subject to such easement.

100. No obligation of liability or 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 extinguished 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.

101. 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.

102. The Legislature shall never pass any law to authorize or legalize any marriage between any white person and a negro or descendant of a negro.

103. 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 any of them from making scarce articles of necessity, trade or commerce, or from increasing unreasonably the cost thereof to the consumer, or preventing reasonable competition in any calling, trade or business.

MR. WATTS—I rise to a question of information. Will the Secretary tell me whether Section 27 of the Legislative Department was adopted by this Convention? The reason I ask is, it contains a very important provision, which I do not find in the report of the Committee on Order, Consistency and Harmony, and we ought to understand whether or not it has been adopted. The Section is that the aggregate appropriations made shall not exceed the amount of the incomes from the revenues of the State for the current fiscal year as estimated by the Governor and Auditor. I do not recollect whether that was adopted or not.

MR. ROGERS (Sumter)—I will state to the gentleman from Montgomery that it was not. It was adopted and reconsidered the next day and Judge Coleman offered an amendment and on reconsideration the whole matter was lost.

PRESIDENT PRO TEM—Is the the delegate from Montgomery satisfied with the explanation?

MR. WATTS—Yes, sir. The gentleman from Sumter assures me that he recollects it was not adopted.

PRESIDENT PRO TEM.—The Chair will state that as local legislation, which is next, is not made a separate article, but is a subdivision, the Clerk will proceed to read it, so that at the end of the article, according to the ruling of the Chair, it will be subject to amendment.

The President here resumed the Chair.

The Clerk continued the reading as follows:

LOCAL LEGISLATION

104. The legislature shall not pass a special, private or local law in any of the following cases:

(1.) Granting a divorce;

(2.) Relieving any minor of the disabilities of non-age;

(3.) Changing the name of any corporation, association or individual;

(4.) Providing for the adopting or legitimizing of any child;

(5.) Incorporating a city, town or village;

(6.) Granting a charter to any corporation, association or individual;

(7.) Establishing rules of descent or distribution;

(8.) Regulating the time within which a civil or criminal action may be begun;

(9.) Exempting any individual, private corporation or association from the operation of any general law.

(10) Providing for the sale of the property of any individual or estate;

(11.) Changing or locating a county seat;

(12.) Providing for a change of venue in any case;

(13.) Regulating the rate of interest;

(14.) Fixing the punishment of crime;

(15.) Regulating either the assessment or collection of taxes, except in connection with the re-adjustment, renewal or extension of existing municipal indebtedness created prior to the adoption of the Constitution of eighteen hundred and seventy-five;

(16.) Giving effect to an invalid will, deed or other instrument;

(17.) Authorizing any county, city, town, village, district or other political sub-division of a county, to issue bonds or other securities unless the issuance of said bonds or other securities shall have been authorized before the enactment of such local or special law, by a vote of the duly qualified electors of such county, township, city, town, village, district or other political subdivision of a county, at an election held for such purpose, in the manner that may be prescribed by law; provided, the legislature may without such election, pass special laws to refund bonds issued before the date of the ratification of this Constitution;

(18.) Amending, confirming or extending the charter of any private or municipal corporation, or remitting the forfeiture thereof; provided, this shall not prohibit the legislature from altering or re-arranging the boundaries of any city, town or village;

(19.) Creating, extending or impairing any lien;

(20.) Chartering or licensing any ferry, road or bridge;

(21.) Increasing the jurisdiction and fees of justices of the peace or the fees of constables;

(22.) Establishing separate school districts;

(23.) Establishing separate stock districts;

(24.) Creating, increasing or decreasing fees, per centages or allowances of public officers;

(25.) Exempting property from taxation or from levy or sale;

(26.) Exempting any person from jury, road or other civil duty;

(27.) Donating any lands owned by or under control of the State to any person or corporation;

(28.) Remitting fines, penalties or forfeitures;

(29.) Providing for the conduct of elections or designating places of voting, or changing places of voting, or changing the boundaries of wards,

precincts or districts, except in the event of the organization of new counties, or the changing of the lines of old counties;

(30.) Restoring the right to vote to persons convicted of infamous crimes, or crimes involving moral turpitude;

(31.) Declaring who shall be liners between precincts or between counties. The legislature shall pass general laws for the cases enumerated in this section; provided, that nothing in this section or article shall effect the right of the legislature to enact local laws regulating or prohibiting the liquor traffic; but no such local law shall be enacted unless notice shall have been given as required in Section 106 of this Constitution.

105. No special, private or local law, except a law fixing the time of holding courts, shall be enacted in any case which is provided for by a general law, or when the relief sought can be given by any court of this State; and the courts, and not the legislature, shall judge as to whether the relief sought can be given by any court; nor shall the Legislature indirectly enact any such special, private or local law by the partial repeal of a general law.

106. No special, private or local law shall be passed on any subject not enumerated in Section 104 of this Constitution, except in reference to fixing the time of holding courts, unless notice of the intention to apply therefor shall have been published, without cost to the State, in the county or counties where the matter or thing to be effected may be situated, which notice shall state the substance of the proposed law, and be published at least once a week for four consecutive weeks in some newspaper published in such county or counties, or if there is no newspaper published therein, then by posting the said notice for four consecutive weeks at five different places in the county or counties prior to the introduction of the bill; and proof by affidavit that said notice has been given shall be exhibited to each house of the Legislature, and said proof spread upon the journal. The courts shall pronounce void every local law which the journals do not affirmatively show was passed in accordance with the provisions of this section.

107. The Legislature shall not, by a special, private or local law, repeal or modify any special, private or local law except upon notice being given and shown as provided in the last preceding section.

108. The operation of a general law shall not be suspended for the benefit of any individual, private corporation or association; nor shall any individual, private corporation or association be exempted from the operation of any general law except as in this Article otherwise provided.

109. The Legislature shall pass general laws under which local and private interests shall be provided for and protected.

110. A general law within the meaning of this Article is a law which applies to the whole State; a local law is a law which applies to any political subdivision or subdivisions of the State, less than the whole; a special or private law within the meaning of this Article is one which applies to an individual, association or corporation.

111. No bill introduced as a general law in either house of the Legislature, shall be so amended on its passage as to become a special, private or local law.

THE PRESIDENT—The Chair will announce the Committee on Enrollment of the Constitution. It will consist of Messrs Carmichael (Colbert), Selheimer, Pillans, Foster and Samford of Pike.

MR. WATTS—I have an amendment to Section 106.

The amendment was read as follows:

Amend Section 106 by inserting before "local" in line 13, the words "special, private or."

MR. WATTS—The object of that amendment is simply to make the same language in that line as appears all the way through the article on Local Legislation, and I hope the committee will accept it.

MR. WHITE—The committee will accept that.

THE PRESIDENT — The gentleman from Jefferson, the chairman of the Committee on Order, Consistency and Harmony asks unanimous consent to accept the amendment offered by the gentleman from Montgomery.

The consent was given.

MR. ROGERS (Lowndes) — I move to amend Section 24, line 6——

THE PRESIDENT—The gentleman will have to reduce the amendment to writing.

MR. SAMFORD (Pike)—I have an amendment.

The amendment was read as follows:

Amend the report of the committee by striking out the words "provided this shall not prohibit the Legislature from altering or re-arranging the boundaries of any city, town or village," in line 24, page 23.

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Pike.

MR. SAMFORD (Pike)—According to my recollection, the Convention had a very decided and very spirited contest over this particular clause, which I am sure has been inadvertently re-inserted by the Committee on Harmony. This Convention, after discussion the question decided that the question as to whether or not suburban towns should be taken into the cities, should first be submitted to a vote of the people in those suburban places. I

simply desire to call the attention of the Convention to the fact. I am not a suburbanite myself, but it could be done by a general law covering the entire matter, and this question was fought over in this Convention, and the Convention voted down the identical idea that has been inserted here by the Committee on Order, Consistency and Harmony. I am sure the Committee did not have any such intention when it put it in there. I am sure its attention was not called to the fact that the Convention had voted it down, and a change like that is such a material change from the action of the Convention that it occurs to me that the committee would not be warranted in making the report. I therefore offer the amendment. I do not think it right now, as I did not as the time we discussed the question heretofere, that people outside of the corporate limits of a city should, nolens volens, be taken within the limits, whether they want to go in or not, without having a word to say about it, and I call attention to the fact that in the cities that are constantly reaching out for a larger territory, for the purpose of taxation and paying off the indebtedness that has already accrued within the bounds of the corporation, and not specially for the protection of the people on the outside, that the people on the outside ought to have the right to say by their votes whether they want the protection of the city and all those advantages the city propose to give to them. This question, as I say, has been settled by the Convention, and it looks to me like questions of this sort ought to remain unsettled and not be brought in in this manner.

MR. PILLANS—At the time that the article covering local legislation was under consideration by this body, some criticism was made of this clause as originally written, which forbade the amending, confirming or extending the charter of any private or municipal corporation, because it appeared upon the adoption of that, it would be impossible ever after to change in any way, either by restriction or enlargement, the boundaries of any municipality of the State. The answer was that the article on municipal corporations would properly deal with that subject matter. The section of the article on municipal corporations which did contain that subject matter, contained a good many other subjects matter, and fell, and this committee brings it here and frankly avows to the Convention that it did insert this, because they believed it was the intent of the Convention that it should be inserted. The action of the committee was founded, I was about to say, upon the apparent necessity for some loop hope being left with regard to local legislation for the cities of the State. I would call the attention of the Convention to this fact; that when we adjourn and the Constitution which we frame shall be adopted, which I trust it will, and assume it will be, every city, town and village which is incorporated in the State of Alabama will be fixed within a mold inflexible, unyielding and unchanging, unless there is a pow-

er residing somewhere to change it. That is plain. The law that now exists under which any city, town or village in this State has been incorporated, remains beyond the power of the Legislature to change, if this section stands as originally written, by any local legislation.

Is there a power to change it vested anywhere else? Can a general law be passed under which a change can take place? It has been suggested that this is put in here to enable cities to grasp the suburban property about them. I call attention to the fact that there is no room for that, and that the history of legislation in regard to city boundaries in Alabama during the past does not point to any such probability as that. As a matter of fact the cities of Alabama have not ordinarily been extending their boundaries, but the chief city of the State, the city of Mobile, has not for a great many years asked the Legislature for legislation in regard to city boundaries, and has only twice asked for such legislation, and in each case it was for a restriction of the boundaries.

MR. SAMFORD (Pike)—Do you remember the legislation in regard to the boundaries of the city of Montgomery?

MR. PILLANS—I have not been able to find it. Before I came here I was never able to get the acts of that fecund legislature and have never known what they did, and I am really ignorant as to what the last Legislature did, because I have not had time to read the acts since I got here.

Now the point is this: There was a necessity found for the city of Mobile to have more restricted boundaries, and the legislature limited the boundaries and restricted them. Again, it was found improper that the east side of the river should be put within the taxing limits of the city of Mobile, because it received no benefits of taxation and the legislature took it out of the city. That is an example of what the legislature can do for the outlying country. Part of the land which lies near Birmingham. Montgomery and Mobile and every other growing town in the State, is as much a part of the municipality, as much protected by its police, by its fire system, and improved by its railroad systems and the conveniences which belong to urban life as those parts which lie within the boundary lines, and from time to time every growing city has to have its boundaries enlarged. That goes without saying. There is no question about that and how are you going to enlarge them?

SANFORD (Montgomery)—You can do it by the consent of the people proposed to be annexed.

MR. PILLANS—Very good. That brings us down to it. Are you going to pass a general law which will provide that the particular municipality shall declare what its new boundaries shall be? Your general law has got to give to some political body the

power to declare boundaries, has it not? Are you going to give to the legislature the power only to pass a general law which will say that Birmingham, Montgomery or Huntsville may make their boundaries as large as they wish? Certainly not. Then are you going to say by a general law you may extend the boundaries provided the people within the affected territory vote for it?

MR. SANFORD (Montgomery)—Yes.

MR. PILLANS—The gentleman answers yes. Then no city that was ever organized, gentleman, will ever extend its boundaries beyond the first limits of organization, and I will give you a good reason why. They have got the benefit of everything in the world that belongs to city life without paying one penny for it. The city of Mobile has never extended its boundaries in my life, though it has restricted them, and you cannot point to the extension of city boundaries in Alabama where the people whose property was brought into the municipality for taxation were willing or anxious to have it done. If a man can have fire service and police protection, if he can have the benefit of street railroads, and all those advantages which belong to city life without paying one dollar of taxation, he will never pay it. And it is plain you cannot possibly change the boundaries of a city except by diminution, never by extension, unless you leave it to some supreme power in the State, or leave to some body the discretion to act upon the question of whether or not a case was presented which required the extension or diminution of the boundaries. Now, that being the case, you cannot otherwise possibly pass a law. Suppose a general law is passed, which leaves to city people the right to vote on these extensions, they will all vote to extend the limits just as soon as they get ready. You should not do that, it will not do. Any man who thoughtfully considered it will see that if the people outside vote, they will always vote against it, and if the people inside the limits have a vote they will always vote for it, and you must have some third party to settle the dispute. Where can you repose that discretion better than in the legislature of Alabama? The legislature can pass general laws, if you adopt this amendment, and at the same time fully protect the people by providing for elections by the people ratifying their action, if they see proper to do so. I believe if you strike this down you can never have any change. No change would be possible in the boundaries of any city in the State, and I trust that this section will be retained.

MR. SAMFORD (Montgomery)—My friend from Mobile is mistaken when he mentions this city in reference to the people living outside of the corporate limits being entitled to the services of the fire department. By an ordinance or rule it is expressly provided that outside of the city limits the fire department service need not go. He is mistaken in that. His whole argument is this,

that whenever a corporation or municipality becomes involved in debt, and is hard pressed to meet its obligations, it shall then throw a line around the surrounding country, bringing in residences, bringing in plantations, bringing in any property merely for the purpose of taxation. Government was not established merely for the purpose of making subjects of citizens. A government to protect the people should be upheld, but the people themselves should not be subordinated to the municipal authorities and forced within the city limits when they do not desire to come within its limits. He is mistaken when he says they have all the benefits of the city without paying anything for them, for all men doing business in this city, if they be merchants, pay taxes upon their articles of merchandise, and if they be professional men, they pay professional licenses, if they rent establishments they pay the rent and the landlord pays the taxes. People who have sought to avoid city life for the benefit of their families, and for their health, should not be drawn into city life, which may lead to very grave consequences to them. They go out of the city. They do not wish to live in the city, and straightway for the purpose of imposing taxes upon them by some improvident or unsagacious aldermen, or some men perfectly reckless, who may have engaged in contracts and thereby the city became involved. They are brought into town life when they much prefer rural homes. It seems to me the amendment of the gentleman from Pike is very wise. People should not be brought into towns who do not desire to live in towns, merely for the purpose of taxation, merely for the purpose of bearing a burden which the people of those towns have themselves put upon their own shoulders, and during the existence of which, until they get beyond a point where they can meet them, the people proposed to be taken in never have any benefit. There are debts contracted in Montgomery that never benefited a man outside of the corporate limits, and now when they are greatly pressed with debts, they say you must bring them in and tax them.

It is unjust. It is simply iniquitous. If those people desire to move to town, if they cannot sell their residences, by their consent you may make your corporate circle large enough to include them, but do not do it without their consent. Do not bring them in to bear burdens against their will, when possibly they are loaded down to the guards already and you sink the little ships when you bring them into such a sea as this. I hope the amendment of the gentleman from Pike will be adopted.

MR. VAUGHAN—I move to lay the amendment of the gentleman from Pike upon the table.

Upon a vote being taken, the motion to table the amendment prevailed.

MR. O'NEAL—I have an amendment.

The Secretary read the amendment as follows:

"Amend Section 48, in line 7, by striking out the word "quadrennially' and inserting in lieu thereof 'biennially,' and strike out the word 'fifty' at the end of line 10, and insert in lieu thereof the word "forty.' "

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Lauderdale.

MR. O'NEAL (Lauderdale)—Mr. President: I realize that at this late day in our deliberations, the Convention is naturally impatient, anxious to complete its labors and little inclined to listen to argument in favor of a reconsideration of any action it has taken. It is only, therefore, from a solemn sense of the duty I owe to those whom I have the honor to represent in this Convention, and from an earnest conviction that a serious mistake was made by providing in the fundamental law that one of the greatest co-ordinate departments of government should exercise its important functions only once in every four years, that I understand to present briefly in the time at my disposal some of the reasons which, in my judgment, would warrant us in refusing to sanction this radical change. I have heard it stated that this Convention had already subjected itself to just criticism or censure by the frequency with which it has reconsidered its action on important questions. It is Emerson who says "A foolish consistency is the hobgoblin of little minds, adored by little statesmen, and philosophers and divines. With consistency, a great soul has simply nothing to do. He may as well concern himself with his shadow on the wall. If you would be a man, speak what you think today in words as hard as cannon balls, and tomorrow speak what tomorrow thinks in hard words again, though it contradict everything you said today." Mr. President, we should not be influenced in a matter of such vital moment to the people of Alabama by any fear of being misunderstood or criticised for an alleged want of consistency. The question which we are to determine is whether it is wise to embark on a novel and untried experiment in government, to overthrow a system which has existed in this State since its admission into the Union, adopt a change which I, not only radical, but without a single precedent in a State of this great Republic. That a quadrennial session of the Legislature is an innovation, almost revolutionary in its character, no one can deny; that its advocates cannot prove its blessings or benefits by pointing to the experience of a State or government where representative Legislatures or Parliaments exist is conceded. Therefore, it follows that we are asked to support this new, untried system, not because its advantages can be established by the experience of other States or governments, but simply because its advocates assert it will be popular and will work advantageously. Mr. President, I do not belong to that school of conservatism which opposes

every innovation. I admit that some of the wisest and most salutary provisions in our Constitution were innovations, yet they were innovations which had the support of experience or strong and convincing arguments. I can not give my consent at any time to write into our Constitution a provision which is so revolutionary as this, unless it has the quality of positive benefit to justify its enactment. Mr. President, the fundamental and distinguishing features of republican institutions is that government must consist of three separate and independent departments, the executive, legislative and judicial, each co-ordinate, maintained separately, acting within its own sphere and not encroaching on the powers of either of the others. It follows, therefore, that any constitutional provision which weakens or impairs the powers and efficiency of any one of the three co-ordinate departments of government must necessarily weaken and impair the efficiency and harmonious action of the whole. Mr. President, in the Bill of Rights, adopted by this Convention, we have carefully guarded against any encroachment by either of the great departments of government on the other, and yet it must be apparent to any one who has studied and understands our system of government, that a blow struck at either of the great departments of government must affect all. Each of the three departments, to some extent, act as a check on the others, and if any department be struck down or its power impaired, you can not have a republican government with the strength and power which the framers of our system of republican government contemplated or intended.

Mr. President, government by representation is a principle derived from the oldest customs of the Anglo-Saxon race. Students of English constitutional history can trace the existence of representative assemblies to every period of its history and national existence, even to remote antiquity. From the earliest tribal history down to the present day, there was some form of a legislative body, representing the people, framing their laws, and assisting in their government. With all its defects, our representative system is the best the wisdom and experience of man has yet devised. A lower house, whose membership is frequently changing, by frequent elections, secures closeness of touch and sympathy with the people. An upper house, with smaller membership, representing a larger constituency, and for a longer term, secures that deliberation, that calmness and conservatism which are essential to guard against sudden and unreasoning popular prejudice, to give stability to our laws, and in seasons of clamor, unrest, and disturbance, to save the people from the folly of their own excitement and emotions. This has been the system which has always prevailed in this State. The lower house has always been elected every session of the Legislature, thus directly coming from the body of the people representing their wishes and aspirations, the upper house, or senate, smaller in number, represent-

ing a larger constituency, holding for a longer term, acting as a check on hasty legislation, not so sensitive to popular clamor or excitement. This system we have abandoned. Under the provisions of the Constitution, as adopted, the Senate and House hold for the same term, and the system of balances and checks which our fathers so wisely and carefully devised we have destroyed without a single argument being advanced in its favor, except that the people were weary of frequent elections.

Not only have we ruthlessly departed from this system which has prevailed not only in Alabama but in every other State of the Union of electing the Senators for a longer term than the representatives, but we have provided that the people shall not be allowed to meet through their chosen representatives to legislate often than once in every four years.

Mr. President, the legislature of Alabama is simply the people of Alabama through their chosen representatives meeting in assembly to repeal, revise or make their own laws and the whole argument in favor of this innovation is based, after being stripped of all subterfuge, on a want of confidence in the capacity of the people to govern themselves. Under our form of government the people could not meet en masse to legislate as they did in the days of the Grecian Republics, and hence they must select certain of their numbers to meet and represent them and frame such laws as may be required to maintain good government. Hence the advocates of this change cannot deny that their whole case rests on the theory that the people are not to be trusted. It is claimed that if the legislature meets it will pass bad laws, disturb and unsettle business, and should therefore meet as seldom as possible. If this is true, is it not a pitiable confession for a self-governing democracy to make? Is it not an admission that government by the people is a failure? Mr. President, I for one, am not prepared to make such an admission. I for one, am not willing to declare that because the last session of the General Assembly was not characterized by wise legislation, because it aroused popular discontent and criticism, to go to the extent and criticism, to go to the extent of assuming that a system which has prevailed in Alabama for nearly a century under which we have grown and prospered and become a mighty and powerful commonwealth, enjoying the blessings of good government should be overthrown simply because one session of the legislature was not popular, because it was extravagant and may have disregarded the best interests of the people. The remedy is not to practically abolish the legislature as is now sought but to remedy the evil by removing the cause, electing men who are more conservative, more careful of the interests of the people and relegating those who may have proven unworthy or who may have abused the trust and confidence imposed in them to the shades of private life.

The other arguments made in favor of this change are that if the legislature meets bi-ennially it will pass too many laws, disturb business and entail unnecessary cost on the State, that it takes four years to determine whether a law is a good or a bad law, and no law ought to be repealed until it has been tried four years. I will notice each one of these arguments. I readily concede that too much legislation is an evil. This Convention has already taken the most efficient means of restricting the volume of legislation by absolute prohibition of local and special laws on certain enumerated subjects. We all recognize that local legislation is the most prolific source of excessive, corrupt and vexatious legislation and hense our action in restricting or prohibiting it in all cases where relief can be found in the courts or where the remedy can be secured by general laws. Yet he has studied the subject to little profit who does not recognize that that excessive legislative activity is one of the distinguishing features of recent years and is not due solely to local laws. Its development in the past few years has been enormous. An examination of the ever increasing size of the acts of the legislature of every State for the past twenty years demonstrates beyond all controversy that this excessive legislative activity is of recent origin. What then, it may be asked, is the cause of this ever-growing volume of legislation in every State of the Union? While the volume of local and special laws have annually increased general laws have also grown apace. Not only have the statutes of the States increased but the press is pouring forth daily an ever increasing flood of legal works, reports and text books. Mr. President, this increase is to be attributed largely to the enormous business development of modern times, the rapid changes wrought in social conditions by scientific discoveries and mechanical inventions, which ramify and permeate every department of life. A distinguished lawyer recently said: "The common law afforded no principle which by judicial extension could be made to regulate justly the business of telegraphy, city charters contained no provisions under which electric or cable roads could be operated through the streets. To our ancestors came not even a dream that one day the human voice could be heard across thousands of miles of distance."

Mr. President, while modern invention and discovery have added largely to the sum of human comfort, they have also created novel and intricate legal questions, for the solution of which we may seek in vain the principles and rules of the common law. To adjust the relations of modern life to the conditions which they have created a vast body of statute law has necessarily grown up.

Statutes defining the duties, rights and liabilities of telephone and telegraph companies, motor cars, bicycles, and various other inventions have themselves formed a large code of laws. Our ancestors, as has been truly said, punished witchcraft but they had no laws dealing with the theft of telegraph messages by tapping

the wires, or stealing electric lights by illicit connections with an electric wire. Vast aggregations of capital forming trusts and combinations which control the markets of the country and increase the cost of all the necessities of life alone furnish the necessity for many laws. Hence modern activity in legislation is necessary that the laws may keep pace with business and material development. If we could go back to the days of the stage coach, transform this modern, busy, bustling world with all the rapid changes due to discovery and invention into the quiet days of the past there might be fewer laws. There might then be no necessity for frequent sessions of the law-making body. But it has been urged that the legislature passes so many laws that only the trained lawyer can master them. This we all know, was large due to the ever increasing volume of local and special laws, which have poured from every legislative body. By checking if not controlling this evil we have tremendously lessened the number of local laws, yet in doing this, it was not our purpose to destroy the efficiency of the legislature. To pass general laws which will embrace the various subjects as to which the legislature is prohibited from passing local laws will require both time, care and deliberation. The evils of local laws being removed the character of the legislature will be elevated and that body will become what it was intended to be—a deliberative assembly, engaged in the more important functions of general legislation. Subjects of general legislation will receive more attention, will provoke more debate and with the result that fewer laws will be enacted, and only those whose importance and utility are conceded. Mr. President, Alabama has more diversified interests than any other State in the South, and legislation will be necessary to enable her to maintain her present high position in the industrial world. Modern discovery has added enormously to the growth of medical science, new remedies and drugs are being constantly added to its pharmacopia, yet who would tolerate the claim that the progress of this science must be arrested because its remedies are so many that only by the labor of a life-time can it be mastered. Yet this is the argument made against the progress of the law. We have increasing number of laws because we have an increasing field of subjects of legislation. Mr. President, it is urged that this measure will be popular. In answer that no provision of this Constitution will, in my judgment, meet more opposition. No man is so wise as to be able to predict that a measure will be popular, until it has been subjected to the test of public criticism and discussion. Be assured that this provision of the Constitution is unwise if it weakens and impairs the power and efficiency of one of the great co-ordinate departments of government, if it deprives the people of the opportunity of controlling their own affairs, correcting public evils, reforming the laws, it will receive their stern condemnation. The legislature furnishes the only protection

to the people against inefficient and corrupt administration. Under the system we have provided the legislature and the State officials are elected for four years. After days in the commencement of their term for the remainder of the four years these officials are free from any examination or control by the representatives of the people. The most corrupt rings could be organized, the grossest abuses could prevail and yet the people would be powerless for the legislature could only assemble at the call of a Governor who might be interested in preventing their assemblage. The legislature is a check upon the other departments of government. It can curtail or control to a certain extent the power of the Governor or other State officials, it can pass laws correcting any abuses that may exist, examine the books and accounts of public officials. But it is urged that it requires four years to determine whether a law is a good law or not. I deny the assertion. If there is a bad law the people must endure its oppression without relief for four long years. What would be thought of a physician who would tell his patient, you are suffering from the effects of poison, but I can only prescribe once every four years and you may die before I can administer the antidote? Yet the whole body politic may be permeated with the poison of evil laws, its energy sapped, feeble and prostrate from its virus and no relief can be administered except after four years. Mr. President, a great writer says that one of the faults of a democracy is a love of novelty, a passion for changing customs and destroying old institutions.

Was this Convention actuated by this spirit in destroying a custom which has so long prevailed in Alabama, and in substituting a system which its own advocates admit is purely experimental, the beneficient results from which cannot be established by history or the experience of other States. No, the whole argument for quadrennial sessions of the Legislature rests on the assumption that the people are not to be trusted. There has been no public demand for this radical change. It was not made a subject of discussion in the last canvass. Its advantages were never presented to the people either by debate or by the press. It increases the power of the Executive Department for in case of a vacancy in the Senate of the United States from this State the Governor can appoint for almost four years. It is said it will save the people money by preventing biennial cost of a Legislature. The same argument might be made as to every other department of government. It is a foolish economy which would destroy the efficiency and strength of government in order to save dollars to the people. The evils which will result from unwise and vicious laws which the people are helpless to correct may cost the State thousands of dollars, it may prevent growth and development and then what becomes of our boasted economy secured at such a price? By some it is claimed that this change is due to an apprehension on the part of corporate interests that frequent sessions

of the Legislature jeopardize their growth and power. Mr. President, there is no disposition on the part of the people of Alabama to do injustice to these great interests. Their growth and prosperity is essential to our development and progress. All we demand is that they like individuals shall obey the law, and not use powers vested in them by the State for public purposes to oppress the people. I do not flatter myself that anything I can say will alter your determination to make this change. I only desire to let the country understand that I for one have used what power I may possess as an humble delegate on this floor, to utter my earnest and solemn protest against a measure which I believe to be unwise and which will tend to throttle the liberties of the people and weaken and impair our entire system of government by sapping the strength of one of its most important departments.

MR. ROGERS (Sumter)—I regret very much to have to move to lay the amendment of the gentleman from Lauderdale on the table, but I do move to lay the amendment on the table.

THE PRESIDENT—It is moved that the amendment offered by the gentleman from Lauderdale be laid upon the table.

MR. O'NEAL—On that I call for an aye and no vote.

The call was sustained.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,	Davis, of Etowah,	Jones, of Wilcox,
Altman,	Dent,	Knight,
Ashcraft,	deGraffenreid,	Kyle,
Barefield,	Eley,	Ledbetter,
Beavers,	Ferguson,	Long of Walker,
Beddow,	Fletcher,	Lowe, of Lawrence,
Bethune,	Glover,	Macdonald,
Blackwell,	Graham, of Talladega,	McMillan, of Baldwin,
Boone,	Grant,	McMillan (Wilcox),
Burnett,	Greer, of Calhoun,	Martin,
Cardon,	Greer, of Perry,	Merrill,
Carmichael, of Colbert,	Haley,	Miller (Marengo),
Carmichael, of Coffee,	Handley,	Miller (Wilcox),
Carnathon,	Harrison,	Mulkey,
Case,	Heflin, of Chambers,	Norman,
Chapman,	Hodges,	O'Rear,
Coleman, of Greene,	Howell,	Palmer,
Coleman, of Walker,	Howze,	Parker (Cullman),
Cornwall,	Inge,	Parker (Elmore),
Craig,	Jackson,	Pearce,
Cunningham,	Jones, of Bibb,	Pettus,
Davis, of DeKalb,	Jones, of Hale,	Phillips,

Pillans,
Reese,
Reynolds, of Henry,
Rogers (Sumter),
Samford,
Sanders,
Searcy,
Sentell,
Sloan,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Stewart,
Tayloe,
Vaughan,
Waddell,
Walker,
Weakley,
Weatherly,
White,
Whiteside,
Williams (Marengo),
Williams (Elmore),
Wilson (Clarke),
Wilson (Washington).

TOTAL—93

NOES

Banks,
Bartlett,
Brooks,
Burns,
Byars,
Cobb,
Duke,
Foshee,
Foster,
Freeman,
Gilmore,
Graham, of Montgomery,
Grayson,
Heflin, of Randolph,
Henderson,
Hood,
Jones, of Montgomery,
Lomax,
Moody,
Murphree,
Oates,
O'Neal (Lauderdale),
Opp,
Porter,
Reynolds (Chilton),
Sanford,
Spears,
Thompson,
Watts,
Williams (Barbour),
Winn,

TOTAL—31

ABSENT OR NOT VOTING

Almon,
Browne,
Bulger,
Cofer,
Eyster,
Espy,
Fitts,
Hinson,
Jenkins,
King,
Kirk,
Kirkland,
Leigh,
Locklin,
Long, of Butler,
Lowe, of Jefferson,
Malone,
Maxwell,
Morrisette,
NeSmith,
Norwood,
O'Neill, of Jefferson,
Pitts,
Proctor,
Renfro,
Robinson,
Rogers (Lowndes),
Selheimer,
Sollie,
Stoddard,
Willet.

So the motion to table prevailed.

MR. REYNOLDS (Chilton)—I ask unanimous consent to introduce a resolution.

Consent was given.

The Secretary read the resolution as follows:

Resolution 324 by Mr. Reynolds of Chilton:

A resolution for taking steps to secure a fair election on the submission of the Constitution, and providing for a contest of the result:

Whereas, the main purpose of those who favored the holding of a Constitutional Convention was to secure honest and fair elections and purify the ballot; and,

Whereas, the fair name of Alabama would be forever stained should any considerable number of our people be of opinion a Constitution had been fraudulently imposed upon them; therefore, be it

Resolved, that the Committee on Suffrage and Elections be and they are hereby instructed to forthwith prepare and report to this Convention an ordinance providing that the county officials in each county shall appoint at each polling place in their respective counties at the election held on the ratification of the Constitution prepared by this Convention, at least one inspector and one clerk, each of whom shall be able to read and write and who are opposed to the ratification of the Constitution, if any there be in such precinct, and also providing that those in any county opposing ratification may in Convention or by petition nominate such inspector and clerk; and providing that the failure of any official to comply with such provision shall be guilty of a misdemeanor.

And said committee are further instructed to prepare an ordinance and report the same forthwith, providing that the result of the election may be contested before the Supreme Court upon the petition of 1,000 citizens upon their giving security for costs in such sum as the court may prescribe, and that such contest shall be made and evidence taken in such manner as said court may prescribe.

Referred to Committee on Rules.

MR. HOWELL—I desire to offer an amendment.

The Secretary read the amendment as follows:

"Amend Section 48 in line ten by inserting the word 'working' between the word 'sixty' and 'days:' also in lines ten and eleven insert the word 'working' between the words 'fifty' and 'days.'"

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Cleburne.

MR. HOWELL—The section provides that the first session after the ratification of this Constitution shall be limited to sixty days and the second thereafter to fifty days. I apprehend that everybody will be in accord with me when I say that the organic law of the State should be as free from ambiguity as possible.

While it is true that the courts have decided when it says fifty days, that it means fifty working days, yet I remember the first session after the adoption of the Constitution in 1876, there was some trouble in the Legislature as to whether the Constitution meant fifty consecutive or working days, and it provoked a lengthy discussion and finally the Legislature had to decide for itself.

In order that there might be no ambiguity, that the common people may understand what we mean, my amendment provides for inserting the word "working" between "sixty" and "days," and "fifty" and "days."

MR. FOSTER—The provision in this Constitution in regard to sessions of the Legislature are exactly the same as in the old Constitution. It has been construed by the Supreme Court to mean working days, and I therefore move to lay the amendment on the table.

Upon a vote being taken the motion to table the amendment prevailed.

MR. OATES—I have an amendment.

The Secretary read the amendment as follows:

Amend Section 102 by adding thereto the following words, "within the fourth degree, though one ancester of each generation should be a white person."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Montgomery.

MR. OATES—The section as it stands reads: "Section 102. The Legislature shall never pass any law to authorize or legalize any marriage between any white person an a negro or descendant of a negro." The section as reported by the Legislative Committee was drafted by myself. It was originally introduced by the gentleman from Limestone, and I remodeled it with his consent and offered practically the language in our Penal Code. It is amended so that it is left very indefinite. Now as it stands it would apply to a white person and a negro or a descendant of a negro to the fiftieth degree of relationship and would give rise to future trouble in legislation that is now unseen. I propose to make it definite and go one degree further than our criminal code goes. In order to avoid trouble that may arise out of it, we ought to add that to show the degree within which it is prohibited.

THE PRESIDENT—The question will be on the amendment.

MR. GREER (Calhoun)—I move to lay the amendment upon the table.

Upon a vote being taken the motion to table the amendment prevailed.

MR. JONES (Montgomery)—I desire to offer an amendment.

THE PRESIDENT—The adjourning hour has arrived. The gentleman from Montgomery will be recognized to offer his amendment when the Convention reconvenes.

Thereupon the Convention adjourned.

AFTERNOON SESSION

The Convention met pursuant to adjournment, there being 94 delegates present upon the call of the roll.

THE PRESIDENT—The question before the Convention is the consideration of the report of the Committee on Order, Consistency and Harmony. The gentleman from Montgomery (Mr. Jones) had the floor when the Convention adjourned at noon.

MR. REESE—I ask the gentleman to yield for a moment while I introduce a short resolution.

THE PRESIDENT—The gentleman from Dallas asks unanimous consent to introduce a short resolution. The Chair hears no objection.

The Secretary read the resolution as follows:

Resolved, That when this Convention shall adjourn today at 7 o'clock p. m., it shall stand adjourned to meet at 8:30 o'clock tonight.

MR. REESE—Mr. President——

THE PRESIDENT—A motion to suspend the rules is not debatable.

MR. REESE—I rise to the point of order that a motion to suspend the rules is not necessary to fix a time for adjournment.

THE PRESIDENT—The gentleman from Dallas is correct.

MR. REESE—I move the adoption of the resolution, and I call for the ayes and noes.

The call was not sustained.

THE PRESIDENT—The question is on the adoption of the motion that when the Convention adjourns this afternoon it stand adjourned to meet at 8:30 o'clock tonight.

Upon a vote being taken, a division was called for, and a further vote being taken, there were ayes 33; noes 70; and the motion was lost.

MR. WHITE—If the gentleman from Montgomery will yield long enough, I will ask consent to introduce an ordinance to be referred. I am instructed to introduce it by the committee.

THE PRESIDENT — The gentleman from Jefferson asks unanimous consent to introduce an ordinance. Is there objection?

Objection was made.

MR. deGRAFFENREID—I move that the rules be suspended in order that the ordinance may be introduced.

On a vote being taken, the rules were suspended.

The Secretary read the ordinance as follows:

Ordinance No. —, by Mr. White:

AN ORDINANCE

To appropriate $143.75 for the payment of C. B. Brown and the Alabama Printing Company for services performed for the State of Alabama for the use of the Constitutional Convention.

Section 1. Be it ordained by the people of Alabama, in convention assembled, That there be, and is hereby, appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of $143.75, to be paid the Alabama Printing Company and C. B. Brown for services performed for the State of Alabama for use of this Convention, as follows:

Sec. 2. The State Auditor is hereby directed to draw his warrant on the State Treasurer in favor of C. B. Brown for the sum of $30 for typewriting done by him for the Committee on Order, Consistency and Harmony of the Whole Constitution, and the said Auditor is also directed to draw his warrant on the State Treasurer in favor of the Alabama Printing Company for the sum of $113.75 for printing three hundred copies of the report of said Committee for the use of this Convention.

Referred to the Committee on Schedule, Printing and Incidental Expenses.

The amendment offered by Mr. Jones of Montgomery was read as follows:

"Amend Section 68, on page 16 of the Article on Legislative Department, by striking out the period at the end of the section, and inserting in lieu thereof a semi-colon, and inserting the following words immediately after the semi-colon, to wit: "Nor prevent the Legislature from increasing or diminishing at any time the allowance to the sheriff or other officers for feeding or transporting and guarding prisoners."

MR. JONES (Montgomery)—I shall be very brief in explaining the reasons for that amendment. Section 68, found on page 16, of the Committee's report, provides that the Legislature shall not have power, among other things, to increase or decrease the fees and compensation of such officers during their terms of office. There is a proviso at the end, that "this section shall not apply to allowances made to Commissioners' Courts, or Boards of Revenue, or to county officers for ex officio services." Now, in the case of Dane v. Smith, 54 Ala., Dane came into the office at a time when the fee for feeding prisoners was 50 cents. The Legislature reduced it to 40 cents. He asked for a mandamus to compel the payment of 50 cents, and contended it was decreasing his compensation, which was forbidden by the Constitution of 1868, he being an executive officer; and the Supreme Court denied that, and said that under the language of the Constitution of 1868, the compensation therein referred to meant salary, and that the fee for feeding prisoners was in the nature of an allowance or fee. Now, the statutes all throughout, and in the last Code, Sec. 4565, refer to "sheriffs' fee and allowances for feeding each prisoner," etc.

It occurred to me if that section were adopted without the proviso, the Legislature would have no power to increase or diminish the compensation of the sheriff during the term for which he was elected. It may be that the cost of provisions might rise so that it would be a great hardship to compel him to feed the prisoners at a certain price. On the other hand, provisions might fall so that it would be to the interest of the State to decrease it.

MR. O'NEAL (Lauderdale)—Read the present law on the subject.

MR. JONES—I haven't got the language of it, but it simply provides the fees for feeding prisoners, guards, etc. I will not take up any further time of the Convention. It seems to me that it ought to be adopted.

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Montgomery.

Upon a vote being taken, the amendment was adopted.

THE PRESIDENT—The question will be upon the adoption of the Article reported by the Committee, as amended.

MR. HOWZE—I have an amendment.

The amendment was read as follows:

"Amend Section 74, line 23, by striking out the word "heretofore,' and adding the words 'prior to the ratification of the Constitution of 1875.'"

MR. HOWZE—It sems to me that is necessary, to make this clause intelligible. The idea is just this, that this clause was

in the Constitution of 1875, and any investment made at that time was excepted, by the use of the words "saving investment heretofore made." and the use of this word "heretofore" in this section applies to the time between the adoption of the Constitution of 1875 and this Constitution. In other words, it will ratify all investments made since that time, making illegal investments legal by using the phraseology that appears in this Constitution now, and it seems to me that it ought to be corrected. There are probably a number of cases in the courts, there have been some to my certain knowledge, and if this language is permitted to remain as it is, it will certainly validate illegal acts of trustees, in investing in these stocks since the Constitution of 1875. It ought to be "saving investments made since the adoption or ratification of the Constitution of 1875." Unless that is done, it will certainly have the effect——

MR. deGRAFFENREID—Won't this mean the date of the ratification of the Constitution, as it is written?

MR. HOWZE—It does not say so. It says "investments heretofore made."

MR. deGRAFFENREID—Does this instrument have any effect whatever until its ratification?

MR. HOWZE—Not at all; but supposing investments were made prior to this, between the ratification of the Constitution of 1875 and now?

MR. deGRAFFENREID—Would not that be governed by the present Constitution under which we now live?

MR. HOWZE—It would, unless you validate it by the phraesology of this act.

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

MR. deGRAFFENREID—I move that the amendment be laid upon the table.

Upon a vote being taken, a division was called for, and, by a vote of fifty-six ayes and thirty-eight noes, the motion to table the amendment prevailed.

MR. O'NEAL (Lauderdale)—I move the previous question on the Article as reported.

MR. COLEMAN (Greene)—Will you withdraw that motion? I have an amendment that is necessary.

MR. WEATHERLY—I would like to ask the gentleman from Lauderdale to withdraw his motion.

MR. O'NEAL—Certainly, I will withdraw it if there are any more amendments.

MR. WEATHERLY—I simply want to make a suggestion to the chairman of the committee. I have conferred with him about it. It is as to one word in Section 74, and it is to strike out the word "other" in line 22, page 17. I think by striking that word out, it gives to the word "trustees" a larger meaning and a broader scope than otherwise, and will make the section much more effective, and by permission of the chairman I would like to ask unanimous consent to have that word stricken out. I would like to add if the committee consent to it, the words "of any character" after the word "trustees."

MR. PILLANS—Are not executors, administrators and guardians trustees of express trusts?

MR. WEATHERLY—They are not strictly trustees.

MR. PILLANS—They have been so held by our Supreme Court.

MR. WEATHERLY—It has been held they are not trustees. It was for that reason I made this suggestion.

MR. PILLANS—I think you are mistaken about that.

THE PRESIDENT—There seems to be no response upon the part of the committee. The question will be upon the amendment offered by the gentleman from Jefferson to strike out the word "other."

Upon a vote being taken, the amendment offered by the gentleman from Jefferson was lost.

MR. COLEMAN (Greene)—I have an amendment.

The amendment was read as follows:

"Move to strike out Section 110 on page 25 of the report of the Committee on Legislative Department."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Greene.

MR. COLEMAN (Greene)—Mr. President, it seems to me that Section 110 ought not to be put in there. It seems to me that Section 110 in the Constitution is wholly unnecessary. It might embarrass the courts hereafter. General laws, local laws and special laws have all beeen defined by our Supreme Court, and they have a fixed definition without any arbitrary definition or standard fixed in the Constitution, and it seems to me it would be better to let the Constitution alone as to definitions which have already been adjudicated. And I would call the attention of the

committee to the fact that this is the first time the word "private" has been introduced into the Constitution of Alabama. Heretofore it has been "general, special and local." All these words have definitions fixed by the decisions of the courts. "Private" in some States has been held to mean the same thing as "local," but it is the introduction of a word that will have to be construed by our Supreme Court before we will know exactly what meaning will be given to it. If any one can show any reason why the Constitution should declare what is a general law, or a public law, or a private law, or a special law, of course, I would not have any objection to make. The fact is that the Constitution is so good and so well framed all the way through, that we ought to be very careful how we touch it, and it is only where you vote to fix laws that will run a plow share through the decisions of the court that I care to make a statement at all.

MR. deGRAFFENRIED—This is not the work of this committee. This is the work that came to the committee from the Convention.

MR. COLEMAN—Of course, I presume that. I did not presume the committee put this in their. I do not know where I was when this was introduced. A man cannot be here all the time, and I was not here then, or I would have called attention to it, but that is no reason why if it should not be here it ought not to be corrected. I do not want any delegate in this Convention to think it is indispensable or would be any grievance to me. The decisions already declare what general, public and special laws are, and there are decisions in other courts where they have the word "private," to which reference can be made.

The word "private" cannot be found in our Constitution now. It is a new term, and all these terms have legal definitions. I remember in a case before me it took this court four months, not all the time, but we were four months coming to a decision as to how to save these cities from the effect of the local law, and the general law in the Constitution, the general law having the same provision that this Constitution has that the Legislature shall not grant to any municipality the power to impose a special privilege tax contrary to the general law of the State. I do not pretend to say what will arise or whether anything special will arise under it, but we need not embarrass the courts, and unless it is necessary why should it be here? If any man can say it is necessary to put it in the Constitution, I will resume my seat without a word. If any member who has investigated this question can show where it is necessary to be in there I have not a word to say. It is only out of great precaution, to prevent any embarrassing questions that I make the motion to strike it out of the section, and just let the court proceed as it has heretofore. I make that motion for your consideration.

MR. BOONE—It seems to me that the language of Section 110 is very plain. There is no ambiguity about it. The courts could not be embarrassed in any way in considering it, and as this Convention adopted this whole section on Local Legislation after mature consideration, and three or four or five days' debate upon it, I move to lay the amendment on the table.

Upon a vote being taken, the amendment was tabled.

MR. O'NEAL—I renew my motion for the previous question on the adoption of the Article.

MR. JONES (Wilcox)—Withdraw that motion.

MR. O'NEAL—I withdraw it with the understanding that the gentleman will renew it.

MR. SPRAGINS—I wish to make a correction. In Section 15, page 23, we ask unanimous consent to change the word "adoption," in the third line, to the word "ratification."

There being no objection, it was so ordered.

MR. SPRAGINS—On page 24, Section 31, the Committee desires to change the word "effect" to "affect," in the nineteenth line.

There was no objection and the amendment was ordered.

MR. SPRAGINS—On page 25, line 7, Section 106, change the word "effected" to "affected."

There being no objection, the amendment was ordered.

MR. JONES (Wilcox)—I have an amendment.

"Add at the end of Subdivision 21, line 3, page 24, 'local legislation and laws heretofore passed by the Legislature increasing the jurisdiction of the Justices of the Peace in Wilcox County, are hereby repealed.'"

THE PRESIDENT—The question will be upon the adoption of the amendment offered by the gentleman from Wilcox.

Mr. Samford (Pike) sought recognition.

THE PRESIDENT—The gentleman from Wilcox has the floor. Does the gentleman yield?

MR. JONES—Certainly.

MR. SAMFORD—Won't you consent to strike out the word "Wilcox" and let it apply to the whole State?

MR. JONES (Wilcox)—I will state I did not know but what there would be some objection to it on the part of other delegates on the floor.

MR. SAMFORD (Pike)—It would be a public benefaction.

MR. JONES (Wilcox)—Mr. President, in Wilcox County, we have a county court that has jurisdiction of all misdemeanors committed in that county, and it has two jury terms of the court each year. About twenty years ago, a gentleman who was a justice of the peace represented Wilcox as a member of the Lower House of the General Assembly, and he had a bill passed giving justices of the peace in Wilcox County concurrent jurisdiction with the County Court in all cases of misdemeanor. The gentleman who had the law passed was a capable and efficient justice of the peace, and if all the justices in the county had been his equal, it is possible there would have been no serious objection to the law, but it has not given satisfaction, and it should be repealed, and the justices of the peace have the same fees that justices of the peace have in other counties of the State.

MR. WALKER—I would like to ask the gentleman why he did not get it repealed by the Legislature, and not come to the Constitutional Convention?

MR. JONES—I will say that I am aware it is a matter that could be attended to by the Legislature, but it has not been done. A great many members of the Legislature think that the cat ought to be belled, but they are not willing to bell the cat. I am willing to bell the cat and take the responsibility, because I know the feeling of my people at home. If it took up any time, if it did anybody in the State any wrong, I would not ask it. But it is the wish of delegates on the floor of the Convention from my county to have this enacted, and it can do no other part of the State any harm. I have seen the Committee and they say they have no objection, and say they will leave it to the delegates on this floor, and I ask that it be passed, and I will take up no time in discussing it.

MR. WALKER—I do not like to interfere with local desires, but it does not seem to me it ought to go into the Constitution, and I move to lay the amendment on the table.

Upon a vote being taken, the motion prevailed.

MR. O'NEAL—I move the previous question on the Article.

MR. MURPHREE—I hope the gentleman will withdraw that.

MR. O'NEAL—I will not yield.

Upon a vote being taken, the motion was called for, and, by a further vote of 57 ayes and 42 noes, the previous question was ordered.

THE PRESIDENT—The question is on the adoption of the Article as reported by tht Committee.

Upon a vote being taken, the Article was adopted.

THE PRESIDENT—The next order will be the reading of Article V.

MR. WHITE—Before reading that, I desire to submit a supplemental report.

The report was read as follows:

Mr. President, your Committee on Order and Harmony of the Constitution, for the reasons hereinbelow stated, have instructed me to make the following supplemental report: The provisions that sheriffs shall hold their office for a term of four years, together with the fact that the sheriffs who are elected in the year 1900, would without some amendments, put the election of sheriffs at a time other than that at which all other county officers are elected. The committee have accordingly inserted at the end of the first sentence of Section 138 the following proviso:

"Provided, that sheriffs elected in the year 1904 shall hold their offices for a term of six years unless sooner removed.

"Respectfully submitted,

(Signed.) Frank S. White,
Chairman of Committee."

THE PRESIDENT—The regular order will be the reading of the report of the Committee on Harmony, Article V.

Mr. Reese took the chair.

The Secretary read Article V as follows:

ARTICLE V.

Executive Department.

112. The Executive Department shall consist of a Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, Commissioner of Agriculture and Industries and a sheriff for each county.

113. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled "The Governor of the State of Alabama."

114. The Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries, shall be elected by the qualified electors of the State at the same time and places appointed for

the election of members of the legislature in the year nineteen hundred and two, and in every fourth year thereafter.

115. The returns of every election for Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries shall be sealed up and transmitted by the returning officers to the seat of government, directed to the Speaker of the House of Representatives, who shall, during the first week of the session to which such returns shall be made, open and publish them in the presence of both Houses of the legislature in joint convention; but the Speaker's duty and the duty of the joint convention shall be purely ministerial. The result of the election shall be ascertained and declared by the Speaker from the face of the returns without delay. The person having the highest number of votes for any one of said offices shall be declared duly elected; but if two or more persons shall have an equal and the highest number of votes for the same office, the legislature by joint vote, without delay, shall choose one of said persons for said office. contested elections for Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries shall be determined by both houses of the legislature in such manner as may be prescribed by law.

116. The Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries elected after the ratification of this Constitution, shall hold their respective offices for the term of four years from the first Monday after the second Tuesday in January next, succeeding their election, and until their successors shall be elected and qualified. After the first election under this Constitution no one of said officers shall be eligible as his own successor; and the Governor shall not be eligible to election or appointment to any office under this State or to the Senate of the United States, during his term and within one year after the expiration thereof.

117. The Governor and Lieutenant Governor shall each be at least thirty years of age when elected, and shall have been citizens of the United States ten years and resident citizens of this State at least seven years next before the date of their election. The Lieutenant Governor shall be ex-officio President of the Senate, but shall have no right to vote except in the event of a tie.

118. The Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries shall receive compensation to be fixed by law, which shall not be increased or diminished during the term for which they shall have been elected, and shall, except the Lieutenant Governor, reside at the State capital during the time they continue in office, except during epidemics. The compensation of the Lieutenant Governor shall be the same as that received by the Speaker of the House, except while

serving as Governor, during which time his compensation shall be the same as that allowed the Governor.

119. If the legislature, at the session next after the ratification of this Constitution, shall enact a law increasing the salary of the Governor, such increase shall become effective and apply to the first Governor elected after the ratification of this Constitution, if the legislature shall so determine.

120. The Governor shall take care that the laws be faithfully executed.

121. The Governor may require information in writing, under oath, from the officers of the Executive Department, named in this article, or created by statute, on any subject relating to the duties of their respective offices; and he may at any time require information in writing, under oath, from all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions. Any such officer or manager who makes a wilfully false report or fails without sufficient excuse to make the required report on demand, is guilty of an impeachable offense.

122. The Governor may, by proclamation, on extraordinary occasions, convene the Legislature at the seat of government, or at a different place if, since their last adjournment, that shall have become dangerous from an enemy, insurrection, or other lawless outbreak, or from any infectious or contagious disease; and he shall state specifically in such proclamation each matter concerning which the action of that body is deemed necessary.

123. The Governor shall, from time to time, give to the Legislature information of the state of the government, and recommend for its consideration such measures as he may deem expedient; and at the commencement of each regular session of the Legislature, and at the close of his term of office, he shall give information by written message of the condition of the State; and he shall account to the Legislature as may be prescribed by law, for all moneys received and paid out by him or by his order; and at the commencement of each regular session he shall present to the Legislature estimates of the amount of money required to be raised by taxation for all purposes.

124. The Governor shall have power to remit fines and forfeitures under such rules and regulations as may be prescribed by law; and, after conviction, to grant reprives, paroles, commutations of sentence and pardons, except in cases of impeachment. The Attorney General, Secretary of State, and State Auditor shall constitute a Board of Pardons, who shall meet on the call of the Governor, and before whom shall be laid all recommendations or petitions for pardon, commutation or parole, in cases of felony; and the board shall hear them in open session and give their opinion thereon in writing to the Governor, after which, or on the failure of the board to advise for more than sixty days, the Governor may grant or refuse the commutation, parole or pardon, as to him seems best for the public interest. He shall communicate to the Legislature at each session every remission of

fines and forfeitures, and every reprieve, commutation, parole or pardon, with his reasons therefor, and the opinion of the Board of Pardons in each case required to be referred, stating the name and crime of the convict, the sentence, its date, and the date of reprieve, commutation, parole or pardon. Pardons in cases of felony and other offenses involving moral turpitude shall not relieve from civil and political disabilities, unless approved by the Board of Pardons and specifically expressed in the pardon.

125. Every bill which shall have passed both houses of the Legislature, except as otherwise provided in this Constitution, shall be presented to the Governor; if he approve, he shall sign it; if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon the journal and proceed to reconsider it. If the Governor's message proposes no amendment which would remove his objections to the bill, the house in which the bill originated may proceed to reconsider, and if a majority of the whole number elected to that house vote for the passage of the bill, it shall be sent to the other house, which shall in like manner reconsider, and if a majority of the whole number elected to that house vote for the passage of the bill, the same shall become a law, notwithstanding the Governor's veto. If the Governor's message proposes amendment which would remove his objections, the house to which it is sent may so amend the bill, and send it with the Governor's message to the other house, which may adopt, but cannot amend, said amendment; and both houses concurring in the amendment, the bill shall again be sent to the Governor and acted on by him as other bills. If the house to which the bill is returned refuses to make such amendment, it shall proceed to reconsider; and if a majority of the whole number elected to that house shall vote for the passage of the bill, it shall be sent with the objections to the other house, by which it shall likewise be reconsidered, and if approved by a majority of the whole number elected to that house, it shall become a law. If the house to which the bill is returned makes the amendment and the other house declines to pass the same, the house shall proceed to reconsider, as though the bill had originated therein, and such proceedings shall be taken thereon as above provided. In every such case, the vote of both houses shall be determined by yeas and nays and the names of the members voting for or against the bill shall be entered upon the journals of each house respectively. If any bill shall not be returned by the Governor, within six days, Sunday excepted, after it shall have been presented, the same shall become a law in like manner as if he had signed it, unless the Legislature, by its adjournment, prevent the return, in which case it shall not be a law, but when return is prevented by recess, such bill must be returned to the house in which it originated within two days after reassembling, otherwise it shall become a law; but bills presented to the Governor within five days before the final adjournment of the Legislature may be approved by the Governor at any time within ten days after such adjournment, and if approved and deposited with the Secretary of State within that time shall become law. Every vote, order, or resolution to which concurrence of both houses may be necessary, except on questions of adjournment and the bringing on of elections by the

two houses, and amending this Constitution, shall be presented to the Governor; and, before the same shall take effect, be approved by him; or being disapproved, shall be repassed by both houses according to the rules and limitations prescribed in the case of a bill.

126. The Governor shall have power to approve or disapprove any item or items of any appropriation bill embracing distinct items, and the part or parts of the bill approved shall be the law, and the bill approved shall be the law, and the item or items disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of bills over the executive veto; and he shall in writing state specifically the item or items he disapproves, setting the same out in full in his message, but in such case the enrolled bill shall not be returned with the Governor's objection.

127. In case of the Governor's removal from office, death or resignation, the Lieutenant-Governor shall become Governor. If both the Governor and Lieutenant Governor be removed from office, die, or resign, more than sixty days prior to the next general election at which any State officers are to be elected, a Governor and Lieutenant-Governor shall be elected at such election for the unexpired term; and in the event of a vacancy in the office, caused by the removal from office, death or resignation of the Governor and the Lieutenant-Governor, pending such vacancy and until their successors shall be elected and qualified, and office of Governor shall be held and administered by either the President pro tem. of the Senate, Speaker of the House of Representatives, Attorney-General, State Auditor, Secretary of State, or State Treasurer, in the order herein named. In case of the impeachment of the Governor, his absence from the State for more than twenty days, unsoundness of mind, or other disability, the power and authority of the office shall, until the Governor is acquitted, returns to the State, or is restored to his mind, or relieved from other disability, devolve in the order herein named upon the Lieutenant-Governor, President pro tem. of the Senate, Speaker of the House of Representatives, Attorney-General, State Auditor, Secretary of State and State Treasurer. If any of these officers be under any of the disabilities herein specified, the office of Governor shall be administered in the order named by such of these officers as may be free from such disability. If the Governor shall be absent from the State over twenty days, the Secretary of State shall notify the Lieutenant-Governor, who shall enter upon the duties of Governor; if both the Governor and Lieutenant-Governor shall be absent from the State over twenty days, the Secretary of State shall notify the President pro tem. of the Senate, who shall enter upon the duties of Governor, and so on, in case of such absence, he shall notify each of the other officers named in their order, who shall discharge the duties of the office until the Governor or other officer entitled to administer the office in succession to the Governor returns. If the Governor-elect fails or refuses from any cause to qualify, the Lieutenant-Governor-elect shall qualify and exercise the duties of Governor until the Governor-elect qualifies; and, in the event both the Governor-elect and the Lieutenant-Governor-elect from any cause fail to qualify, the President pro tem. of the Senate, Speaker of the House of Representatives, the Attorney-

General, State Auditor, Secretary of State and State Treasurer shall in like manner, in the order named, administer the office, until the Governor-elect or Lieutenant-Governor-elect qualifies.

128. If the Governor or other officer administering the office shall appear to be of unsound mind, it shall be the duty of the Supreme Court of Alabama, at any special term, which it is hereby authorized to call for that purpose, upon request in writing verified by their affidavits, of any two of the officers named in Section 127 of this Constitution, not next in succession to the office of Governor, to ascertain the mental condition of the Governor or other officer administering the office, and if he is adjudged to be of unsound mind, to so decree, a copy of which degree, duly certified, shall be filed in the office of the Secretary of State; and in the event of such adjudication, it shall be the duty of the officer next in succession to perform the duties of the office until the Governor or other officer administering the office is restored to his mind. If the incumbent denies that the Governor or other person entitled to administer the office has been restored to his mind, the Supreme Court, at the instance of any officer named in Section 127 of this Constitution, shall ascertain the truth concerning the same, and if the officer has been restored to his mind, shall so adjudge and file a duly certified copy of its decree with the Secretary of State; and in the event of such adjudication, the office shall be restored to him. The Supreme Court shall prescribe the method of taking testimony and the rules of practice in such proceedings, which shall include a provision for the service of notice of such proceedings on the Governor or person acting as Govrenor.

129. The Lieutenant-Governor, President pro tem. of the Senate, Speaker of the House, Attorney-General, State Auditor, Secretary of State or State Treasurer, while administering the office of Governor, shall receive like compensation as that prescribed by law for the Governor, and no other.

130. No person shall at the same time hold the office of Governor and any other office, civil or military, under this State or the United States or any other State or government, except as otherwise provided in this Constitution.

131. The Governor shall be commander-in-chief of the militia and volunteer forces of this State, except when they shall be called into the service of the United States, and he may call out the same to execute the laws, suppress insurrection and repel invasion, but need not command in person unless directed to do so by resolution of the legislature; and when acting in the service of the United States, he shall appoint his staff, and the legislature shall fix his rank.

132. No person shall be eligible to the office of Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education or Commissioner of Agriculture and Industries unless he shall have been a citizen of the United States at least seven years, and shall have resided in this State at least five years next preceding his election, and shall be at least twenty-five years old when elected.

133. There shall be a seal of State which shall be used officially by the Governor, and the seal now in use shall continue to be used until another shall have been adopted by the legislature. The seal shall be called "The Great Seal of the State of Alabama."

134. The Secretary of State shall be the custodian of the Great Seal of the State, and shall authenticate therewith all official acts of the Governor, except his approval of laws, resolutions, appointments to office and administrative orders. He shall keep a register for the official acts of the Governor, and when necessary shall attest them and lay copies of the same, together with copies of all papers relative thereto, before either house of the legislature when required to do so, and shall perform such other duties as may be prescribed by law.

135. All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the Great Seal of the State, signed by the Governor and countersigned by the Secretary of State.

136. Should the office of Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, or Commissioner of Agriculture and Industries become vacant from any cause, the Governor shall fill such vacancy until the disability is removed or a successor elected and qualified. In case any of said officers shall become of unsound mind, such unsoundness shall be ascertained by the Supreme Court upon the suggestion of the Governor.

137. The Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, and Commissioner of Agriculture and Industries shall perform such duties as may be prescribed by law. The State Treasurer and State Auditor shall every year, at a time fixed by the legislature, make a full and complete report to the Governor, showing the receipts and disbursements of every character, all claims audited and paid out, by items, and all taxes and revenues collected and paid into the treasury, and the sources thereof. They shall make reports oftener upon any matters pertaining to their offices if required by the Governor or the legislature. The Attorney General, State Auditor, Secretary of State, State Treasurer and Commissionner of Agriculture and Industries shall not receive to their use any fees, costs, perquisites of office or other compensation than the salaries prescribed by law, and all fees that may be payable for any services performed by such officers shall be at once paid into the State Treasury.

138. A sheriff shall be elected in each County by the qualified electors thereof who shall hold office for a term of four years unless sooner removed, and he shall be ineligible to such office as his own successor; provided that the sheriffs elected in the year nineteen hundred and four shall hold office for a term of six years unless sooner removed. Whenever any prisoner is taken from jail or from the custody of the sheriff or his deputy, and put to death, or suffers grievous bodily harm, owing to the neglect, connivance, cowardice or other grave fault of the sheriff, such sheriff may be impeached under Section 174 of this Constitution. If the sheriff be impeahced and

thereupon convicted, he shall not be eligible to hold any office in this State during the time for which he had been elected to serve as sheriff.

Mr. Reese here took the chair.

MR. JONES (Montgomery)—I have an amendment.

THE PRESIDENT PRO TEM.—The Secretary will read the amendment offered by the chairman of the Committee on the Executive Department.

The amendment was read as follows:

"Amend Section 138 of the article on the Executive Department, as reported by the Committee on the Order, Consistency and Harmony of the Constitution, as follows: strike out the words 'and he shall be ineligible to such office as his own successor,' in lines 18 and 19, and insert in lieu thereof the following words, to wit, 'who may succeed himself, but shall not hold such office for more than two of any three consecutive terms.' Insert after the word 'Constitution' in the 22nd line on page 35 of the printed report and before the word 'if' therein, the 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 terminated.'

"Amend further by striking out the period after the word 'Constitution' and inserting a semi-colon in lieu of the period.'"

MR. JONES (Montgomery)—That amendment is in substance the ordinance which was offered by the gentleman from Walker (Mr. Long) and reported favorably by the Committee on Executive Department, and which is now on the calendar. In short, it restores the status of the Sheriffs to what it was before the Convention reconsidered that matter. There were two propositions which seemingly were dove-tailed one into the other, and one being reconsidered, the friends of that measure reconsidered the other.

I shall not take up the time of the Convention with any lengthy speech as to the merits of this measure. Many of us who support it believe that a great principle is gained when the executive is expowered in the specific case here to suspend the Sheriff if he thinks him guilty of such misconduct that he orders him impeached, and they also believe that in view of this stronger power and the extraordinary danger that the Sheriff sometimes incurs, that it would be wise and just to allow him to succeed himself, especially if he is subject to this power of suspension. I do not propose to take up the time of the Convention except to say that I have offered that in accordance with the report of the Committee on Executive Department, to which the ordinance was referred, which contains the substance of that amendment, because after

consultation, a great many members of this Convention believe that would be the wisest and safest solution of the question.

MR. ROGERS (Sumter)—I move the adoption of the amendment offered by the gentleman from Montgomery.

THE PRESIDENT PRO TEM.—It is moved that the amendment offered by the gentleman from Montgomery be adopted.

MR. OATES—I am opposed to that amendment, and I propose to state briefly to this Convention why I am opposed to it. In the first place, it is unprecedented in this State. No constitution that Alabama has ever had in the eighty-two years of her existence allowed any Sheriff to succeed himself, and none of them except that of 1875 allowed him even to be the deputy of his successor, and I believe that that was unwise. Allowing the Sheriff to become the deputy enables them in some cases to keep the office in the family, to popularize one of the deputies and elect him Sheriff, and then he takes the ex-Sheriff as his deputy, and in that way the office has been practically in the same family, in some counties, term after term. In this State where we have so many men well qualified to fill office, it is better that the office be passed around, as I have heard it said that the bottle be passed around, and let other men who are worthy have a showing at it once in a while.

MR. ROGERS (Sumter)—If that theory is good, why not apply it to the Probate Judge, the Clerk of Court, the Tax Collector and Tax Assessor?

MR. OATES—I am not called on to pass on that question, because my friend, the delegate from Sumter, has not offered such a proposition. If you did, you would hear from me on that line.

The President here resumed the chair.

MR. ROGERS—You are passing on the Sheriff, why not pass on these others officers.

MR. OATES—That is not up. You are on a side issue now, one that you have not presented. There is no officer in any county, unless possibly the Probate Judge, and I do not say it of him, who has such power to use partiality as the Sheriff. The Sheriff is not only one of the three officials to draw the jury, but wherever additional jurors are to be summoned he is the sole man to do that under the order of the court. He goes and selects them.

He can show favors to them in many, many ways. He is the jailer, or can appoint whom he pleases as jailer. He can show favors in the execution of processes. Under our law, when an execution is placed in his hands against a defendant, so that he has the money in court by the succeeding term of the court, he cannot be said not to have sufficiently complied with his obligation

so that he can be removed. He can go and levy an execution at once on the property of a defendant or hold it up and give him several months indulgence, and in that way show favors. He is an officer that can show favors all around and upon every hand, and, sir, those and others. For instance, he is even the chief officer in elections. He is the chief returning officer, and he has charge of the boxes, he and his deputies everywhere, and he can show favors so as to re-elect himself in nearly every instance.

Were our forefathers fools, the men who made the Constitution of 1819 and every Constitution since? I think not. They certainly had good reason for making this officer ineligible to succeed himself, and they also put it in that he should not be the deputy of his successor. That part was left out in the Constitution of 1875 for the first time, the first departure from a rule well established.

Wise men made those Constitutions. They had good reasons for their action. Why should we make that departure now? It seems to me that we ought not. There has been complaint about the provision alluded to by my distinguished friend and colleague from Montgomery (Mr. Jones) and now they have gotten out of that the power of the Governor to suspend, but still the impeachment goes before the Supreme Court, which is an improvement, and as it stands, while the sheriff can not succeed himself, he can be a deputy. Is that not enough for him? That is what he has under the present Constitution. It seems to me to be a departure without warrant; it is a dangerous precedent. It may be said by some gentlemen—in fact, I have heard it said by delegates, that in some States where the sheriff succeeds himself, it is all well, but it does not come from any gentleman who has had experience in those States where that is the practice. Some gentleman may have dropped down in a county or visited a court here and there where that happened to be the case; where the sheriff was an exceedingly popular man, but this would lead to abuses. It is an untried experiment in this State, and I hope it will not be resorted to in this instance. Why, sir, I am informed (I have seen none of them) that the sheriffs, or a large number of them, are in session here in this city, looking after their interests. It has got so organizations of officers are formed in order to dictate to the Legislature, and they are dictating to this Convention. Remember, delegates, that your constituents are the people, and if you make this departure, and this innovation, when it comes home to the people and they have a sad experience, you and I are responsible for it.

MR. HEFLIN (Chambers)—Does not the old Constitution guarantee the right to all citizens to be heard by petition?

MR. OATES—I have not seen any petition. I would not deny anybody the right of petition.

MR. HEFLIN—Don't you think that when they are being heard through their organization, by delegates on this floor, that they have a right to be heard?

MR. OATES—I have not seen a petition, and I do not know what any other delegate has seen. Unless my friend represents them——

MR. HEFLIN—I think I represent them in part.

MR. OATES—I represent them just like I represent other citizens of the State. Because a man is an officer, in my estimation, he is not entitled to preference over anybody else in the making of the fundamental law. The people are all interested, and we are making offices and providing what they shall be and who shall fill them, and for what length of time. Why, sir, men have always been found very anxious to have these offices, and perfectly capable men. I believe, as a rule, the sheriffs are efficient. I have heard no complaint until recently of this thing of a successor. I canvassed the State in favor of this Convention, and I venture, made as many speeches as any delegate on this floor. I made seventeen in different parts of the State, and I never heard the question agitated of this change that the sheriffs were to be made their own successors, not at all. Other questions were discussed and discussed fully. I might go on and talk upon this and give reasons, but every man knows, and out of the large number of lawyers here, delegates who have had experience in the court house and seen the sheriff's work, know what an influential man he is, especially if he is at all shrewd, and I think it a dangerous departure, and hope this Convention will not adopt this amendment.

MR. LONG (Walker)—In reply to the distinguished gentleman from Montgomery (Mr. Oates), I wish to state that it is not an argument pro or con to say that it is not in the old Constitution. There is very little in the old Constitution that is contained in this new one. It is no argument to say that the State of Alabama has never recognized the right of the sheriff to be his own successor. A good reason cannot be given why the sheriff should not be his own successor.

A gentleman, possibly the oldest delegate upon this floor, told me that when before the war it was done, no doubt there was a cause for its being done, because the sheriffs used to handle hundreds and hundreds of thousands of dollars in some of the counties. That is not true any longer. At that time, a man might run an account with his merchant and was only required to settle once a year. This provision was adopted so the sheriff could wind up his business every four years. Business has progressed to such an extent since that time that the sheriff, with an execution in his

hands, is looked after, and the men interested in that execution look after the sheriff closer, and he is required to make settlements two or three times each year, and a man who trades with his merchant and does not pay for his good in less than thirty days——

MR. SANFORD (Montgomery)—Why should sheriffs be the only executive officers allowed to succeed themselves?

MR. LONG—I am not here to answer that, but I am here to state that the sheriffs in Alabama have never been allowed to succeed themselves, and the other executive officers of this State have up to this time—every one of them.

MR. OATES—When you limit the Governor, the Chief Executive officer, to four years, why should you give the sheriff the right to succeed himself?

MR. LONG—I am not here to atone for all the wrongs done. I think every officer in the State of Alabama should be allowed to succeed himself. I have lived in Georgia, where one Sheriff, in the County of Carroll has been sheriff for over twenty years, and he has always been an efficient officer, and he has had a great deal to do, the gentleman from Montgomery to the contrary notwithstanding, and there is no encouragement for a sheriff of that kind to be his own successor to do his duty.

Why should we say to the sheriff you shall not be eligible as your own successor no matter how well you perform your duty, no matter if every man in the county wants you to be sheriff again? No matter if you put to flight a thousand mobs, yet sir, you have got to content yourself, as the gentleman from Montgomery says, with being a little deputy to another sheriff. There can be no good reason given why the sheriff should not be his own successor. I hope this amendment, introduced by the distinguished Chairman of the Committee on the Executive Department, will be adopted by this Convention. It is right. It will make the Constitution stronger, because it is a step in the right direction. The sheriff should be allowed to succeed himself. You must remember that we do not legislate him into office. If the sheriff should run again, the people are not bound to support him, and if he has not made a good officer they will not do it.

Now, as far as the sheriff showing favors is concerned, there is not a man in the State that can show as many favors to as many men as the tax collector, yet he is allowed to succeed himself as often as he pleases. The tax assessor can do the same thing, yet you deny the sheriff that very right. Why, the tax assessor and the tax collector and even the tax commissioners can show thousands of favors where the sheriff can show one. Let us look at this question right, and this is a question which is a compromise that comes up here.

The Sheriffs of this State are not down here, while some of them are here, they are not here in executive session. They are here simply asking justice at the hands of this Convention, and I dare say that the sheriffs of this State would like to have the privilege of succeeding themselves, providing the people of their respective counties are in favor of re-electing them, and I hope this Convention will adopt this amendment. It is a compromise, but satisfactory to the men on this floor who represent the sheriffs. A man has to be a good man or he cannot be sheriff.

MR. WHITE—What was the compromise.

MR. SANFORD (Montgomery)—Who made the compromise?

MR. LONG—A great many gentlemen here. You distinguished gentlemen are not well enough posted to be informed may be. (Laughter). If gentlemen were familiar with the work and knew as much as you should, you would know a whole lot of us agreed to it. It is right and we agreed to it. We do not have to let you into every little caucus that goes on here on this floor. (Laughter.) We knew you were against us and did not invite you in.

MR. COLEMAN (Greene)—Mr. President and delegates to the Convention, it is strange that at this stage of our proceedings, we should have this question up before us again, and stranger still, to have heard the speech of the gentleman who last addressed you, when only a week or ten days ago, when the proposition was made here to impeach the sheriffs and to suspend them during impeachment, he raised the hue and cry here that the sheriffs of this State, if that was put into the Constitution, would defeat it; that they would rise up en masse against it. Now we hear the same man advocate the adoption of the very identical resolution he denounced in such terms.

And, Mr. President, there has been a singular change of face here. When the Executive Committee first reported, they reported the suspension of the sheriff during the impeachment, but only gave him one term, and no one in this Convention raised an opposing voice to that proposition as to one term, but only as to the impeachment. Now it seems it has come to this, that the sheriffs are willing to be removed before impeachment if you allow them two terms, and that is the compromise to be made with the people of Alabama. The Chairman of the Committee stated the other day, in arguing this question, that we should not be awed by the sheriffs; that we should do our duty to the people of Alabama irrespective of the mutterings of the sheriffs, and I call upon him to carry out the same views that he favored when he first announced the proposition here that the sheriff should not succeed himself. There is not a sheriff in Alabama, who when he was a candidate for office expected to succeed himself. He

knew when he was running for office that he would be allowed only one term, and this is an after-thought to take advantage of the presence of this Convention here to engraft another term on his present term.

But, if the sheriffs are elected in 1904, that is six years and he holds ten years, four now and six years later. I say it is wrong to the people of Alabama. I believe that we have the best sheriff in Alabama in my county. He is not only a fine officer, but he is my friend personally, politically and all the way through, but he has been either sheriff of that county or chief deputy for over fifteen years, and at the last election he got more votes than all the balance of them put together in the primary election, and he will continue to do it if he wants the office. It is wrong in principle, and it is an innovation that the people did not expect of us at the time of our election at this Convention. Who, upon the stump, canvassing for this Convention here, ever mooted the question that the sheriffs were to double their terms? What delegate here made such an announcement? And where are the men who assisted the sheriffs to run in order that they might be candidates themselves the next time?

Four or five men perhaps had other arrangements already made, to become candidates hereafter, and yet this Convention is expected to come in and cut them all out of their expectations and arrangements made under the existing laws. But what is more surprising than anything else is this vascillation at this period in our proceedings. This question was settled here, as I thought permanently, and we should not introduce into our Constitution anything that would give rise to such opposition as this, and certainly we should not do it under the force referred to by the delegate from Montgomery (Mr. Oates) who has just spoken. I think it is wrong in principle, and I hope it will not be adopted, and while I do not wish to cut off debate, I move to lay the amendment upon the table.

MR. HEFLIN (Chambers)—I ask the gentleman from Greene to withdraw his motion to table the amendment.

There were loud expressions of dissent.

THE PRESIDENT—The motion is that the amendment be laid upon the table.

MR. HEFLIN—I ask the gentleman from Greene if he will withdraw it I will renew it at the conclusion of my speech if he will allow me.

THE PRESIDENT—The gentleman declines to withdraw the motion.

MR. HEFLIN—I appeal to the gentleman to withdraw it. I will renew it for him.

THE PRESIDENT—The gentleman declines to withdraw it.

MR. HEFLIN—I demand an aye and no vote.

The call was sustained.

THE PRESIDENT—As many as favor the motion to table will say aye, and those opposed no, as your names are called.

Upon a call of the roll the vote resulted as follows:

AYES.

Messrs. President,	Freeman,	Phillips,
Altman,	Grant,	Porter,
Ashcraft,	Grayson,	Reynolds (Henry),
Banks,	Handley,	Rogers, of Lowndes,
Beddow,	Harrison,	Sanford,
Bethune,	Hood,	Sloan,
Blackwell,	Howze,	Smith, Mac. A.,
Brooks,	Jackson,	Smith, Morgan M.,
Browne,	Jones, of Bibb,	Spears,
Carnathon,	Kyle,	Spragins,
Chapman,	Lowe, of Lawrence,	Stewart,
Cofer,	McMillan (Baldwin),	Thompson,
Coleman, of Greene,	McMillan, of Wilcox,	Walker,
Cunningham,	Martin,	Watts,
Davis, of DeKalb,	Merrill,	Weakley,
Davis, of Etowah,	Miller, of Wilcox,	White,
Dent,	Murphree,	Whiteside,
Fletcher,	Norman,	Williams, of Barbour,
Foster,	Oates,	Williams, of Elmore,
Foshee,	Parker, of Cullman,	Winn,

Total—60.

NOES.

Barefield,	Gilmore,	Knight,
Bartlett,	Glover,	Lomax,
Beavers,	Graham, of Montgomery,	Long, of Walker,
Boone,	Graham, of Talladega,	Macdonald,
Burns,	Greer, of Calhoun,	Miller, of Marengo,
Byars,	Greer, of Perry,	Moody,
Cardon,	Haley,	NeSmith,
Carmichael, of Colbert,	Heflin, of Chambers,	Norwood,
Case,	Heflin, of Randolph,	O'Neill (Jefferson),
Cobb,	Henderson,	O'Neal, of Lauderdale,
deGraffenreid,	Howell,	Opp,
Duke,	Inge,	O'Rear,
Eley,	Jones, of Hale,	Palmer,
Eyster,	Jones, of Montgomery,	Parker, of Elmore,
Ferguson,	Jones, of Wilcox,	Pearce,

Pettus,	Searcy,	Vaughan,
Pillans,	Selheimer,	Waddell,
Reese,	Sentell,	Weatherly,
Rogers, of Sumter,	Sorrell,	Williams, of Marengo,
Samford,	Studdard,	Wilson, of Clarke,
Sanders,	Tayloe,	

Total—64.

ABSENT OR NOT VOTING.

Almon,	Jenkins,	Morrissette,
Bulger,	King,	Mulkey,
Burnett,	Kirk,	Pitts,
Carmichael, of Coffee,	Kirkland,	Proctor,
Coleman, of Walker,	Ledbetter,	Renfro,
Cornwall,	Leigh,	Reynolds, of Chilton,
Craig,	Locklin,	Robinson,
Espy,	Long, of Butler,	Smith, of Mobile,
Fitts,	Lowe, of Jefferson,	Sollie,
Hinson,	Malone,	Willet,
Hodges,	Maxwell,	Wilson, of Washington.

So the motion to table was lost.

MR. HEFLIN (Chambers)—I do not desire to detain the Convention with a speech. I do not propose to speak over three minutes. I am sorry my distinguished friend declined to allow debate a few moments ago. He has consumed possible as much time as any other member on the floor of this Convention, and I for one have always been glad to hear him, but I do think, at that time, I, at least, ought to have had a moment or two to reply to the distinguished gentleman from Montgomery. We are representing the entire body of the people of Alabama. The Sheriffs of the State has been honored by the people of their respective counties. They have got a right to come here and talk and I do not look upon them as trespassers when they come. They have got a right to come to us and say that you should allow us to run for office. You allow the Tax Collector, the Tax Assessor, and every one else to succeed themselves, but you do not allow us to succeed ourselves. I asked an old and distinguished member of this Convention why it was that the Convention of 1875 did not allow the Sheriff to succeed himself, and he said under the old law the Sheriff was practically the administrator of estates and he at times had more money in his hands than the Treasurer had, and for that reason they did not desire that he should succeed himself.

Nearly all matters of legislation are reached by compromise, and yet gentlemen hoot at the idea that somebody has agreed to a compromise. I for one opposed the idea of the Governor suspending the Sheriff. There were others who favored that idea

and opposed the Sheriffs succeeding themselves, and I favored that part of it.

MR. WALKER (Madison)—I desire to ask the gentleman a question. How can the Sheriffs be justified in appealing to this Convention on one occasion, as a matter of principle, to strike down the provision allowing the Governor to suspend them, and to come here now and ask this Convention to incorporate that in the Constitution?

MR. HEFLIN—As I just said, and I thought possibly the distinguished gentleman, among others, would catch the trend of my argument, that all matters of this sort are reached by compromise. The Sheriff says I do not want to be suspended by the Governor, yet I know that if I conduct myself as I should the Governor will not suspend me, and while I object to that feature, still, if the Convention is going that far, if they will allow me to succeed myself, then I am willing to swallow the other. The distinguished gentleman from Montgomery says that we are departing from old time custom of State; that in the whole existence of Alabama as a State we have never allowed the Sheriff to succeed himself. That is as absurd as for the man who had never taken a dose of medicine, when the doctor told him he must take it or die, to reply, I have never taken any medicine and my father before never took any, and I will die before I will take it.

These Sheriffs have a right to talk to delegates here, and nine-tenths of them are in favor, I believe, of this compromise. You say we will "cuss" out the Sheriffs. We hope to have the work in this Convention ratified, and it will be, and they have made no threats, so far as I know, but, Mr. President, it is just as fair to say to the Sheriff that he can succeed himself as to allow him to use that office for four years to have himself elected Tax Collector, or Tax Assessor, or Probate Judge. He has all the time during that four years to employ the powers of his office, if he is of a mind to prostitute them, to bring about this desired end. That is not the purpose of it. Let him make a good officer, and if the people want to elect him again let them have the right to do it, and do not take it away from him. All the Southern States do it.

MR. SANFORD (Montgomery)—May I ask the gentleman a question?

MR. HEFLIN—I decline to be interrupted.

MR. SANFORD (Montgomery)—All bargainers do.

MR. HEFLIN—As I am not acquainted at all with that subject, and I think my friend is master of the situation along that line, I do not care to enter into debate with him on that question.

In conclusion, I simply want to say that I think that this provision is a wise one, and that this Convention will not have adopted a wiser provision in the fundamental law of this State. No harm can be done, and you will make glad the hearts of sixty-six sheriffs in the State, and, if no harm can come from it, when we go out on the stump and sound the bugle to ratify our work here, you will see springing up here and yonder opposition to the work of this Democratic Convention. Then you will see, instead of sixty-six men with sad faces and dropping heads, sixty-six men armed and equipped for the battle, and they will march with us to glorious victory. I move the previous question upon the adoption of the amendment.

MR. WHITE—I hope the gentleman will withdraw that motion.

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

MR. THOMPSON—I demand a division of the question.

THE PRESIDENT—The question is the motion for the previous question on the amendment.

MR. THOMPSON—I simply ask for a division of the question on the adoption of the amendment.

The main question was ordered.

THE PRESIDENT—The present occupant of the chair was not in the chair when the amendment was offered by the gentleman from Montgomery (Mr. Jones).

Mr. White sought recognition.

THE PRESIDENT—The right to conclude where the previous question is not ordered on the Article, will remain with the gentleman from Montgomery, who offered the amendment, unless he yields to the gentleman from Jefferson.

MR. WHITE—I thought the chairman of the Committee had that right.

THE PRESIDENT—Where the pending question is on the adoption of the amendment and the previous question is not ordered on the Article, the right to close, under the rule, would go to the chairman of the Committee. Will the gentleman from Montgomery yield to the gentleman from Jefferson?

MR. JONES (Montgomery)—No, sir; I am willing to pair with him and not speak at all.

MR. WHITE—You have already spoken, and I am willing to do that if you will allow me to reply to your speech.

MR. OATES—In this particular case, if the amendment be adopted, then there is no use for the Committee to be heard from. The Committee has not been heard from, and it seems to me that it ought to be——

MR. JONES (Montgomery)—I think the Chair has uniformly ruled that where the previous question was called on an amendment and on the section, then the Committee has the right to conclude. But if it is simply on the amendment, the Chair has ruled that the mover of the amendment has the right.

THE PRESIDENT—There is no doubt about that.

MR. REESE—I desire to make the point that the question will arise when the gentleman claims the floor, and then it will be a matter for the Chair to decide.

THE PRESIDENT—The gentleman is correct, but since the question is up, we had just as well settle it now. Rule 17 says:

"The previous question shall be in the following form: 'Shall the main question be now put?' If demanded by a vote of a majority of the delegates present, its effect shall be to cut off all debate and bring the Convention to a direct vote, but the mover of the question, or the chairman of the Committee having charge of the ordinance or resolution, shall have the right to close the debate, after the call of the previous question has been sustained, for not more than thirty minutes." Under our rule, it is now ten minutes. The uniform ruling of the Chair has been that, where the previous question is ordered upon a section and the amendment, that the right to conclude could not rest in two—could not rest in the mover of the amendment and also in the chairman; and hence, the Chair has given the preference in those cases to the chairman of the Committee. Where the previous question is ordered only on the amendment, under the plain terms of the rule, the proposer of the amendment is the mover of the proposition.

MR. WHITE—I would like to correct a statement which was inadvertently made, and that is, that no other State had this provision in it. The State of Mississippi has just such a provision as this.

MR. REESE—I rise to a point of order. The question is not debatable. I demand that the vote be taken.

THE PRESIDENT—The point of order is well taken.

MR. JONES (Montgomery)—I think this Convention has fully made up its mind, and I therefore conclude as the mover of it by expressing the hope that it will adopt the amendment.

MR. WHITE—We call for a division of the amendment and for the ayes and noes.

THE PRESIDENT—A division of the question is demanded and the question first will be upon the propositions striking out that part of the section which makes the sheriff ineligible to be his own successor and inserting the provision authorizing him to be eligible. The ayes and noes are demanded and the call is sustained.

Upon a call of the roll, the vote resulted as follows:

AYES

Barefield,
Beavers,
Boone,
Burns,
Cardon,
Carmichael, of Colbert,
Cobb,
deGraffenreid,
Duke,
Eley,
Eyster,
Ferguson,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Howell,
Inge,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Lomax,
Long (Walker),
Lowe (Lawrence),
Macdonald,
Miller (Marengo),
Moody,
NeSmith,
Norwood,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Elmore),
Pearce,
Pettus,
Pillans,
Reese,
Rogers (Sumter),
Sanders,
Searcy,
Selheimer,
Sentell,
Tayloe,
Vaughan,
Waddell,
Weatherly,
Williams (Marengo),
Wilson (Clarke),

TOTAL—55

NOES

Messrs. President,
Altman,
Ashcraft,
Banks,
Bartlett,
Beddow,
Bethune,
Blackwell,
Brooks,
Browne,
Byars,
Carnathon,
Case,
Chapman,
Cofer,
Coleman, of Greene,
Coleman, of Walker,
Cunningham,
Davis, of DeKalb,
Dent,
Fletcher,
Foshee,
Foster,
Freeman,
Gilmore,
Grant,
Grayson,
Handley,
Harrison,
Hood,
Howze,
Jackson,
Jones, of Bibb,
Kyle,
McMillan (Baldwin),
McMillan (Wilcox),
Martin,
Merrill,
Miller (Wilcox),
Murphree,
Norman,
Oates,
Parker (Cullman),
Phillips,
Porter,
Reynolds (Henry),
Rogers (Lowndes),
Sanford,

Sloan,	Stewart,	White,
Smith, Mac. A.,	Thompson,	Whiteside,
Smith, Morgan M.,	Walker,	Williams (Barbour),
Sorrell,	Watts,	Williams (Elmore),
Spears,	Weakley,	Winn,
Spragins,		

TOTAL—64

ABSENT OR NOT VOTING

Almon,	King,	O'Neill (Jefferson),
Bulger,	Kirk,	Pitts,
Burnett,	Kirkland,	Proctor,
Carmichael, of Coffee,	Ledbetter,	Renfro,
Cornwall,	Leigh,	Reynolds (Chilton),
Craig,	Locklin,	Robinson,
Davis, of Etowah,	Long (Butler),	Samford,
Espy,	Lowe (Jefferson),	Smith (Mobile),
Fitts,	Malone,	Sollie,
Hinson,	Maxwell,	Studdard,
Hodges,	Morrisette,	Willet,
Jenkins,	Mulkey,	Wilson (Washington),

A verification of the vote was called for and had.

There being 64 noes and 55 ayes, the amendment was lost.

MR. HEFLIN (Chambers)—I change my vote from aye to no and give notice that on tomorrow I will move a reconsideration.

MR. CUNNINGHAM—I make the point of order that on the verification of the vote, the gentleman cannot change his vote.

THE PRESIDENT—The point of order is well taken.

MR. HEFLIN—I give notice I will make a motion to reconsider the vote tomorrow.

THE PRESIDENT—The question is on the adoption of the amendment relating to the impeachment of sheriffs. The ayes and noes have been demanded, and the call sustained.

MR. JONES (Montgomery)—(During roll call)—If I am in order I move to lay the balance of the amendment on the table.

THE PRESIDENT—The record seems to show that the Convention has voted down a motion to table.

MR. JONES—That was the whole thing, but it has been divided.

THE PRESIDENT—It seems to the Chair that the whole would include the part.

MR. JONES — Then I ask unanimous consent to make a statement of two minutes.

There was objection.

MR. CARMICHAEL (Colbert)—I move that the rules be suspended in order that the gentleman may make a statement.

A vote being taken the rules were suspended.

MR. JONES—I desire to state to the Convention it is well known that personally I was in favor, and in fact the author of the provision authorizing the Governor to suspend sheriffs, but I do not want to be put in the position, or have the Convention put in the position of trapping these gentlemen. We said to them that if they would agree to put through a proposition giving them power to succeed themselves and consenting to the removal, that we would pass it; that is, a number of gentlemen on this floor did. I was one of them. Therefore, I would feel compelled to vote against the balance of my amendment, and I hope the Convention will not read them.

MR. HEFLIN (Chambers)—I move that the gentleman from Montgomery be allowed to withdraw the latter part of the amendment.

MR. PARKER (Cullman)—I rise to a point of order. We have already ordered the previous question and the only thing to be done is to take the vote upon it.

THE PRESIDENT—The point of order is well taken unless the rules are suspended.

MR. REESE—I move that the rules be suspended and that the gentleman be allowed to withdraw his amendment.

Upon a vote being taken a division was called for, and upon a further vote of 78 ayes and 44 noes, the Convention refused to suspend the rules.

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

MR. HEFLIN (Chambers)—I demand the ayes and noes.

THE PRESIDENT—The ayes and noes have been ordered; the Secretary will call the roll. As many as favor the adoption of that part of the amendment relating to the impeachment of sheriffs will say aye, and those opposed no, as your names are called.

Upon a call of the roll the vote resulted as follows:

AYES

Bartlett,
Boone,
Byars,
Cofer,
Foshee,
Freeman,
Howze,
Oates,
Porter,
Reynolds (Henry),
Sloan,
Waddell,

TOTAL—12

NOES

Messrs. President,
Altman,
Ashcraft,
Banks,
Barefield,
Beavers,
Beddow,
Bethune,
Blackwell,
Brooks,
Browne,
Burns,
Cardon,
Carmichael, of Colbert,
Carmichael, of Coffee,
Carnathon,
Case,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Ferguson,
Fletcher,
Foster,
Gilmore,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hood,
Howell,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Lomax,
Long (Walker),
Lowe (Lawrence),
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Martin,
Merrill,
Miller (Marengo),
Miller (Wilcox),
Moody,
Murphree,
NeSmith,
Norman,
Norwood,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Pillans,
Reese,
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Sanders,
Sanford,
Searcy,
Sentell,
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spears,
Spragins,
Stewart,
Tayloe,
Thompson,
Vaughan,
Walker,
Watts,
Weakley,
White,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson, (Clarke),
Winn,

TOTAL—107

ABSENT OR NOT VOTING

Almon,	Kirk,	Pitts,
Bulger,	Kirkland,	Proctor,
Burnett,	Ledbetter,	Renfro,
Cornwall,	Leigh,	Reynolds (Chilton),
Craig,	Locklin,	Robinson,
Espy,	Long (Butler),	Selheimer,
Fitts,	Lowe (Jefferson),	Smith (Mobile),
Hinson,	Malone,	Sollie,
Hodges,	Maxwell,	Studdard,
Jenkins,	Morrisette,	Weatherly,
Jones, of Hale,	Mulkey,	Willet,
King,	Phillips,	Wilson (Washington),

There being 107 noes and 12 ayes, the amendment was lost.

MR. JONES—I suppose after the vote on the last amendment to the Executive Department, no one else desires to offer any other, and I therefore move the previous question upon the adoption of the Article.

MR. SPRAGINS—Mr. President, I move the adoption of the Article, and on that I call for the previous question.

The main question was ordered, and, upon a further vote, the Article was adopted.

THE PRESIDENT—The Secretary will read the next Article.

Mr. Heflin of Chambers took the chair.

The Secretary read Article 6 as follows:

ARTICLE VI

Judicial Department

139. The Judicial power 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 twenty thousand, according to the next preceding Federal census, and property assessed for taxation at a less valuation than three million five hundred thousand dollars.

140. 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, 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.

141. The Supreme Court shall be held at the seat of government, but, if that shall become dangerous from any cause, it may convene at or adjourn to another place.

142. 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.

143. 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.

144. 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 to the Courts of Chancery, or courts having the jurisdiction of Courts of Chancery.

145. 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 in the division for which he shall be elected or appointed for one year next preceding his election or appointment, and shall reside therein during his continuance in office.

146. 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, and shall do so when directed by law.

147. Any county having a population of twenty thousand or more, according to the next preceding Federal census, and also taxable property of three million five hundred thousand dollars or more 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 its population shall be reduced below that number, the Legislature 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 of twenty thousand or more and taxable property of three million five hundred thousand dollars or more in value.

148. The Legislature 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 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 a sufficient number of Judges for the transaction of the business of such consolidated court.

149. The Legislature shall have power to establish in each county a Court or Probate, with general jurisdiction of orphans' business and to grant letters testamentary and of administration; 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.

150. 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 government, during the term for which they have been elected or appointed.

151. The Supreme Court shall consist of one Chief Justice and such number of Associate Justices as may be prescribed by law.

152. The Chief Justice and Associate Justices of the Supreme Court, Judges of the Circuit Courts, Judges of the 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.

153. 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 Legislature may prescribe.

154. 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 twenty-five years of age, and, except Judges of Probate Courts, shall be learned in the law.

155. 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 office for the full term hereby pre-

scribed shall not be affected by any change hereafter made by law in any circuit, division or county, or in the mode or time of election.

156. The Chief Justice and Associate Justices of the Supreme Court shall be chosen at an election to be 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 nineteen hundred and four shall be as provided in the last preceding section. The successors of two of the Associate Justices elected in the year nineteen hundred and four shall be elected in the year nineteen hundred and six, and the successors of the other two Associate Justices elected in the year nineteen hundred and four shall be elected in the year nineteen hundred and eight. The Associate Justices of said court elected in the year nineteen hundred and four shall draw or cast lots among themselves to determine which of them shall hold office for the terms ending, respectively, in the years nineteen hundred and six and nineteen hundred and eight, 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, nineteen hund.ed and five, 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, one-third of the members of said court.

157. All judicial officers within their respective jurisdiction shall, by virtue of their offices, be conservators of the peace.

158. Vacancies in the office of any of the Justices of the Supreme Court or Judges who hold office by election, or chancellors of this State shall be filled by appointment by the Governor. The appointee shall hold his office until the next general election for any State officer 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.

159. Whenever any new circuit or chancery division is created, the judge or chancellor therefor shall be elected at the next general election for any State officer for a term to expire at the next general election for circuit judges and chancellors; provided, that if said new circuit or chancery division is created more than six months before such general election for any State officer, the Governor shall appoint some one as judge or chancellor, as the case may be, to hold the office until such election.

160. If in any case, civil or criminal, pending in any circuit court, chancery court, or in any court of general jurisdiction having any part of the jurisdiction of a circuit and a 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 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 such incompetent chancellor or judge could have rendered. 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 legislature may prescribe other methods for supplying special judges in such cases.

161. 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.

162. 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.

163. 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.

164. 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.

165. 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 court for the unexpired term.

166. 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.

167. A solicitor for each judicial circuit or other territorial subdivision prescribed by the legislature, shall be elected by the qualified electors of those counties in such circuit or other territorial subdivision in which such solicitor prosecutes criminal cases, and such solicitor shall be learned in the law, and shall at the time of his election and during his continuance in office, reside in a county in the circuit in which he prosecutes criminal cases or other territorial subdivision for which he is elected, and his term of office shall be four years, and he shall receive no other compensation than a salary, to be prescribed by law, which shall not be increased during the term for which he was elected; 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 nineteen hundred and four shall hold office for six years, and until their successors are elected and qualified; and provided further, that the legislature may provide by law for the appointment by the Governor or the election by the qualified electors of a county of a solicitor for any county.

168. 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, or partly 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 the inferior courts in this section 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 appeal 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 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.

169. In all prosecutions for rape and assault with intent to ravish the court may, in its discretion, exclude from the court room all persons, except such as may be necessary in the conduct of the trial.

170. 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."

171. 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.

172. Nothing in this article shall be so construed as to abridge the term of office of any officer now in office.

MR. KNOX—I desire to offer an amendment to Section 167.

The amendment was read as follows:

Amend Section 167 on Page 42 by inserting after the word "County" in the fifteenth line the following: "Or by the legislature."

MR. KNOX—At the time this section was adopted, and the discussion that took place in reference to the election of solicitors, I do not remember that any objection was urged to the election of the solicitor by the legislature where that officer was confined to a single county. I know when the propositon was offered and accepted on that subject, the friends of this movement were under the impression that this was embraced in the amendment offered by the gentleman from Madison (Mr. Walker). It seems to me that it might be found in the practical working of this section to be unwise to have a solicitor for a single county elected by the people, and the same objection might be made to the appointment of a solicitor by the Governor. It seems to me that it ought to be left to the legislature, so that the legislature could provide, if the public good required it, that the solicitor for a single county might either be elected by the people, appointed by the Governor, or elected by the Legislature, as in the judgment and wisdom of the Legislature might be deemed best. I do not care to discuss the question further, but merely desired to call attention to the amendment.

MR. HARRISON — I would like to ask the gentleman one question. Do I understand correctly that the effect of the amendment is simply to leave it to the Legislature as to how they will be elected?

MR. KNOX—It simply leaves it to the Legislature to determine how they shall be selected. This does not affect in the least the method of electing Circuit Solicitors. They are to be elected by the people, as also are the Solicitors for sub-divisions or two or more counties. This relates simply to the selection of Solicitors for single counties.

MR. WALKER—The contest in reference to this matter of the selection of Solicitors from the beginning was a question of their election by the people or election by the Legislature, and this provision which operates to take out of the hands of the Legislature in all instances, the election of Solicitors, was, I conceive,

fully understood at the time this provision was adopted. This provision has been in the hands of gentlemen on both sides of this controversy for several days, and there was no room for a misunderstanding as to that. Now that was the controversy, as to whether or not the method heretofore prevailing for the election of Solicitors by the Legislature should be abolished, and this Convention, certainly with deliberation, adopted the policy of taking from the Legislature the election of Solicitors in this State. A concession was made to satisfy persons opposing this proposition as a whole, to allow, in the case of County Solicitors, the Legislature to determine whether they should be selected by appointment by the Governor, or by election by the people but in all events to exclude from the Legislature the power of selecting these officers. Now, I conceive that there could have been no misunderstanding in reference to this provision, and I understand this amendment now to be in effect an attempt to overturn the provision that was adopted by this Convention in the way of a settlement of this controversy. Conceiving that to be the case, and that this provision fully met the conflicting views that had been developed by this long controversy, I move to lay the proposed amendment upon the table.

MR. deGRAFFENREID—Upon that I call for the ayes and noes.

The call was sustained, and upon a call of the roll the vote resulted as follows:

AYES

Altman,	Graham, of Talladega,	Pettus,
Ashcraft,	Henderson,	Phillips,
Banks,	Hood,	Pillans,
Bartlett,	Howell,	Porter,
Beddow,	Jackson,	Reese,
Bethune,	Jones, of Bibb,	Reynolds, of Henry,
Blackwell,	Jones, of Hale,	Rogers (Sumter),
Boone,	Jones, of Wilcox,	Samford,
Byars,	Kyle,	Sanders,
Cardon,	Lowe, of Lawrence,	Selheimer,
Case,	McMillan, of Baldwin,	Sentell,
Chapman,	McMillan (Wilcox),	Smith, Mac. A.,
Cofer,	Merrill,	Spragins,
Cunningham,	Miller (Marengo),	Stewart,
Davis, of DeKalb,	Miller (Wilcox),	Walker,
Davis, of Etowah,	Moody,	Watts,
Dent,	Murphree,	Weakley,
Fletcher,	Oates,	White,
Freeman,	Parker (Elmore),	Williams (Barbour),
Foshee,	Pearce,	Winn,

TOTAL—60

NOES

Messrs. President,	Grayson,	O'Neill, of Jefferson,
Barefield,	Greer, of Calhoun,	Opp,
Browne,	Greer, of Perry,	O'Rear,
Burns,	Haley,	Parker (Cullman),
Carmichael, of Colbert,	Handley,	Rogers (Lowndes),
Cobb,	Harrison,	Sanford,
Coleman, of Greene,	Heflin, of Chambers,	Searcy,
Coleman, of Walker,	Heflin, of Randolph,	Sorrell,
deGraffenreid,	Howze,	Spears,
Duke,	Inge,	Thompson,
Eley,	Jones, of Montgomery,	Weatherly,
Ferguson,	Knight,	Whiteside,
Foster,	Lomax,	Williams (Marengo),
Glover,	Macdonald,	Wilson (Clarke),
Graham, of Montgomery,	Martin,	
Grant,	O'Neal (Lauderdale),	

TOTAL—46

ABSENT OR NOT VOTING

Almon,	Kirk,	Proctor,
Beavers,	Kirkland,	Renfro,
Brooks,	Ledbetter,	Reynolds (Chilton),
Bulger,	Leigh,	Robinson,
Burnett,	Locklin,	Sloan,
Carmichael, of Coffee,	Long, of Butler,	Smith (Mobile),
Carnathon,	Long, of Walker,	Smith, Morgan M.,
Cornwall,	Lowe, of Jefferson,	Sollie,
Craig,	Malone,	Stoddard,
Eyster,	Maxwell,	Tayloe,
Espy,	Morrisette,	Vaughan,
Fitts,	Mulkey,	Waddell,
Gilmore,	NeSmith,	Willet,
Hinson,	Norman,	Williams (Elmore),
Hodges,	Norwood,	Wilson (Washington),
Jenkins,	Palmer,	
King,	Pitts,	

And the amendment was tabled.

MR. BLACKWELL—I move we do now adjourn.

THE PRESIDENT PRO TEM.—The gentleman from Morgan moves that this Convention do now adjourn.

MR. SPRAGINS—I was on my feet at the time the motion was made, and I thought I had the floor.

MR. BLACKWELL—I will withdraw the motion to adjourn.

MR. LOMAX—I object.

Upon a vote being taken, a division was called for.

MR. CUNNINGHAM—I rise to a point of order. The gentleman who made the motion to adjourn was sitting in his seat and did not rise to make the motion.

THE PRESIDENT PRO TEM.—The Chair has ruled that point comes too late after the motion is stated to the house. As many as favor the motion to adjourn will rise and remain standing until they are counted.

And upon the vote being taken, there were 60 ayes and 35 noes, and the motion to adjourn was carried.

Leaves of absence were granted Mr. Bulger for today; Mr. Cornwell indefinitely on account of sickness; and Mr. Ferguson for yesterday.

Thereupon the Convention adjourned.

SEVENTY-NINTH DAY

MONTGOMERY, ALA.,
Friday, August 30, 1901.

The Convention was called to order by the President, and opened with prayer by the Rev. Mr. Marshall as follows:

O, Lord, our Heavenly Father, we are grateful to Thee for the preservation of our lives during the night, and that Thou hast brought us unto another day with all its duties and its privileges. We come before Thee this morning realizing our needs of Thee and praying that Thou wouldst this day give us needed grace and strength. We pray Thy blessings upon the deliberations of this body during this day and may that which is best for our commonwealth be done here. Bless each and every member; guide us all by Thy Spirit, and Thou who holdest the world in the hollow of Thy hand, give us of Thy grace and Thy strength. Be with us through life, and at last in Heaven save us, we ask for Christ's sake. Amen.

Mr. Parker (Cullman) took the Chair.

Upon a call of the roll ninety-one delegates responded to their names.

Leave of absence was granted to Mr. Bulger for today.

The report of the Committee on Journal was read stating that the journal of the seventy-seventh and seventy-eighth days were correct, and the same were adopted.

MR. COBB—On yesterday I gave notice of a motion to reconsider a section. I suppose this would be the time to take it up.

PRESIDENT PRO TEM.—Yes, sir, this will be the time.

MR. COBB—I move to reconsider the vote taken yesterday, for the purpose of offering that amendment and I ask leave to be heard upon my amendment before the motion to reconsider is put so that the Convention may understand what I want to do.

PRESIDENT PRO TEM.—The motion is to reconsider what?

MR. COBB—Section 34, Declaration of Rights. But I will be heard after it is put.

PRESIDENT PRO TEM. — The gentleman from Macon moves to reconsider the vote by which the Article on Declaration and Rights was adopted.

MR. COBB—I ask your attention to this matter.

The amendment was read as follows: In Section 34 of Declaration of Rights amend by striking out the words "Native born citizens" in line 22 and inserting "provided by law."

MR. COBB—I do not propose to detain the Convention by any argument on this matter. In fact I may almost assume that the amendment will not be adopted, but at the same time I feel it my duty to call attention to this matter because in my opinion, as was said by the distinguished gentleman from Montgomery (Mr. Oates) the other day, it is a matter of very great importance. The Article that we have adopted upon this matter goes farther than any State Government ought to go in conferring rights and privileges upon foreign residents.

This is a matter of importance. The way the matter stands today there is no distinction whatever between the citizens of the State of Alabama and the foreign residents, and the only distinction you will find in the Constitution is a little provision there that if within a certain time, the foreigner does not take out naturalization papers, he ceases to be entitled to the privilege of suffrage. Otherwise he is on a perfect equality with citizens of the State.

MR. WALKER—Would not the effect of your amendment amount to striking out this section entirely?

MR. COBB—O, no. Well, perhaps so, I do not know. It would leave it to the Legislature.

MR. WALKER—It is just one method of striking out the section?

MR. COBB—Well, I think it ought to be in there anyway, but you do no hurt by striking out the section.

MR. COLEMAN (Greene)—If your amendment was adopted so that the possession, enjoyment and inheritance of property of non-residents is left to the disposal of the Legislature absolutely, would there be any foreign capital invested in this country at all?

MR. COBB—I think so, because the Legislature would make provision.

MR. COLEMAN—Just leave it to the will and whim of the Legislature?

MR COBB—I think so. During late years we have extended our ideas about foreign capital, but the way it is now I want to impress upon this Convention that the foreigner and citizen stand upon the same basis as to rights the privileges in the State of Alabama, and that in itself is argument enough against the provision as it stands today. There ought to be some inducement to men to become citizens of Alabama. What inducement is there now with the provision as it is? What does the foreigner care about being a citizen if he has all the rights privileges and immunities of a citizen? It has been the policy of all countries to make a distinction between a citizen and a foreigner. All civilized countries extend to foreigners certain rights and privileges, and we have done it in Alabama and there isn't a State in the American Union that doesn't do it. They have the right to hold certain properties and of carrying on business and have the protection of the law, but we go a bow shot beyond anything that has ever occurred before, and you put them upon an absolute equality with the citizen. The suggestion made to me by the distinguished gentleman from Walker and the distinguished gentleman from Greene, I would answer in this way——

MR. WALKER (Madison)—The gentleman from Madison.

MR. COBB—I beg "Walker's" pardon. (Laughter.) You can make further amendments if you please. The only point I am driving at is that the rights, privileges and immunities granted to foreigners ought to be restricted. If my amendment goes further than you want it to go, amend the amendment, and put in such things as you think it ought to have, for instance the right to hold certain property, but the Legislature always did give them that. There was never a Legislature that would not provide that foreigners might hold a homestead, and real estate and other property, and that did not give them all the benefits of the laws of Alabama as to carrying on trade and things of that sort. But I insist that you go so far as to leave no distinction between a foreigner and a citizen, and that is going further than any State has gone that I know of, or any other civilized people. It is important in my opinion, and therefore, I offer this amendment. If the gentlemen want to offer an amendment to the amendment, I am perfectly willing, but I do not want to leave this broad open field to

foreigners whereby they can come into the State of Alabama, and not only have the full protection of the law, but also exercise all the privileges of citizenship and receive all its immunities, and yet be relieved of the burden of citizenship. That is what you do. You do relieve them of the burdens. They are not subject to military duty and to various obligations of citizenship. Foreigners are absolutely free from these burdens, and they have all the privileges, with none of the burdens by reason of our grace in extending so broadly these privileges, immunities and rights. I will not argue the question further, but I hope this Convention will see fit to consider this matter.

MR. BOONE — This is identical and Section 34, which we have adopted, is word for word the same as Section 36 in the Bill of Rights of the Constitution of 1875. We have not felt any great evils under the Constitution of 1875, owing to this provision, that the bona fide residents of this State shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens. Surely we do not want to go back into that period of prejudice, or anything that smacks of it.

As a gentleman suggests, it is confined to only bona fide residents of this State. I know in my native city of many foreigners, I have one in mind who married a lady of distinguished family of this State, and has many children. They live there. That has been his place of residence for over 25 years. He has bought property there and educated his children there and his children are citizens of the United States.

MR. COBB—If that is true, why does not this man become a citizen of the State?

MR. BOONE—Because he is a representative of the German empire as Consul for Germany. Now, without further debate, I move to lay the amendment upon the table.

Upon a vote being taken, the motion to table the amendment prevailed.

MR. SPRAGINS — The Committee desires to make some small corrections, and they ask unanimous consent to do so. In Article VI, on the Judicial Department, page 36, line 24, between the words "have" and "jurisdiction" we ask leave to insert the word "original" so that it shall read, "it shall have original jurisdiction only where the matter or sum in controversy exceeds fifty dollars."

MR. SMITH (Mobile)—I have been looking at that and have conferred with some of the members of the Judiciary Committee and they ask unanimous consent in that respect. The error crept in in changing the phraseology of the old Constitution, and the Committee think it would be better to have the word "only"

stricken out and in place inserted the word "except." Then the words "no original" should be inserted after the word "have."

MR. SPRAGINS — The Committee accepts the suggestion made by the chairman of the Judiciary Committee. The correction will be in the latter half of line 24, and when corrected, it will read "shall have no original jurisdiction except where the matter or sum in controversy exceeds fifty dollars."

Unanimous consent was given, and the amendment ordered.

MR. SPRAGINS—Now on page 38, line 7 we ask leave to insert after the word "and" in the middle of the line the words "with power," so that it will read "the Legislature shall have power to establish in each county a court of probate, with general jurisdiction of orphan's business, and with power to grant letters testamentary and of administration."

The consent was given, and the amendment ordered.

MR. SPRAGINS—Now on page 40, line 25, after the word "rendered" we ask unanimous consent to add the words "but for such incompetency," striking out the period after the word "rendered."

The President resumed the chair.

The consent was given.

MR. SPRAGINS—On page 42, line 8 we ask consent to put around the words "in the circuit brackets.

MR. SMITH (Mobile) — It seems to me the amendment should be made. I doubt whether as written without the brackets the meaning of this provision is that he shall reside in a county in which there is a prosecution or a county in the circuit in which there is a prosecution. In other words, whether it is sufficient that there should be a criminal prosecution in the circuit and he should reside in one of the counties, or whether it requires him to reside in the county in which there is a prosecution. I think the amendment is necessary to relieve that ambiguity.

The consent was given, and the amendment ordered.

MR. SPRAGINS—Now I move the adoption of the article, and on that I call the previous question.

THE PRESIDENT — The gentleman from Madison moves the adoption of the article as reported, and call for the previous question.

MR. WILSON (Clarke)—I ask the gentleman to withdraw that a moment.

The motion was withdrawn.

MR. WILSON (Clarke)—I desire to offer a short amendment.

The Secretary read the amendment as follows: Amend Section 120 on page 38, middle of page, by inserting in line 14, after the words "official terms" the following: "And the Circuit Judges and Chancellors shall be paid mileage not exceeding the amount actually paid by them for railroad fare in traveling to and from the terms of their courts."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Clarke.

MR. WILSON—I just desire to say one word in reference to this amendment. At the time we passed this judiciary article which did not provide for mileage, we had not passed the "evil" proposition, and we had not restricted the judicial officers from accepting passes.

MR. FOSTER—Don't you think the Legislature could allow that?

MR. WILSON—They will have to travel for two years before the Legislature would meet in 1902.

MR. GRAHAM (Talladega)—Have you not known judges and chancellors in this State that did not ask the Legislature for any mileage?

MR. WILSON—Yes sir, our Circuit Judge did.

MR. GRAHAM—Don't you think they all ought to do it, or resign?

MR. WILSON—That is another proposition. No, I don't think they ought. So far as the question asked by the gentleman from Tuscaloosa is concerned, (Mr. Foster), the gentlemen who favored the abolition of the "pass evil" were not willing to trust that to the Legislature and we have abolished that and have ourselves taken charge of it.

MR. OATES—May I ask the gentleman a question.

THE PRESIDENT—Will the gentleman yield?

MR. WILSON—Yes.

MR. OATES—The gentleman states there will be no Legislature to meet for two years. I want to inquire how this Constitution is going to be put in force and given effect, unless the Governor calls the present Legislature together to put it into effect?

MR. WILSON—Those provisions that are self-operating will go into effect and those which are not self executing will not go into effect.

MR. OATES—The presumption is that the Legislature will be called together.

MR. WILSON—That may possibly be. This is a small matter. My own Circuit Judge told me that the amount of railroad fare he paid every year was $35 in going to and from the regular terms of his court. I think that is about the average of all the judges in the State. Taking that as a basis the total amount would be $468. When it comes to Chancellors it is right considerable, our Chancellor goes to Mobile, the biggest county——

MR. GREER (Calhoun)—Would you not accept an amendment that we include hotel bill?

MR. FITTS—And cigars?

MR. WILSON—No sir, and I did not even put in an amendment that he should receive back fare. A good many go in wagons over some of the counties and they pay for that too, and I did not put that in because it is uncertain what it would amount to, and would require proof. I thought it best to include only actual railroad fare.

MR. BEDDOW—I wish to ask the gentleman if he heard from any of the Chancellors on this subject?

MR. WILSON—Not on this subject, Mr. President; (Laughter) I have not heard from any Chancellor on this subject. The circular letter was not on this subject, it was on the subject of the "evil." (Laughter.) I think Mr. President, apart from levity, this is right. We give the members of the Legislature 10 cents a mile and that is to pay not only the railroad fare, but sleeping car fare and hotel bills. They are given 10 cents a mile, and the members of the Legislature and judiciary are the only ones we prohibit from receiving passes, and I think that this provision should be adopted. It would cost the State such an inconsiderable amount that it really is not worth hesitating about. The Circuit Judges would not exceed $500, and the Chancellors between $800 and $900. Some of the Chancellors have to pay in the neighborhood of $200 and taking into consideration the small salaries they get, it is a considerable amount to them, but would be a very small amount to the State. I simply offer the amendment thinking it ought to be adopted.

MR. WHITE—It is purely a legislative matter, and in reply to the gentleman's suggestion that at the time we adopted the anti-pass proposition that we did not have this matter in mind, I will say that I supposed a large majority of the members of the Convention did not suppose that Judges and Chancellors at that time were riding upon free passes. I therefore move to lay the amendment on the table.

Upon a vote being taken the motion to table the amendment prevailed.

MR. MILLER (Wilcox)—I desire to offer an amendment.

The Secretary read the amendment as follows:

Amend Section 168, page 43, in line 2 after the word "fees" insert "and their jurisdiction."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Wilcox.

MR. MILLER—I invite the special attention of delegates to that amendment. In view of local legislation changing the jurisdiction of justices of the peace, it is important that our judicial system in all of its branches should be uniform, and this section provides that fees of justices of the peace shall be uniform throughout the State, and that amendment seeks to make their jurisdiction throughout the State uniform. In some portions of the State, particularly in my own county, as was evidenced yesterday by a special amendment by my colleague, Mr. Jones of Wilcox, we have a statute, special law, giving justices of the peace jurisdiction of misdemeanors and in other section of the State they have special laws affecting the jurisdiction of justices of the peace, and it seems to me it would be a good idea to have their jurisdiction uniform throughout the State. Our Constitution here fixes their civil jurisdiction and the criminal statutes of the State their general criminal jurisdiction, and this seeks to put all the justices in every county on a uniform system, and I would like to call the attention of delegates to this, and I hope the amendment will be adopted. It reads which fees of justices of the peace and their jurisdiction shall be uniform throughout the State.

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Wilcox.

MR. PILLALNS—While I concur heartily with the motives of the gentleman, in offering this amendment, and I know that there are evils of which he speaks, but we run a risk in hasty legislation, adopting an amendment at this late hour, of doing something very injurious. I can instance one case, that we have removed from Justices of the Peace, criminal jurisdiction in Mobile county, because they handled it so. If this amendment were passed, it would put back into their hands a jurisdiction which was ruinous to the poor of the community in which they practiced. 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 47, noes 40, and the motion to table prevailed.

MR. OATES—Before offering any amendment. I desire to submit an inquiry to the committee and the Convention. Section 155, page 39, the latter part of it, there is this language: "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, or in the mode or time of election."

The inquiry I wish to submit is this: As to whether the Legislature is authorized to abolish a court wherever lack of business or other cause exists for it, and if one of these courts is abolished, if the judge is entitled to his salary for the full term. I think he would. It has been decided in the Selma case where a statutory judge was abolished the salary went with it, but if you put it in the Constitution without qualification he could draw his salary although he performed no service whatever. I have an amendment here which I have drawn——

MR. WALKER—I think this is just the way it was in the old Constitution. The purpose of it is to prohibit abolishing of judges for the term for which they are elected.

MR. OATES—That is probably quite true, but we have a provision in this that is not in the old Constitution.

MR. WALKER—A judge who has been elected to a term to a constitutional court, I think he should be entitled to the salary.

MR. OATES—Not if the court is abolished.

MR. PILLANS—Might it not be the policy of the clause in this, that you thereby get rid of the powerful opposition of that judge to the wholesome change in the law abolishing this court by letting him go on to the end of the term with full pay, he having abandoned the practice of law with the expectation of receiving it.

MR. OATES—I think if I were a Legislator I would not care anything about the office, I would do what was right. In the event the Legislature sees fit to abolish that, the people should not have to continue to pay the salary. I will offer the amendment to the Convention.

The amendment was read as follows:

"Amend Section 155, page 39, provided the abolition of any court by the Legislature shall not entitle the judge of such court thereafter to draw his salary."

MR. SMITH (Mobile)—This question, as I recollect it, was discussed at the time the article was passed. The gentleman from Montgomery introduced what resulted in Section 171, but as introduced, it sought to give to the Legislature the

power to abolish any court, not only when its jurisdiction and functions had been conferred upon some other court, but whenever it thought it was necessary or proper. The fight was then made upon giving the power to the Legislature to abolish any court at its discretion. The Judiciary Committee did not think it wise to give the Legislature power simply to legislate an officer out of his office. In the Judiciary Committee, the clause was carefully canvassed and considered, and it was the intention after deliberate consideration not to give to the Legislature the power to legislate one man out of office and another man into office. The way we have the courts arranged the Legislature can, if it sees fit, simply swap the same Judicial business from one form of court to another form of court, and while that power is greatly in the interest of a judicial system, so long as it is used to accommodate the courts to the needs of the people, it would be an unwholesome power if used simply for the purpose of legislating one man out of office and another man into office, merely to take from one judge and give it to another, they would swap it from one name of the court to another name, and as a check upon that power, we have provided that even when they change their court, they should not legislate a judge out of office, and I think the provision is a wise one.

MR. OATES—Do you not state the question rather broadly, saying legislate one out and legislate one in?

MR. SMITH—It is broad. I was going to say it is very broad, but it took a broad statement to cover the Constitutional provision, and it is just broad enough to cover the Constitutional provision. We provide that they make special courts or may transfer the jurisdiction.

MR. WALKER—Under the provision as afforded, is there any likelihood of there being the necessity of abolishing these courts entirely?

MR. SMITH—I do not think there is.

MR. WALKER—By transferring the jurisdiction, the courts can be perpetuated consistently with public interests. The probability is very remote of any necessity to abolish.

MR. SMITH—But the power would be there to gerrymander a man out of office, if there were not some restriction. Now then when the gentleman from Montgomery offered this broad clause, in conflict with the intention and spirit of the article reported by the Judiciary, which allowed the Legislature to gerrymander them out we amended it so as to provide that the courts should not be abolished except when its jurisdiction and functions had been done away with

I therefore move that the amendment be laid upon the table. Upon a vote being taken, the motion to table prevailed.

MR. OATES—I desire to offer another amendment.

"Amend Section 162, page 41, by adding thereto the following: 'Nor engage in active partisan politics.'"

MR. OATES—I desire to say that I offered an amendment similar to this in different language, in the Convention when this article was under consideration, and it was voted down. I offer this in briefer language, and think it entirely proper. I suppose the lawyers of this Convention, the older ones anyway, remember as I do years ago, that such a thing as a judge while in office, to engage actively in partisan politics, as unheard of, and it was considered a highly improper thing to do. Nothing of the kind that I ever heard of, until long since the war. A judge should be esteemed for his purity and for his impartiality. It is an elevated position, to sit upon and adjudge the rights of others, and a man should not be suspected of any bias, because he is a Democrat, a Populist, or a Republican, and while he ought to have the right to vote, and participate in elections, he should not go out and engage in active politics, making speeches, serving on campaign committees and all of that. It greatly impairs the respect of the people for the judge to do it. Hence I offer this amendment.

MR. WALKER—This proposition, identical in meaning, was presented to the Convention when the judiciary article was before it. I do not think the Convention will change its views upon this proposition. That question of the extent of participation in politics by a man on the bench is at least a question of the individuals' view of the properties, and you cannot fix a provision that will keep a man who is innately a politician, from having something to do with politics. He may work in underground methods, but you do not change the politician into a judge by putting him on the bench and there is no use trying to legislate human nature out of men; therefore I move to table the amendment.

MR. OATES—Might it not show to the people that he is an improper man to be judge, if he is actively participating in politics.

MR. WALKER—If he actively participates in politics, and public sentiment disapproves of that kind of thing, he will go off of the bench and that is the best remedy for this sort of thing.

MR. OATES—I do not think he would do it. I should think that a judge like you would not require a thing of this kind, but there are some who would require it.

THE PRESIDENT—The question will be upon the motion to table the amendment offered by the gentleman from Montgomery.

Upon a vote being taken, a division was called for, and by a further vote of 55 ayes and 46 noes, the amendment was laid upon the table.

MR. OATES — I desire to be indulged to offer the other amendment, to sleep with the others, I suppose; however it conveys my sentiments.

The amendment was read as follows: "Amend Section 165 page 41 by striking out of lines 23 and 24 the following words "and may when appointed by the Chancellors also fill the office of Register in Chancery."

MR. OATES—The policy as declared in this Constitution is that no one shall hold two offices of authority in the State, with a few petty minor exceptions, and in this case, authorizing the Clerk of the Circuit Court to hold the office of Register in Chancery might produce a conflict. For instance, both courts might be in session at the same time, and it seems to me there are scarcely offices enough for well qualified gentlemen in this State, not near enough to give one office to each man, and I have heard already some complaints since this action was taken of this very thing.

MR. WALKER (Madison)—I want to make this suggestion. It was suggested that should be done because of the difficulty in some small counties of the State of getting some one to take the office of Register in Chancery. It has been done although it has been unauthorized, because it has been impossible to get another man to take the office of Register in Chancery, and it is found necessary in such small counties to get the services of the circuit clerk, in that case, and that is done simply to——

MR. OATES—I have no doubt the committee in making that provision were actuated by some such consideration, but the number of counties is so small where the office of register in it is too poor for anybody to accept it that I think they can be counted on the fingers of one hand or half of them. My experience and observation is that you find too many who are hungry for every office, however small it may be, and I have known that this has been done in some important counties in the State, where a complaint has been made on account of it and where there has been conflict of duty to the people. I don't think it ought to be there and I don't think we can be consistent in it and yet make this exception. That is the reason I offer the amendment.

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Montgomery.

MR. COBB—My friend from Madison has explained why it was that this provision was put into the Constitution. It not infrequently happens that there is some difficulty in getting a register in chancery for the reason that the office pays nothing in many

counties, and this was only a provision allowing the chancellor, in his discretion, to appoint the clerk of the Circuit Court, if he was suitable, to be his register, so that out of the two offices one respectable office might be made and a competent man might be secured. I do not take much to this idea about offices going around. Offices were not made for office holders. They were made for the good of the people and for the proper administration of law in the State of Alabama, and the people of Alabama are very indifferent whether one man or another holds office, provided he discharged his duty faithfully. I move to lay the amendment on the table.

Upon a vote being taken a division was called for, and by a vote of 59 ayes and 42 noes the motion to table the amendment prevailed.

MR. SPRAGINS—I now move the adoption of the article and on that I call the previous question.

MR. O'NEAL (Lauderdale)—I desire to offer an amendment and I ask the gentleman to let me offer one other amendment.

MR. SPRAGINS—If the gentleman from Lauderdale is willing to take the chances and will promise not to make a speech (applause) and will renew my motion, I will withdraw it.

MR. O'NEAL—I accept the proposition.

The amendment by Mr. O'Neal was read as follows:

Amend Section 168, page 43, by adding thereto the following:

The Legislature may increase the jurisdiction of the inferior courts provided for in this section in all civil cases to an amount not exceeding five hundred dollars.

MR. WATTS—I move to lay the amendment upon the table.

Upon a vote being taken the motion to table the amendment prevailed.

MR. SPRAGINS—I now renew my motion for the adoption of the article, and upon that I call the previous question.

The main question was ordered, and upon a further vote being taken the article was adopted.

Article VII on Impeachments was read as follows:

ARTICLE VII

Impeachments

173. The Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, Commissioner of Agriculture and Industries, and

Justices 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 officer 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 of impeachment, under oath or affirmation, on articles or charges preferred by the House of Representatives.

174. The chancellors, judges of the Circuit Court, judges of the Probate Courts, Sheriffs, Solicitors and judges of other 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 or elsewhere in this Constitution by the Supreme Court, under such regulations as may be prescribed by law. The Legislature may provide for the impeachment or removal of other officers than those named in this article.

175. The clerks of the Circuit Courts or courts of like jurisdiction, of criminal courts, tax collectors, tax assessors, county treasurers, county superintendents of public instruction, coroners, justices of the peace, judges of inferior courts, created under authority of Section 168 of this Constitution, notaries public, constables and all other county officers, Mayors, intendants 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 173 of this Constitution, by the Circuit or other courts of like jurisdiction or a 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 shall be secured.

176. The penalties in cases arising under the three preceding sections shall not extend beyond removal from office and disqualification from holding office under the authority of this State, for the term for which the officer was elected or appointed; but the accused shall be liable to indictment and punishment as prescribed by law.

MR. JONES (Montgomery)—I desire to offer an amendment.

The amendment was read as follows:

Amend Section 173, page 44, by adding at the end thereof the following words: "When the Governor or Lieutenant Governor is impeached, the Chief Justice, or, in his absence or disability, some one of the justices of the Supreme Court, to be selected by it, shall preside over the Senate when sitting as a court of impeachment."

Mr. Mulkey here took the Chair.

MR. JONES (Montgomery) — I desire briefly to state that amendment has been submitted to the Committee on Order, Consistency and Harmony, and the Committee approve of it. It is intended to cure an evil that might otherwise exist of the Lieutenant-Governor having the legal if not the moral right to preside over the Senate, when it was trying the Governor whom he was to succeed, and I think the people of the State think we ought to provide against contingencies of that sort, and for that reason I move the adoption of the amendment.

MR. WHITE—On behalf of the Committee on Order, Consistency and Harmony, I will state that the committee is perfectly willing to adopt the provision contained in the amendment. We did not feel authorized, however, to make that change without the direction of the Convention.

So far as the Committee is concerned it is all right. I do not know how the Committee on Impeachments may feel about it.

MR. OATES—Is this not in strict accord with the provisions of the Constitution of the United States relative to impeachments before the Senate thereof?

MR. WHITE—Yes, I think it is.

MR. OATES—I think it is entirely proper to do it.

THE PRESIDENT PRO TEM.—The question will be upon the amendment offered by the gentleman from Montgomery.

Upon a vote being taken the amendment was adopted.

MR. JONES (Montgomery)—I offer another amendment.

The amendment was read as follows:

Amend Section 173 by adding at the end thereof the following words, to wit:

If, at any time, when the Legislature is not in session, a majority of all the members elected to the House of Representatives shall certify in writing to the Secretary of State their desire to meet to consider the impeachment of the Governor, Lieutenant-Governor, or any other officer administering the office of Governor, it shall be the duty of the Secretary of State to immediately notify the Speaker of the House, who shall, within ten days after receipt of such notice, notify the members of the House by publication in some newspaper published at the Capitol, to assemble at the Capital on a day to be fixed by the Speaker, not later than fifteen days after the receipt of the notice from the Secretary of State, to consider the impeachment of the Governor, Lieutenant-Governor, or other officer administering the office of Governor. If the House of Representatives prefer Articles of Impeachment,

the Speaker of the House shall immediately notify the Lieutenant-Governor, unless he be impeached, and in that event the officer next in succession to him, who shall, in like manner, notify the members of the Senate to assemble at the Capital, on a day to be fixed in said notice, not later than ten days after the receipt of the notice from the Speaker; and the Senate, when thus organized, shall hear and try such Articles of Impeachment against the Governor, Lieutenant-Governor, or other officer exercising the powers of the office, as may be presented by the House of Representatives.

THE PRESIDENT PRO TEM.—The question will be upon the amendment offered by the gentleman from Montgomery.

MR. JONES (Montgomery)—I do not suppose that there is anything in the objects of the amendment which will be objectionable to the Committee on Impeachments. I will state that I was not here when that Article was discussed, or I would have offered it then.

The amendment has been submitted to the Committee on Order, Consistency and Harmony, and while they do not feel at liberty to approve it, they do not disapprove it, and have no objection to it. The purpose of the amendment is this: It has been irrevocably fixed by this Convention that the Legislature will not ordinarily be in session more than once in four years, and the object of the amendment is to authorize the people's representatives, if some emergency should arise, to have some power to call the Governor, or person exercising the office of Governor to account. We all remember some years ago in North Carolina that Governor Holden of that State called out the militia, declared martial law, defied the Supreme Court, and acted as a tyrant for nearly eighteen months, because there was no way by which the Legislature could constitutionally meet to impeach him. When the Legislature met, it did impeach Governor Holden and removed him from office. We hope that nothing of that sort will ever occur in our State, but we are framing a Constitution to meet contingencies, and it seems wise, therefore, to have some such power resting somewhere. I have provided, first, to have the call by majority of the members elected to the House of Representatives and not to have the Senate called together in the first instance, because the Senate would have no necessity to meet unless Articles of Impeachment were preferred, and it was not the purpose to put the State to the expense of having the Senate meet if the House failed to prefer Articles of Impeachment. It is all confined to the contingency of the misconduct of officers exercising the powers of Governor. The reason for that is that if any other officer should commit an impeachable offense that was a great scandal, the Governor would have the power to call an extra session for that purpose.

I do not desire to take up the time of the Convention, but it seems to me that it will do away with one objection that has been urged with great force against quadrennial sessions, and it will satisfy the people that they have some oversight of their Executive Officer during these four years if the occasion should arise for it to be exercised, and therefore I hope it will be adopted.

MR. HOOD—This is a very radical departure. No Committee has had an opportunity of looking into this matter. It is sprung here in these last days of the Convention, and the Convention has not a proper opportunity of looking into the wisdom of this amendment. I therefore move to lay it on the table.

THE PRESIDENT PRO TEM.—The gentleman from Etowah moves to lay the amendment on the table.

MR. JONES (Montgomery)—On that I call for the ayes and noes.

MR. COLEMAN (Greene) — I call for the reading of the amendment.

The amendment was read again.

THE PRESIDENT PRO TEM.—The gentleman from Montgomery calls for an aye and nay vote. Is the call sustained?

The call was sustained.

The call of the roll resulted as follows:

AYES

Altman,	Carnathon,	Merrill,

TOTAL—3

NOES

Messrs. President,	Chapman,	Fitts,
Ashcraft,	Cobb,	Fletcher,
Banks,	Cofer,	Foshee,
Barefield,	Coleman, of Greene,	Foster,
Bartlett,	Coleman, of Walker,	Freeman,
Beddow,	Craig,	Glover,
Bethune,	Cunningham,	Graham, of Montgomery
Blackwell,	Davis, of DeKalb,	Graham, of Talladega,
Boone,	Davis, of Etowah,	Grant,
Brooks,	Dent,	Grayson,
Burnett,	DeGraffenreid,	Greer, of Perry,
Burns,	Duke,	Haley,
Byars,	Eley,	Handley,
Cardon,	Eyster,	Harrison,
Case,	Ferguson,	Heflin, of Chambers,

Heflin, of Randolph,
Henderson,
Hodges,
Hood,
Howze,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Jones, of Wilcox,
Knight,
Kyle,
Ledbetter,
Lomax,
Long (Walker),
Lowe (Lawrence),
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Martin,
Miller (Marengo),
Moody,
Mulkey,
Murphree,
NeSmith,
Norman,
Norwood,
Oates,
O'Neill (Jefferson),
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pillans,
Porter,
Proctor,
Reese,
Reynolds (Chilton),
Rogers (Lowndes),
Rogers (Sumter),
Sanders,
Sanford,
Searcy,
Sentell,
Sloan,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spears,
Spragins,
Stewart,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
White,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson (Clarke),
Wilson (Washington),
Winn,

TOTAL—118

ABSENT OR NOT VOTING

Almon,
Beavers,
Browne,
Bulger,
Carmichael, of Colbert,
Carmichael, of Coffee,
Cornwall,
Espy,
Gilmore,
Greer, of Calhoun,
Hinson,
Howell,
Jenkins,
King,
Kirk,
Kirkland,
Leigh,
Locklin,
Long (Butler),
Lowe (Jefferson),
Maxwell,
Miller (Wilcox),
Morrisette,
Pitts,
Renfro,
Reynolds (Henry),
Robinson,
Samford,
Selheimer,
Sollie,
Studdard,
Tayloe,
Thompson,
Willet,

So the motion to table was lost.

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

So the motion to table was lost.

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

MR. deGRAFFENREID—I move the adoption of the article as it has been amended, and upon that I move the previous question.

The previous question was ordered, and further vote being taken the article on impeachments as amended was adopted.

MR. deGRAFFENREID—The article on impeachments has been amended in material particulars by the Convention and one or two of them are long amendments. The rules under which the house is now acting, provide that when the Convention has gone over the Constitution and adopted it, acting upon this report, that the whole Constitution shall be re-ferred, if amended in any part to the Committee on Order, Harmony and Consistency. On yesterday, part of the Constitution was turned over to the Engrossing Committee for the purpose of having it written upon parchment which has been provided. I now move to suspend the rules in order that I may move that the article on impeachments be now referred to the Committee on Order, Harmony and Consistency, in order that they may prepare it for the Committee on Engrossing.

Upon a vote being taken, the motion to suspend the rules was adopted.

MR. deGRAFFENREID—I now make the motion.

THE PRESIDENT PRO TEM.—The motion is that the article on impeachments be referred back to the Committee on Order, Harmony and Consistency of the Whole Constitution.

A vote being taken, the motion was adopted.

MR. WHITE—I ask unanimous consent to introduce an ordinance prepared by the committee.

The Secretary read the ordinance as follows:

Ordinance No. 460 by Mr. White.

An ordinance to empower and authorize the Legislature to amend or repeal all ordinances adopted by the Convention not contained in the proposed Constitution.

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

That the Legislature be and the same is authorized and empowered to revise, alter, amend or repeal all ordinances or parts of ordinances adopted by this Convention not incorporated in the

proposed Constitution of the State by act passed and approved by the Governor as in other cases; provided, that the Legislature shall have no power or authority to repeal an ordinance relating to the bonded indebtedness of the State, adopted by the Convention on the 10th day of August, 1901; provided further, that the Legislature shall have no power to repeal or amend ordinances establishing court houses except in accordance with Section 41 of Article II of this Constitution.

Referred to Judiciary Committee.

The Clerk read Article VIII as follows:

ARTICLE VIII

Suffrage and Elections

177. Every male citizen of this State who is a citizen of the United States, and every male resident of foreign birth, who, before the ratification of this Constitution, shall have legally declared his intention 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 foreigners who have legally declared their intention to become citizens of the United States, shall, if they fail to become citizens thereof at the time they are entitled to become such, cease to have the right to vote until they become such citizens.

178. 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 nineteen hundred and one, 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 in the same county, incorporated town or city, shall have the right to vote in the precinct or ward from which he has removed, if he would have been entitled to vote in such precinct or ward but for such removal.

179. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

180. The following male citizens of the State, who are citizens of the United States, and every male resident of foreign birth who, before the ratification of this Constitution, shall have legally declared his intention to become a citizen of the United States, except those who shall not have had an opportunity to perfect his citizenship prior to the twentieth day of December, nineteen hundred and two, 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 the qualification as to residence prescribed in Section

178 of this Constitution, and who are not disqualified under Section 182 of this Constitution, shall upon application, be entitled to register as electors prior to the twentieth day of December, nineteen hundred and two, 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 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,

Third—All persons who are of good character and who understand the duties and obligations of citizenship under a republican form of government.

181. After the first day of January, nineteen hundred and three, 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 178 of this Constitution, shall be qualified to register as electors, provided, they shall not be disqualified under Section 182 of this Constitution.

First—Those who 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 inability to read and write shall not disqualify any elector, if such disability is due to physical infirmity; or

Second—That 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 stiuate 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 three hundred dollars 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 three hundred dollars 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.

182. 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; 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 of buying or offering to buy the vote of another, or of making or offering to make a false return in any election by the people or in any primary election 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.

183. 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 from voting under the provisions of this Article.

184. 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 the year 1902.

185. 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, and, upon conviction thereof, shall be imprisoned in the penitentiary for not less than one nor more than five years.

186. The Legislature 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 sixty days after the ratification of this Constitution by the Governor, Auditor, and Commissioner of Agriculture and Industries, or by 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 if 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 two dollars per day to be paid by the State and disbursed by the several Judges of Probate, 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 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 Judge of Probate of the county.

Second—Prior to the first day of August, 1902, the Board of Registrars in each county shall visit each precinct at least once, and oftener, if necessary, to make a complete registration of all persons entitled to register, and shall 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 advertisements once a week for three successive weeks in a newspaper, if there be one published in the county. 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 nine hundred square miles in area, such board may consume seventy-five working days in completing the registration, and except that in counties in which there is any city of eight thousand or more inhabitants, the board may remain in session, in addition to the time hereinbefore prescribed, for not more than three successive weeks in each of such 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 an additional session of not exceeding five consecutive days' duration for each session, in each town or city of more than one thousand 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 not register any person between the first day of August, nineteen hundred and two, and the Friday next preceding the day of election in November, nineteen hundred and two. On Friday and Saturday next preceding the day of the election in November, nineteen hundred and two, they shall sit in the court house of each county during such days, and shall register all applicants having the qualifications prescribed by Section 180 of this Constitution and not disqualified under Section 182, who shall have reached the age of twenty-one years after the first day of August, nineteen hundred and two, 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 nineteen hundred and two; and they shall not on such days register any other persons. When there are two or more court houses in a county, the registrars may sit during such two days at the court house they may select, but shall give ten days notice, by bills posted at each of the court houses, designating the court house at which they will sit.

Fourth—The Board of Registrars shall hold sessions at the court house of their respective counties during the entire third week in November, nineteen hundred and two, and for six working days next prior to the twentieth day of December, nineteen hundred and two, during which sessions they shall register all persons applying who possess the qualifications prescribed in Section 180 of this Constitution, and who shall not be disqualified under Section 182. 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 posted and such publications to be commenced as early as practicable in the first week of November, nineteen hundred and two. Failure on the part of the registrars to conform to the provisions of this article as to the giving of the required notices shall not invalidate any registration made by them.

Fifth—The Board of Registrars shall have power to examine under oath or affirmation all applicants for registration, and to take testimony touching the qualifications of such applicants. Each member of such board is authorized to administer the oath to be taken by the applicants and witnesses, which shall be in the following form, and subscribed by the 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, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

Sixth—The action of the majority of the Board of Registrars shall be the action of the board, and a majority of the board shall constitute a quorum for the transaction of all business. Any person to whom registration is denied, shall have the right of appeal, without giving security for costs, 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 register, to have his qualifications as an elector determined. Upon the filing of 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 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 shall furnish to the registrars and judges of probate of the several counties a sufficient number of registration books and of blank forms of the oaths, certificates of registration and 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 person who registrars for another, or who registers more than once and any registrar who enters the name of any person on the list of registered voters, without such person 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, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

187. The Board of Registrars in each county shall, on or before the first day of February, nineteen hundred and three, or as soon thereafter as practicable, file in the office of the judge of probate of their county a complete list, sworn to by them, of all persons registered in their county, 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, nineteen hundred and three, or as soon thereafter as practicable, cause to be made from such list in duplicate, in the books furnished by the Secretary of State, an alphabetical list of precincts of the persons shown by the list of the registrars to have been registered in the county, and shall file one of such alphabetical lists in the office of the Secretray of State; for which services by the Judges of Probate compensation shall be provided by the Legislature. The Judges of Probate shall keep both the original list filed by the registrars and the alphabetical list made therefrom as records in the office of the Judge of Probate 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 not be required to register again unless he changes his residence, in which event he may register again on production of his certificate. The certificate of the registrars or of the Judge of Probate 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 Legislature shall provide by law for the renewal of such certificate when lost, mutilated or destroyed.

188. From and after the first day of January, 1903, any applicant for registration may be required to state under oath, to be administered by a 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 by which he was known during that period, and the name of his employer or employes, 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, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

189. 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.

190. The Legislature 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 Legislature shall also make provision by law, not inconsistent with this Article, for the regulation of primary elections, and for punishing frauds at the same, but shall not make primary elections compulsory. The Legislature shall by law provide for purging the registration list of the names of those who die, become insane, are convicted of crime or otherwise disqualified as electors under the provisions of this Constitution and of any names which may have been fraudulently entered on such lists by the registrars; 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.

191. It shall be the duty of the Legislature to pass adequate laws giving protection against the evils arising from the use of intoxicating liquors at all elections.

192. 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.

193. Returns of elections for members of the Legislature and for all civil officers who are to be commissioned by the Governor, except the Attorney-General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries, shall be made to the Secretary of Stat.e

194. 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; but the Legislature is authorized to increase the maximum age fixed in this section to not more than sixty years. 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.

195. 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 upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

196. If any section or sub-division 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 this Article shall not be thereby invalidated or affected

The President resumed the chair.

MR. FREEMAN—I have an amendment.

The amendment was read as follows

"Amend the Article on Suffrage and Elections by adding thereto the following, that at the election provided herein for the ratification or rejection of this Constitution that none but legal white voters shall be eligible to vote, that in all other respects the existing election laws of this State shall govern in such election, that all laws and constitutional provision and parts of same in conflict herewith be and the same are hereby repealed and held to be null and void.

MR. FREEMAN—Mr. President, the amendment which I have had the honor to introduce should, in my judgment, be adopted by this Convention, it will preserve the eternal fitness of things. It is on nearly every tongue, that the Constitution which this body will submit to the people of Alabama, can only be adopted if adopted at all by resorting to election methods peculiar to the Black Belt of this State, and which methods have fallen into so bad repute, that every one who desires ballot reform of some kind even if only to change the form of the methods and give novelty thereto.

Besides this amendment is the bold and manly way of doing things; it does not beat around the bush, nor attempt to accomplish anything by indirection. Every one admires boldness, candor and open expressions. Everybody knows that this Convention has done its best to disfranchise the negro in Alabama, and to nullify the fifteenth amendment to the Constitution of the United States. Why, then should this Convention hesitate to openly declare what it has done by indirection? Is it because that this body is afraid of the public opinion of the civilized world or ashamed of its own work?

I respectfully submit that it is enough to disfranchise the negro, without making him an involuntary party to his own disfranchisement. We should not call upon him in the Black Belt to be the victim of a ballot he never cast. Besides we should not impose this burden upon the Black Belt. And this Constitution, if adopted at all, should be adopted by unquestioned and unsoiled

methods. Otherwise there is sure to be discontent in Alabama and turmoil in her politics.

Mr. President, if the Constitution which this Convention will submit to the people of Alabama, cannot command the support of the white vote of the State, it should not be adopted. We should remember that a majority of the white counties voted against the calling of this Convention, and that it was only assembled because of a majority counted for the call in the Black Belt. It is the straw that breaks the camel's back. We should not use the negro vote of the Black Belt by means of a fraudulent count or otherwise to fasten a Constitution upon the State of Alabama objectionable to the white voters of the State. If the negro is a sufficiently qualified voter to do this he is a qualified voter in all other matters. This Constitution is not only objectionable to the white voters, but violative of the negro's right of suffrage as secured to him by the Constitution of this republic. If, sir, our work cannot receive the endorsement of a majority of the white voters of this State it should be rejected, and be wholly repudiated. You cannot dodge this issue by saying that the resolution violates the fifteenth amendment to the Constitution of the United States, for it is not as obnoxious to the fifteenth amendment as is the suffrage article in the proposed Constitution. That Article forever deprives him of the franchise, while this resolution only suspends its exercise in one instance to the end that the liberty of the white man in Alabama may not be destroyed. It simply excludes him from this election and leaves his rights unimpaired for the future.

The chances are that this proposed Constitution will be defeated if submitted alone to the white voters of the State; but that it will be adopted if submitted to all the voters, because of the force of the habit of the count in the Black Belt. Can Alabama afford to establish the fact that the organic law of the land is not the free, unbiased will of the people, but the produce of the machine, and the count. Can we afford to make proclamation of such a fact. Besides, would not the discontent arising from such conduct emphasize itself in the form of Congressional action, setting aside the work of this Convention as a mockery and a fraud. Is there not power in the nation to right so flagrant a wrong? Article IV, Section 4 of the Constitution of the United States guarantees to every State a government republican in form. Here we may encounter a sleeping giant, effectual for the protection of civil liberty in Alabama. Can it be said that this State will have a government either Democratic or Republican in form, when the organic law of the State has been saddled upon the people not by their own free will, but by fraud and an arbitrary disregard alike of their liberties and their votes. A Constitution adopted not by votes, but by the count, is not a government republican in form, nor democratic in theory, but is only the bastard off-spring of despotism and anarchy.

If this amendment is adopted the world will know what the people thing of our work here, but if defeated it will never be known and it will only see by the face of the election returns that 75,000 negroes in the Black Belt voted for their own disfranchisement? This nobody will believe. The only effect therefore, will be to satisfy everybody that the organic law of Alabama which was conceived in partisanism, was brought forth in fraud. Let this Convention do one bold and manly act—adopt this resolution, and submit the result of our labor to the white vote of the State. Let us show to the world that we are sincere about white supremacy, and not solicitous about it only that some party advantage may come therefrom. Let us do more to prevent the degradation of the State and its possible loss of representation, and maybe reconstruction by Congress.

Under the proposed Constitution we will have neither freedom nor white supremacy. The registrars will destroy liberty and white supremacy will be swallowed up in the unequal representation accorded the Black Belt, where as now, one white vote is equal to five or six in the white counties. We will have simply the supremacy of the machine. Can we afford thus to treat our fellow citizens? Can we again face our several constituencies, after we have denied to them the only chance they could have of securing to themselves and their posterity the blessings of civil liberty, by a defeat of the work of destruction which we have so recklessly submitted for their forced adoption. Let us give to the people the chance of self-preservation.

Now, on the amendment offered, I demand the previous question and call for the ayes and noes.

MR. LONG (Walker)—I would like to ask the gentleman a question.

MR. FREEMAN—I decline.

MR. LONG—I want to know who wrote that paper, the Vaughan or the Bingham faction. (Applause.)

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

THE PRESIDENT—The gentleman from Winston moves the previous question, and the gentleman from Hale moves to lay the amendment upon the table. The motion to table has precedence over the motion for the previous question.

MR. FREEMAN—I ask for the ayes and noes on that.

The call was not sustained.

Upon a vote being taken the amendment was tabled.

THE PRESIDENT—The question will be upon the adoption of the article as reported by the Committee on Order, Consistency and Harmony.

MR. BLACKWELL—I would like to ask the Committee a question?

THE PRESIDENT—The gentleman had better address some one of the Committee.

MR. BLACKWELL—I would like to address it to Mr. Spragins. It is relative to a provision on page 50. I would like to know what it is that towns in Jefferson County having from 1,000 to 8,000 inhabitants are to have these five extra days to register, and towns in no other county are to have them.

MR. SPRAGINS—I presume it is because there are a number of large towns in that county.

MR. COLEMAN (Greene)—I will answer the gentleman. We canvassed all the counties in the State, and there were so many more cities in Jefferson County is the reason why an exception was made of that county. Now as to the town of Huntsville in Madison County, it was said that there was ample time for that county, and so with Mobile County, but the population of Jefferson was so much greater that we thought it required an additional session of five days to give them ample time, the other towns in the State being amply provided for. There is no other county in the State, having the number of large towns, that Jefferson has.

MR. BURNS (Dallas)—I have in my hand an amendment which it may not be necessary to offer. I thought maybe the Committee would accept it.

THE PRESIDENT—Possibly they will after they hear it read:

The amendment was read as follows:

Amend Article VIII, Section 186, Subdivision 4, line 18, page 51, by striking out "November" and inserting "October" in lieu thereof, so as not to conflict with line 12, Section 46, Article IV, page 11.

MR. BURNS—What I want to call attention to is that the election is set for the first Tuesday after the first Monday in 1902, which would be the 6th day of November, and then over in this Article it says that the Registrars shall hold during the third week of November, 1902.

MR. COLEMAN (Greene)—That is all right. We provide here for the registration of all voters for the election in November, 1902. Then we provide for registration up to 1903, of such as may become of age afterwards, or who have escaped registration; that

is registration for a subsequent election, that is on the life registration list. This registration prior to November, 1902, is to qualify all parties to vote at that election. After that election is over, we go on then and have a permanent registration.

MR. BURNS—If it is understood that way, all right. I cannot understand it that way myself, because just after this election, you call together those same registrars, who have just been engaged in registration the month before.

MR. COLEMAN—We are admitting to permanent registration all who are entitled to it.

MR. BURNS—I will ask the consent of the Convention to withdraw my amendment.

The consent was given.

MR. BURNS—I have another amendment.

The amendment was read as follows:

Amend Article VIII., Section 182, line 15, page 48, by inserting between the words "persons" and "those" the words "all illegitimates whose disabilities as such have not been removed by the Governor or some Chancellor."

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Jefferson.

MR. BURNS—Now, Mr. President, this is no time of day to make a speech, or attempt to make one, which I generally do, so I shall not attempt to make a speech. This is a very serious question. This is a question that appeals to the patriotism, morality and religion of every member of this Convention. Not only for our immediate purposes, but the destinies in part of our posterity, depend largely upon this work. You take a delegate to this Convention who is a sober, sensible man, and ask him to give you a reason why this word should not be placed in this suffrage plank, and he will tell you that "I believe you are right, Burns, and I believe I will vote with you," but you bring it up here in public, and some man's mind will go way back yonder to some fellow he has heard of, who might possibly be disqualified if this word is inserted in this suffrage platform, but how many can he hear of? How many worthy men in the State of Alabama would be debarred even if he did not have an opportunity to have his disabilities removed by the Governor or Chancellor. Here are 155 representative men, 155 of the best men in Alabama, and that 155 men cannot point me to 155 respectable men that this thing will affect. I challenge you, I challenge the members upon this floor to even show me one in some of the counties. I challenge these 155 men before me to show me 155 respectable men in the State of Alabama that this clause would disfranchise.

Then what do you say when you vote? I am prepared to show you that more than 48,000 persons who should not be allowed to vote will be debarred by this one word. Reflect, look over your constituency, look throughout the State, search the records, interview your colleagues, and see what you have been proposing to do. You propose, because that distinguished jurist who headed this Committee had heard of a man in a neighboring county that it might disbar or disfranchise, even when it is provided that that same man can have his diabilities removed, to table, on his motion, the amendments containing this word. That was the argument in full. It might disfranchise some man with possibly a thousand or two or five thousand or ten thousand dollars. If your sons and daughters have to be raised to look up in reverence and respect to men who came into the world against the morals and religious sentiments of this world, and in violation of the statutes of Alabama, we are traveling fast to ruin. But there is a provision that saves at least the dignity of the State, providing that his disabilities may be relieved by the Governor or the Chancellor. Do you know an illegitimate? I see some ladies in the gallery, but it is their fault if they hear Bible language and legal terms. Shall a man who is ashamed of his origin, whom his neighbors know to be an illegitimate shall a man of mixed blood, shall all these illegitimates who ought not to be allowed to vote be the peers and competitors of your children and your children's children, because four or five or eight or ten or fifty or sixty or 100 or 200 men in Alabama are ashamed to go and ask the Governor to relieve their disabilities. If a man is an illegitimate and his neighbors know he is, he will not be ashamed to go with his best neighbors or send his best friend or best lawyer to interview the Governor, or to come into the Court House and see the Chancellor and be relieved of that small disability. It would be a confession on his part, a confession before men and before high Heaven, and would be a stimulant to him to be a better citizen, instead of dodging and hiding. If he wants to dodge and hide, let him pull up and move to some other county or some other State. All the trouble in this country comes from such characters as would be knocked out. The statistics from Washington City, Republican Washington City, with all the officers Republican and all the officers making excuses for negroes and Republicans, show that one-third of the population in all of Washington District is of a different race. Two-thirds of that one-third fill the records in the police courts thereof. Over two-thirds of the crime committed even in Washington, the Capital of the United States, reigned over by Republican officials, where all manner of excuses are made, so the reports show, are committed by this one-third of the population.

Then, another thing, (I cannot help listening to suggestions), it will disfranchise, as the gentleman has just said, nearly every one whom we came here to disfranchise, and whom it is proper to

disfranchise. (Applause). We have come down to the edge of the water, waded in waist deep, now up to the neck. There are some still on the banks, sticking their toes in to see if the water is too cold. We have not come like the brave boys of my day came to the creek or river, and throw off your shirt and breeches and jump in. We were sent here to kill snakes. When I was a boy I was a snake hunter as well as a bird hunter (Laughter), and I have killed a good many innocent black snakes, and coach whips, and chicken snakes, and house snakes that will sleep with you and not harm you; but I always hated to bruise the head of one of these, but it was always my delight to find a rattler with his mouth open and his fangs ready, a rattler who has control of nearly all of the other snakes, especially of his color and of his pedigree, a rattler educated and warmed at home by the fires, by smiles, by the approbation of the best white citizens, Democrats, and supported at the North by white Republicans who have never had any use for Alabama, or the Democrats in Alabama. That rattler with his mouth open, but his tail not giving you warning, his fangs are here and he sends out young rattlers every summer, twelve or fifteen hundred, two thousand; yea, and more. Those young ones come out and among them gather a great quality of damsels—some from Massachusetts, some from Rhode Island, and some from Louisiana, some from Texas, some from Cuba and I suppose some from the Philippines, very few from those countries, however.

THE PRESIDENT—The time of the gentleman has expired.

MR. HEFLIN (Chambers)—I move that his time be extended ten minutes more.

MR. BURNS—If there is a no vote from a respectable delegate, I will respectfully decline. (Laughter).

Upon a vote being taken, there were several noes.

MR. BURNS—Well, I would like to see who they are to see if they are respectable. (Laughter).

The motion to extend the time of the gentleman from Dallas was carried.

MR. BURNS—A good many measures have been carried in this Convention, Mr. President, I am sorry to say, not by a Democratic vote. A good many close issues have been carried in this Convention by small majorities, and a certain element held the balance of power, and consequently when the vote was declared by our distinguished President, it was not the Democratic sentiment of Democratic Alabama. This is no place to make a political speech, and I do not propose to enter into politics, but I propose to start like I always start. We Democrats have been sent here by Democrats, and have met here and acted as Democrats, and Demo-

crats have almost finished the Constitution to be submitted to the people, and Democrats must frame it and fix it and submit it to the Democracy of the State, if they want it endorsed by the best people of Alabama. But this is not a political speech.

The rattlers and the moccasins and the spreading adders, all the poisonous and venomous snakes still lie around; some even on your curb stones. We have not placed the hand of justice upon them, in my opinion, but I am not here to criticize men who are better than I am. I know there are plenty of men, members of this Convention, who are better men than I am, and I believe they are as good Democrats as I am, and I believe they will continue to be as good Democrats. I believe they are as much interested in the future of their race, in the prosperity of their posterity, even more so, than I am. I did come here with other gentlemen, hoping and praying, though the prayers of the wicked availeth not, hoping and praying that before we passed out, especially we ex-Confederates, that we would leave our State in a condition that the white men could go untrammeled and unmolested and without fear and trepidation, and settle all affairs among themselves without the rattle snakes, moccasins, spreading adders and all poisonous and venomous snakes holding the balance of power. We can do it. We have no threats coming from my county. If you did not have as good a Constitution framed as you have, I would support it, (applause), because when my people won't go with me, by the living God, I am going with my people. I have preached the doctrine, the correct doctrine, pure democratic doctrine. If they do not heed me, if they hear me not and will not abide by what I say and endorse it, then I will join with them, and I will out Herod them in advocacy of what has been done here today, and that means something. That means something. I am the humble and insignificant representative of men who mean something, of men who, in 1872, when all the cities were doging around and when this State stood trembling in the balance, caused 18 white men to carry an election with not a democratic manager of the election and over eight hundred and forty carpet baggers, scallawagers, thieves, rattle snakes and moccasins. I have never used the word nigger, but I want to see this Convenion go through without putting it in the Constitution anywhere, and I believe it will do it, although my distinguished friend Watts has urged it upon this Convention. Let us have no "race, color or previous condition." Let us take the present condition, and look to the future condition. Let us live in the present and work for the future, and work for the good of those who are younger than we are, and those that are to follow them. That is the height of manhood and patriotism. Lay down self. We have already laid down self in the black belt and have been doing it since 1872. We came up here in high hope that this Constitution would relieve us, so that we could go back and tell our boys, and all those that are twelve years old and up-

wards have already been spoiled. I have three boys and every one of them has been spoiled on that question, if there is such a thing as spoiling. I know hundreds that have been spoiled, and I do hope, and as I already have said, I did pray, and I do hope and pray that this would be done, although my prayers may not be heard, and I believe they are not heard, because I am not of that calibre of character to approach the throne of Grace.

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

MR. BURNS—I hope, Mr. President, that this will be given a fair consideration and a fair vote.

MR. CASE—I move to table the amendment offered by the gentleman from Dallas.

MR. HEFLIN—On that I call for the ayes and noes.

The call was not sustained.

THE PRESIDENT—The question will be upon the motion to table the amendment offered by the gentleman from Dallas.

Upon a vote being taken a division was called for, and by a vote of 72 ayes and 44 noes the motion to table the amendment prevailed.

MR. COLEMAN (Greene)—I desire to offer an amendment.

The amendment was read as follows:

"Amend first subdivision of Section 181, page 47, by striking out the words 'being physically able to work,' in line 24, and inserting in lieu the words 'and are physically unable to work and those who can read and write any article of the Constitution of the United States and,' and by striking out all of said subdivision at the top of page 48 beginning with the word 'provided' and ending with the word 'infirmity.'"

MR. COLEMAN—It will then read this way: "Those who can read and write any article of the Constitution of the United States in the English language and are physically unable to work, and those who can read and write any article of the Constitution of the United States and have worked or been regularly engaged, etc."

Unless you have some such provision as that, there is no provision for those parties voting at all who are physically unable to work. It is put in there to let those who can read and write, and yet who are physically unable to work vote. It is put in there to qualify them for voting, and that makes it perfectly clear, and then there is no necessity for the last line, which was put in there to cure the infirmity provided for by this amendment of mine. It

makes it perfectly clear and there is no trouble about understanding it.

MR. deGRAFFENREID—May I ask the gentleman from Greene a question?

MR. COLEMAN—Yes.

MR. deGRAFEFNREID—Suppose a man is unable to read and write by reason of existence of physical disability, blind or palsied, under the amendment those people could not vote.

MR. COLEMAN—Here it is—wait until we get through—"and those who are unable to read and write if such disability is due to physical infirmity."

THE PRESIDENT—The gentleman from Greene asks unanimous consent that the amendment offered by him be incorporated. Is there objection?

Objection is made.

MR. BURNS—Will the gentleman permit a question.

MR. COLEMAN—Yes.

MR. BURNS—I wanted to know of the distinguished chairman of the sub-committee if he thought $2 per day was enough for registrars to pay hack hire at the polls, etc.

MR. COLEMAN—We will come to that later.

The purpose of this amendment is simply to provide for those who ought to vote, but who cannot work. It is to provide for those who are competent to read and write and yet are physically unable to work; and then to provide for those who cannot read and write, because blind or palsied or something, and would be competent otherwise. We did not wish to cut out anybody, because blind or unable to work, while otherwise qualified. That is the whole purpose of the amendment. If anybody can fix it up better, so as to let these people in and carry out our pledges, we would like to hear it.

Mr. Pettus took the chair.

MR. PROCTOR—I would like to have that read as it stands when amended.

THE PRESIDENT PRO TEM—The Secretary will read the Section as it would appear when amended.

The Secretary read the Section as amended.

THE PRESIDENT PRO TEM—The question is on the adoption of the amendment.

MR. deGRAFFENREID—I move that this particular Section be referred to the Committee on Suffrage and Elections, to report a Section to this Convention when it meets at 3:30 o'clock.

Upon a vote being taken the motion was adopted.

MR. SANDERS (Limestone)—I ask unanimous consent to introduce a short resolution to be referred to the Committee on Harmony before we adjourn.

Unanimous consent was accorded.

The Secretary read the resolution as follows:

Resolution No. 326, by Mr. Sanders:

Resolved, That all officers elected by the people in the respective counties of this State, whose term of office is for four years, and expire in the year 1904, are hereby continued in office until their successors shall have been elected at the general election in 1906.

Referred to Committee on Order, Consistency and Harmony of the Whole Constitution.

MR. LONG (Walker)—I will call attention that in the Suffrage Report on page 48, in line 3, it says "or husband of a woman." It seems to me that the verbiage is very bad. A man is not supposed to be the husband of anything but a woman (laughter), and it goes on and in line 5 it says "or the husband of any woman." That might be all right in Utah in the time of Brigham Young when a husband was a husband to any woman (laughter), or the husband of a great many women, but it should be changed to read something like this: A man or elector whose wife is the owner of, etc. A man cannot be husband of anything but a woman. None of us would be satisfied to be husband of anything but a woman. (Laughter.)

THE PRESIDENT PRO TEM—Does the gentleman offer an amendment.

MR. LONG—No sir, I just wish to submit it to the Committee.

MR. REYNOLDS (Chilton)—I have an amendment I desire to offer.

The Secretary read the amendment as follows:

Amend Subdivision 2 of Section 181 by adding at the end: "Provided, that 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 $300 in value of real and personal property, upon which the taxes have been paid may also register and vote if he is otherwise qualified in this Constitution."

THE PRESIDENT PRO TEM—The question is upon the adoption of the amendment offered by the gentleman from Chilton.

MR. REYNOLDS—I want to call the attention of the Convention to the fact that a great many people in Alabama believe if a man is worth $300 that he can vote. I don't know what the intention of the Committee is, I don't know what idea they had, when they said a man must have $300 of personal property or real estate. I want to say that I do not believe it will benefit the white men in North Alabama. I have taken particular pains to examine the tax books in the beat in which I reside. We have 240 white voters in my beat and there is not but one man in my beat with an assessment of $300 of personal property, except merchants and men in business, and I believe it may be found so all over North Alabama. I believe that that provision in the Constitution will only benefit the negro in the Black Belt. You find that in the Black Belt the negro buys a mule, the landlord sells to him and takes a mortgage on it to make him take better care of it, and he is the only man in Alabama today that it will benefit, if you permit this to go into the Constitution. Why is it necessary for us to separate the two and say a man must be either worth $300 in personal property or real estate? A man with $299 of personal property will not be able to vote, and the man with $299 worth of real estate will not be able to vote. I hope the Committee will accept this amendment, because I want you to know that in North Alabama there are hundreds of white men who cannot vote under this qualification. There are but very few of them who have $300 in real estate, except where they have forty acres of land, and very few have $300 worth of personal property. I would like to ask the Committee to explain who will be benefitted, or for this Convention to say who will be benefited. I have another amendment on the Secretary's desk. I realize that it is almost impossible, and too late to offer an amendment. I fear that if the Lord's Prayer were offered as an amendment, it would be voted down, but I want to call attention to another fact, when the provision for registrars was before the Convention the distinguished gentleman from Tuscaloosa fought for the resolution, which was voted down, to have registrars visit each beat in the county two or three days. In my county we have large precincts, though there are but nine beats, many of these beats have two boxes, and I think it would be only fair that the registrars should visit both boxes in the precinct.

MR. BEDDOW—I rise to a point of order. The gentleman is not addressing himself to the amendment, but talking about registration of voters.

THE PRESIDENT PRO TEM—The gentleman will confine his remarks to the pending amendment.

MR. REYNOLDS—I stated I had two amendments there. I do not want to take up the time of the Convention. I am not a public speaker. I will be glad to have the Committee explain who it will benefit. I do not think it will benefit the white men of North Alabama.

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

Upon a vote being taken a division was called for.

MR. HEFLIN (Chambers)—If I understand the amendment, I am in favor of it, but I do not thing the Convention understands it. I call for a reading of the amendment.

MR. REYNOLDS—I want the Chairman of the Committee to explain that proposition.

THE PRESIDENT PRO TEM—The vote is being taken and it is too late for further discussion unless by unanimous consent.

MR. ASHCRAFT—I ask for unanimous consent that the Chairman may explain that proposition.

The Secretary again read the amendment.

MR. SANFORD (Montgomery)—It is already in the second section.

MR. COLEMAN (Greene)—If you will have the motion of the delegate from Hale read, the delegates of this Convention will see that none of these matters are before them. They have just taken a vote by which the whole section is recommitted to the Committee.

MR. HEFLIN—I move that the amendment be sent to that Committee.

THE PRESIDENT PRO TEM—The journal shows it was moved that Section 181, on motion of Mr. deGraffenreid be recommitted—the entire section—and not as the Chair thought, a subdivision. The entire section has been recommitted to the Committee on Suffrage and Election, and unanimous consent is asked that the amendment which was out of order, go to the same Committee. Is there objection?

MR. HEFLIN (Chambers)—I move that the rules be suspended and that the amendment be sent to the Committee on Suffrage.

THE PRESIDENT PRO TEM—The amendment will go to the Committee on Suffrage by unanimous consent.

MR. CARMICHAEL (Colbert)—I move that we do now adjourn.

Upon a vote being taken a division was called for and further vote being taken, there were ayes 45, noes 44, and the Convention thereupon adjourned.

AFTERNOON SESSION.

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

MR. ASHCRAFT—I never have asked unanimous consent of the Convention, but I will do so in order to introduce an ordinance.

Unanimous consent was accorded.

Ordinance No. 461 by Mr. Ashcraft:

AN ORDINANCE

To provide for the qualification and registration of electors who shall participate in the municipal election to be held in the city of Florence on the first Tuesday in December, 1901.

Be it ordained by the people of Alabama in Convention assembled, that no person shall be entitled to vote in the election for municipal officers to be held in the city of Florence on the first Tuesday in December, 1901, who does not possess the qualifications required of electors by Section 180 of the Constitution framed by this Convention, and the Mayor and Aldermen of said city are authorized and directed to appoint three registrars in said city who shall register, for the purposes of said election, the electors in said city in the manner, as nearly as may be, provided for registration by Section 186 of said Constitution. Said registration shall begin on the 18th day of November, 1901, and shall continue for two weeks.

Referred to Committee on Suffrage and Elections.

Leave of absence was given to Mr. Burnett of Conecuh for tomorrow.

MR. HEFLIN (Randolph)—I ask unanimous consent to make a report from the Committee on Schedule and Printing.

Consent was given.

The Secretary read the report as follows:

Ordinance No. 459 introduced by the Committee on Harmony and referred to the Committee on Schedule and Printing from that committee with favorable report.

AN ORDINANCE.

To appropriate $143.75 for the payment of C. B. Brown and the Alabama Printing Company for services performed for the State of Alabama for the use of the Constitutional Convention.

Section 1. Be it ordained by the people of Alabama, on Convention assembled, that there be, and is hereby, appropriated out of any money in the State treasury not otherwise appropriated, the sum of $143.75, to be paid the Alabama Printing Company and C. B. Brown for services performed for the State of Alabama for use of this Convention, as follows:

Sec. 2. The State Auditor is hereby directed to draw his warrant on the State Treasurer in favor of C. B. Brown for the sum of $30 for typewriting done by him for the Committee on Order, Consistency and Harmony of the Whole Constitution, and the said Auditor is also directed to draw his warrant on the State Treasurer in favor of the Alabama Printing Company for the sum of $113.75 for printing three hundred copies of the report of said committee for the use of this Convention.

THE PRESIDENT—The report will lie on the table and be printed.

MR. COLEMAN (Greene)—I ask unanimous consent to make a report from the Committee on Suffrage and Elections.

Leave was granted.

Mr. President.

The Committee on Suffrage and Elections directs me to report the following provision as a substitute for the first sub-division of Section 181. They further direct me to report the remainder of said Section 181 without further modification or change.

Thos. W. Coleman, Chairman.

Subdivision for the first subdivision of Section 181.

First—Those who can read and write any part of the Constitution of the United States in the English language, and who are physically unable to work, and those who can read and write any article of the Constitution of the United States in the English language and 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, and those who are unable to read and write, if such inability is due solely to physical disability; or

MR. COLEMAN—Mr. Chairman, the Committee on Suffrage and Elections met as directed by the motion of the gentleman from

Hale and adopted that report. They have considered all the other questions, and came to the unanimous conclusion that all the questions which have been agitated now have been discussed freely before the Convention, and so far as the committee is concerned they are satisfied with the report just as it has been submitted and adopted by the Convention, and as submitted by the Committee on Harmony, with the exception of changing some phraseology of mere words, correcting orthography. So far as the question propounded by the delegate from Chilton, I have simply to say that it is impossible to frame a Constitution to suit every class of office holders in Alabama or for every beat and county in this State. The reasons for all these things were given full discussion when this question was before the Convention as a whole. While the gentleman cannot seen any reason for this provision as applying to his county, there are many sections of the State where it does apply and beneficially. Any other modification or change would let in a large class of voters in other parts of the State of Alabama whom we think ought not to exercise the suffrage.

MR. FOSTER—If a man who owns $300 of personal property be allowed to vote, or $300 worth of real property be allowed to vote, isn't it right for the man who owns $250 worth of personal property and $250 worth of real property to be allowed to vote also?

MR. COLEMAN—That looks very well upon its face, but personal property is changeable. Down with us a great many men own $300, $100, or $250. You have to fix a standard somewhere, and we have selected three hundred dollars as most applicable. We have to make uniform laws. If you put it at two hundred and fifty dollars, they would say two hundred and forty and ten—the limit must be fixed somewhere. Three hundred dollars seems to be popular with some States, and after due consideration, we thought it was the most suitable standard, and therefore it was adopted. It has been suggested to me where there are only forty acres of land and they live on it, they are competent to vote without reference to value, if it were only forty dollars, they are competent. The Committee first thought to put it at eighty acres, but some delegates thought, from the white counties, that it would exclude too many. We have given them time to learn how to read and write to get in under the other provision under the permanent plan.

MR. PILLANS—Does the gentleman think we can go before the people of this State with the proposition that where this state of facts exists, a thrifty son is not fit to be a voter and the thriftless are, to wit: that when a man leaves four children and one of them gets twenty dollars worth of land in the shape of forty acres, and one of them gets three hundred dollars worth of land, another gets less than three hundred dollars worth of merchandise and

another gets two hundred and seventy-five dollars worth of land and two hundred and seventy-five dollars worth of mules and plows, that the least thrifty of those sons, who has made the least and pays the least in taxes to the State shall be allowed to vote, when the one who most assists the State is not deemed to be a fit person to exercise the suffrage?

MR. COLEMAN—I would say that before anyone could give an intelligent answer to that long question, he would have to have it written out and before him.

MR. PILLANS—I will write it out for the gentleman. I had thought from his long service on the bench he could retain the question.

MR. COLEMAN—I wish to say, moreover, as the gentleman has referred to my long service on the bench that I do not see that has got anything to do with the question before us and I never could appreciate any personal allusions to a man's personal qualifications in the argument of great questions in this Convention and have not from the very beginning. All these questions were here before us. They have been discussed and passed upon, and it was an easy matter to have raised them at that time. The objections have all been heard and there must be an end somewhere. If the gentleman wishes to make any amendments, let him propose his amendments. We propose to do our duty as we best understand it as a Committee. That we have done. We have convened and considered this question again and the Committee are unanimously of the opinion that this is the best solution of the question, considering all the sections of the State. We have the permanent plan by which every white man can get in, and we have the temporary plan by which the life voters come in, that is the provision for soldiers and the descendants of soldiers, and understanding clause.

Then we have the permanent plan afterwards, by which a person is permitted to vote who owns a certain amount of property or who acquires a certain amount of education, and they have from now until 1904, perhaps, ample time for every man to acquire sufficient education to become a voter.

MR. REYNOLDS (Chilton)—Will the gentleman answer a question.

MR. COLEMAN—If the gentleman will answer, do you propose to support the ratification of the Constitution?

MR. REYNOLDS—I do not know.

MR. COLEMAN—You do not know? I prefer to get advice from the friends of the Constitution.

MR. REYNOLDLS—Does the gentleman decline to answer my question?

MR. COLEMAN—I do. I do not care to be interrupted by anybody who does not propose to stand by the Constitution. I am willing to receive suggestions from its friends but not from its enemies, and I now move to lay the amendment upon the table.

MR. HEFLIN—And upon that I call for the ayes and noes.

THE PRESIDENT—The Chair will call the attention of the gentleman from Greene that the Chair is advised that the amendment was referred to the Committee.

MR. COLEMAN—We have reported.

THE PRESIDENT—You have not reported the amendment.

MR. COLEMAN—The report is that they declined to make any further alteration.

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

MR. O'NEAL (Lauderdale)—I move the previous question.

MR. HEFLIN (Chambers)—I move that the report of the Committee be not concurred in.

MR. MALONE—I would like to ask a question. I am just trying to get at the practical result of this, and I think at the same thing the gentleman from Greene is trying to get at. It is this: In certain sections of the country the people are put to the necessity of having their property divided, part of it consisting of real estate and part of it personal property. In other places it would of necessity be entirely personal property. Would not the working of that be that in communities where most of the property is personal property, to require the ownership of $300, and in the other sections it will take $600.

MR. COLEMAN—I do not understand that.

MR. MALONE—If a man owns forty acres of land in the country, would not he of necessity have several hundred dollars worth of personal property?

MR. COLEMAN—If he owns forty acres of land and lives on it, it does not make any difference whether he owns any personal property or not.

MR. MALONE—If I am a young man and live in a town and have no real estate and own $350 worth of personal property I can vote and the man with $550 worth equally divided cannot vote.

MR. COLEMAN—My answer to all that is this: Those people occupying the position you say, are permanently registered under this temporary plan, and after that time, they are expected under the liberal provisions we have made to obtain an education, and be able to read and write.

MR. MALONE—All I am trying to get at is that in one section is will take $300 and in another it will take $600 worth of property?

MR. COLEMAN—I don't think that.

THE PRESIDENT—The Chair will suggest to the gentleman from Greene that the question is on the adoption of the amendment reported by the Committee.

MR. COLEMAN—I move its adoption, and on that I move the previous question.

MR. PILLANS—If the gentleman will permit I have written out my question.

MR. HARRISON—I regret that I was not apprised of the meeting of the Committee on Suffrage, the gentleman having stated the report was unanimous. It was perhaps my fault that I did not know of the meeting, but I am not in favor of that report. I did not hear it discussed, but I have heard enough of the proposed amendment to satisfy me that it is not right to make a distinction between property holders as has been clearly exemplified——

THE PRESIDENT—the Chair will suggest to the gentleman from Lee that that is not the question before the Convention.

MR. HARRISON—I propose an amendment. I——

THE PRESIDENT—There is an amendment pending.

MR. HARRISON—But I offer an amendment to it.

MR. O'NEAL—I raise the point of order that the gentleman from Greene has moved the previous question on the report of the Committee, and that is the question before the House.

MR. HARRISON—The Chair himself stated that the question was upon the adoption of the report of the Committee.

THE PRESIDENT—As the Chair understands the report of the Committee, it recommends a substitute for another subdivision upon the question of the right to vote.

MR. HARRISON—And recommends, further, as I understood the report, it covers the entire Section. It recommends that the second subdivision stand as it is, and I move to amend that report by offering an amendment to the second subdivision.

THE PRESIDENT—The gentleman from Greene moved the adoption of the amendment reported by the Committee, and upon that moved the previous question, and until the previous question is disposed of, an amendment would not be in order.

MR. HARRISON—The Chair did not so state in putting the question.

THE PRESIDENT—The Journal corrected the Chair and shows that the gentleman from Greene did move the previous question, although the Chair failed to catch his motion as he sat down.

MR. HEFLIN (Chambers)—I rise to a point of inquiry. The Committee has made no report except that they say they decline to make any change. Now, an amendment was submitted to that Committee. They say they simply decline to make any change, and my motion is that their report be not concurred in, and I want to ask the Chair if my motion would not have to be put first.

MR. O'NEAL—I raise the point of order——

THE PRESIDENT—The Clerk will read the report again.

The report was read as follows:

"The Committee on Suffrage and Elections directs me to report the above provision as a substitute for the first subdivision of Section 181. They further direct me to report the remainder of said Section 181 without further modification or change."

Substitute for the first subdivision of Section 181:

"First—Those who can read and write any Article of the Constitution in the English language and who are physically unable to work; those who can read and write any Article of the Constitution of the United States in the English language, and 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, and those who are unable to read and write if such inability is due solely to physical disability or—"

THE PRESIDENT—The Chair will state the question before the Convention. As the Chair understands it, the question would be upon the adoption of the substitute or amendment reported by the Committee. The other amendment was referred to the Committee and has not been reported by the Committee, and the only way that amendment could be brought before the Convention would be by a motion here to recall it from the Committee. The pending question is upon the substitute reported by the Committee for the entire subdivision, and upon that the gentleman from Greene demands the previous question. The question is shall the main question be now put.

MR. HEFLIN (Chambers)—I desire to make a motion to table the report of the Committee and do it for the purpose of making another motion to recall the amendment from the Committee and take it up for the consideration.

THE PRESIDENT—The pending amendment relates to an entirely different matter as the Chair understands it.

MR. HEFLIN—Then I want to make my motion at the proper time.

THE PRESIDENT—Does the gentleman move to table the substitute reported by the Committee? It is a different subdivision to that referred to by the amendment offered by the gentleman from Chilton.

MR. HEFLIN—I ask for a division of the question.

MR. HARRISON—Would it not be in order after we have acted on the report of the Committee to then offer an amendment to the Section.

THE PRESIDENT—It seems to the Chair it would be.

MR. HARRISON—There will be no objection if that is the ruling.

THE PRESIDENT—The Chair feels gratified. (Laughter.) The question is shall the main question be now put.

Upon a vote being taken the main question was ordered.

THE PRESIDENT—The question now will be upon the adoption of the substitute reported by the Committee for the first subdivision.

Upon a vote being taken the substitute reported by the Committee was adopted.

THE PRESIDENT—The question is on the adoption of the subdivision as amended.

Upon a vote being taken the subdivisions as amended was adopted.

MR. HARRISON—I offer an amendment to the second subdivision of Section 181.

The amendment was read as follows:

"Amend Section 181, second subdivision, by adding in line nine after the word 'property' and before the words 'in this State,' the words 'or of real and personal property.'"

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Lee.

MR. HARRISON—In support of that amendment I desire to say it is in effect the same as the amendment offered by the delegate from Chilton, but it comes in more appropriately, I think, there, and makes less change and covers exactly the same grounds. The simple effect of it is that a party may be entitled to vote who owns and pays taxes upon three hundred dollars worth of property whether it be real, personal or mixed.

The section as amended will read:

"Second—The owner in good faith, in his own right, or the husband of a woman who is the owner in good faith, in her own right, of forty acres of land situate in this State, upon which they reside; or the owner in good faith, in his own right, or the husband of any woman who is the owner in good faith, in her own right, of real estate, situate in this State assessed for taxation at the value of three hundred dollars 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 or of real and personal property in this State assessed for taxation at three hundred dollars 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.

I offer that because it appears to be fair and just.

MR. GRANT—Don't your amendment relate only to the husband of a wife who owns that property?

MR. HARRISON—No, sir.

MR. GRANT—Husband of a woman——

MR. HARRISON—The original report would be subject to some criticism. I think, Mr. President, that the matter has been fully discussed. If it is not right, we do not want it. We cannot justify any such proposition. It has been demonstrated by the question propounded by the delegate from Mobile and others. It is so simple, the Convention ought to understand it. This whole matter is a question of right and wrong, and I do not wish to be put in the position of subscribing to it. If it ought to be larger, the Committee ought to say so, and I do not see how we can justify going before the people, and if one man own part real estate and part personal property, and say he is disqualified. He may own double the amount and yet be disqualified. It is so unjust on its face, that I trust the Convention, notwithstanding the tendency not to make amendments, will correct this, because I do not feel that we can sustain our position with any such proposition as has been incorporated in this part of the report.

MR. HEFLIN (Chambers)—I move the previous question upon the adoption of the amendment.

MR. deGRAFFENREID—I move to lay the amendment upon the table.

MR. PILLANS—I call for the ayes and noes.

Upon a call of the roll, the vote resulted as follows:

AYES.

Messrs. President,
Altman,
Barefield,
Carnathon,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
deGraffenreid,
Glover,
Graham, of Montgomery,
Greer, of Perry,
Hood,
Jones, of Wilcox,
Kirk,
Knight,
Macdonald,
McMillan (Wilcox),
Miller (Wilcox),
Norwood,
O'Neal (Lauderdale),
Parker (Cullman),
Reese,
Sanders,
Smith, Mac. A.,
Sorrell,
Stewart,
Vaughan,
Willaims (Elmore),
Wilson (Wash'gton).

Total—30.

NOES.

Ashcraft,
Banks,
Bartlett,
Beavers,
Beddow,
Bethune,
Blackwell,
Boone,
Brooks,
Burns,
Byars,
Cardon,
Carmichael, of Colbert,
Case,
Cofer,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Duke,
Eley,
Eyster,
Fitts,
Fletcher,
Foshee,
Foster,
Freeman,
Graham, of Talladega,
Grant,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hodges,
Howell,
Howze,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Hale,
Jones, of Montgomery,
Kyle,
Ledbetter,
Lomax,
Lowe (Lawrence),
McMillan (Baldwin),
Malone,
Martin,
Merrill,
Miller (Marengo),
Moody,
Mulkey,
Murphree,
Norman,
Oates,
O'Neill (Jefferson),
Opp,
O'Rear,
Palmer,
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pillans,
Porter,
Proctor,
Reynolds (Chilton),
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Searcy,
Selheimer,
Sentell,
Sloan,
Spears,
Spragins,
Studdard,
Waddell,
Walker,

Watts,	White,	Wilson (Clarke)
Weatherly,	Whiteside,	Winn.

Total—90.

ABSENT OR NOT VOTING.

Almon,	Kirkland,	Robinson,
Browne,	Leigh,	Sanford,
Bulger,	Locklin,	Smith (Mobile),
Burnett,	Long (Butler),	Smith, Morgan M.,
Carmichael, of Coffee,	Long (Walker),	Sollie,
Cornwall,	Lowe (Jefferson),	Tayloe,
Espy,	Maxwell,	Thompson,
Ferguson,	Morrisette,	Weakley,
Gilmore,	NeSmith,	Willet,
Hinson,	Pitts,	Williams (Barbour),
Jenkins,	Renfro,	Williams (Marengo).
King,	Reynolds (Henry),	

There being 29 ayes and 90 noes, the motion to table was lost.

THE PRESIDENT—The question recurs upon the amendment.

MR. BEDDOW—I call for the previous question.

THE PRESIDENT—The previous question has been moved; the question is, shall the main question be put?

The main question was ordered.

THE PRESIDENT—The question is on the adoption of the amendment offered by the gentleman from Lee.

Upon a vote being taken, the amendment was adopted.

MR. GRANT—Just as a matter of punctuation, in the seventh line of page 48 of the same subdivision, after the word "more," there should be a semi-colon. I would like to have unanimous consent for that to be changed.

MR. DAVIS (Etowah)—The Committee feel that a semi-colon should not be there. They have studied it over, and we feel this is divided into two sections. There are two kinds of voters. Down to line 5 is one class, and we have inserted a semi-colon there, and then from the word "reside" on down to the word "more," in the second line, includes the second class of voters. We have looked that over, and do not feel that anything but a comma should be there.

THE PRESIDENT—The Chair will state that he is advised by the Secretary that there is a semi-colon in the original copy where the gentleman from Calhoun indicates one should be.

MR. WHITE—I desire to offer a formal amendment that I submitted to the chairman of the Committee, and it is agreeable to him.

The amendment was read as follows:

"Page 54, line 24, amend after the word 'any election,' at the end of line 24, the following, 'and in criminal prosecutions for violations of election laws,' and by adding after the word "defendants," in line twenty-five the following: "In such criminal prosecution."

MR. WHITE—I ask that it be adopted by unanimous consent.

A vote was taken and the amendment was adopted.

MR. WHITE—We have been a long time on this Article, and it seems to me we have had full discussion, and I move the previous question on the adoption of the Article.

MR. BURNS—I want to ask the gentleman to suspend one moment.

MR. WHITE—We have been on it so long——

MR. BURNS—We have all next week to be on it.

MR. WHITE—The Committee insists on it.

MR. BURNS—I would like for you to look at this. You are a lawyer, and I would like for all these solicitors here to look at it.

MR. WHITE—Anything I can do to accommodate you personally. (Reading paper handed to him.) We cannot agree to this.

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

MR. BURNS—I would like for him to answer my question.

THE PRESIDENT—The gentleman states he cannot consent.

MR. BURNS—He can answer my question, as big a man as he is and as small a man as I am. (Laughter.)

THE PRESIDENT—The gentleman from Dallas is not in order at this time, the previous question having been ordered.

MR. BURNS—Any polly can holler "question." Will you answer my question.

THE PRESIDENT—The gentleman from Dallas is not in order at this time.

MR. BURNS—He said he would answer it.

THE PRESIDENT—The gentleman will answer the question.

MR. WHITE—I had not heard it. Didn't know the gentleman had propounded one.

MR. SAMFORD (Pike)—I rise to a point of order. Nothing is in order except putting the question.

THE PRESIDENT—The point of order is well taken.

MR. BURNS—You have the floor, will you answer the question?

MR. BURNS—I challenge any solicitor on this floor to answer my question.

MR. PILLANS—I rise to a point of order. We are anxious to get through with the business and the previous question is the only thing before the House.

THE PRESIDENT—The Chair has so ruled. The question is shall the main question be now put.

The main question was ordered.

THE PRESIDENT—The question is now upon the adoption of the Article as amended. As many as favor the adoption will say aye.

Upon a vote being taken the Article was adopted.

MR. WHITE—I move now that the Article be referred at once under the rule to the Committee on Harmony as an amendment has been made.

THE PRESIDENT—It is moved that the Article be referred to the Committee on Order, Consistency and Harmony to be reported.

MR. BURNS—I rise to a question of personal privilege.

THE PRESIDENT—The gentleman will state his question of personal privilege.

MR. BURNS—I want to ask the privilege of the gentleman of this Convention to enter a protest and have my amendment framed in that protest and I want every solicitor in Alabama to read it and re-read it.

MR. SAMFORD (Pike)—I object.

MR. BURNS—You would not answer my question.

THE PRESIDENT—Is there objection?

Objection was made.

MR. BURNS—I rise to a question of personal privilege.

THE PRESIDENT—The gentleman from Dallas will state his question of personal privilege, and remember that the time of the Convention is valuable.

MR. BURNS—On page 48, Section 182, one line 20——

MR. SAMFORD—I rise to a point of order. The gentleman is not stating a question of personal privilege.

THE PRESIDENT—The point of order is well taken.

MR. BURNS—I have not had a chance.

THE PRESIDENT—The Chair is compelled to rule that the gentleman is out of order.

MR. BURNS—I ask to state it——

THE PRESIDENT—It is not a question of personal privilege to state what amendment a delegate would have offered had he the opportunity. The question is on the next Article.

MR. OATES—There has been no roll call for the introduction of ordinances and resolutions, but I desire to introduce an ordinance.

THE PRESIDENT—The gentleman from Montgomery asks unanimous consent to introduce an ordinance.

THE PRESIDENT—The Chair hears no objection.

The Secretary read the ordinance as follows:

Ordinance No. 462, by Mr. Oates:

Whereas, a respectable number of the delegates to this Convention are opposed on principle, to subdivision 2 of Section 180 of Article VIII of this Constitution, which subdivision is known as the "grandfather" clause, therefore, be it resolved, by the people of Alabama in Convention assembled: That at the same time and places at which an election is held for the ratification or rejection of the Constitution framed by this Convention, a separate poll be taken of the qualified electors voting at such election upon said "grandfather" clause as follows, to wit:

On each ticket to be used in said election there shall be written or printed these words, to wit:

For Subdivision 2 of Section 180, Article VIII.

Against Subdivision 2 of Section 180 of Article VIII.

And in the margin, the voter shall make or cause to be opposite to those words an "X" as he may favor or oppose the ratification or rejection of the said subdivision, and the election in all respect shall be conducted and returns made by the election offi-

cers, the same as the election for the ratification or rejection of the whole Constitution, and if a majority of those voting at said election vote for the ratification of the said Subdivision 2 of Section 180 of Article VIII, it shall be a part of the Constitution and so declared by the Governor in his proclamation declaring the result of said election, as provided in Section of the enabling act; but if a majority of those voting at said election, vote against the ratification of said subdivision 2 of Section 180 of Article VIII, then the said subdivision shall not be a part of said Constitution, and the same shall be so announced and declared by the Governor in his aforesaid proclamation.

THE PRESIDENT—The ordinance will be referred to the Committee on Suffrage and Elections.

MR. OATES—It pertains to that subject it is true—I do not care to what committee it be referred, provided it is reported.

THE PRESIDENT—The Chair has some trouble in determining whether it be an ordinance or a resolution.

MR. OATES—It is a combination.

THE PRESIDENT—The Chair will refer it to the Committee on Suffrage and Elections, as it pertains to that subject.

MR. LOMAX—I ask leave to introduce a resolution for reference to the Committee on Incidental Expenses.

Leave was granted.

MR. OATES—It might be more convenient to refer that ordinance to the Committee on Rules, I have no choice especially, it is a small matter.

THE PRESIDENT—If the gentleman prefers it will be referred to the Committee on Rules, and it is so referred.

The Secretary read the resolution introduced by Mr. Lomax as follows:

"Resolved, that the pages of the Convention be allowed and paid mileage at the rate as was paid members of the Convention, so as to reimburse them for their expenses in going to and returning from their homes during the recess of this Convention."

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

MR. LOMAX—I would prefer that it be referred to the Committee on Incidental Expenses.

THE PRESIDENT—Our rules require that it be referred as the Chair has done, the Chair personally has no objection, and would suggest to the gentleman that he can move to suspend the

rules, otherwise the resolution is referred to the Committee on Rules.

The Secretary read Article IX as follows:

ARTICLE IX.

Representation.

197. The whole number of Senators shall be not less than one-fourth, or more than one-third of the whole number of Representatives.

198. The House of Representatives shall consist of not more than one hundred and five members unless new counties shall be created, in which event each new county shall be entitled to one Representative. The members of the House of Representatives shall be apportioned by the Legislature 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 Legislature after the next decennial census of the United States shall have been taken.

199. It shall be the duty of the Legislature at its first session after the taking of the decennial census of the United States in the year nineteen hundred and ten, 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.

200. It shall be the duty of the Legislature at its first session after the taking of the decennial census of the United States in the year nineteen hundred and ten, 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 such districts when formed shall not be changed until the next apportioning session of the Legislature, 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 Legislature may be attached to Senatorial districts. No county shall be divided between two districts, and no district shall be made up of two or more counties not contiguous to each other.

201. Should any decennial census of the United States not be taken, or if when taken, the same, as to this State, be not full and satisfactory, the Legislature 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, upon which it shall be the duty of the Legislature to make the apportionment of Representatives and Senators as provided in this article.

202. Until the Legislature shall make an apportionment of Representatives among the several counties, as provided in the preceding section, the

counties of Autauga, Baldwin, Bibb, Blount, Cherokee, Chilton, Choctaw, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, DeKalb, Escambia, Fayette, Franklin, Geneva, Greene, Lamar, Lawrence, Limestone, Macon, Marion, Marshall, Monroe, Pickens, Randolph, St. Clair, Shelby, Washington and Winston shall each have one Representative; the counties of Barbour, Bullock, Butler, Calhoun, Chambers, Clarke, Elmore, Etowah, Hale, Henry, Jackson, Lauderdale, Lee, Lowndes, Madison, Marengo, Morgan, Perry, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker and Wilcox shall each have two Representatives; the counties of Dallas and Mobile shall each have three Representatives; the county of Montgomery shall have four Representatives; and the county of Jefferson shall have seven Representatives.

203. Until the Legislature 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, Chilton and Shelby; Sixteenth District, Lowndes; Seventeenth District, Butler, Conecuh and Covington; Eighteenth District, Bibb and Perry; Nineteenth District, Choctaw, Clarke and Washington; Twenieth District, Baldwin, Escambia and Monroe; Twenty-second district, Wilcox; twenty-third District, Dale and Geneva; 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, Henry.

Mr. Harrison took the Chair.

THE PRESIDENT PRO TEM—The question is on the adoption of Article IX.

MR. WILSON (Clarke)—Section 202, page 58, line 12, the county of Clarke is spelled wrong, it should be spelled with an "e." I ask unanimous consent to make the correction.

Unanimous consent was accorded.

THE PRESIDENT PRO TEM—The question is upon the adoption of the Article. Is the Convention ready for the question?

MR. BURNS—I want to know—of course there is no rule to that effect—but I want to know if a member to this Convention has a right to enter his protest——

MR. SAMFORD (Pike)—I rise to a point of order, that there is no rule of this Convention to permit a delegate to enter his protest. The previous question has been moved upon this Article.

THE PRESIDENT PRO TEM—On the point of order that the previous question has been ordered, the Chair will sustain the point of order. The question is shall the main question be now put?

Upon a vote being taken the main question was ordered.

The main question was ordered, and upon a further vote being taken the question was adopted.

MR. BURNS—There is no previous question now. I rise to a point of information. As a member of this Convention, has a delegate a right to enter a protest?

THE PRESIDENT PRO TEM—In reply to the delegate the present Chairman will take the opportunity to examine the rules, which he will do while the next Article is being read, and the Chair would advise the gentleman from Dallas to do the same thing.

The Secretary read Article X. as follows:

ARTICLE X.

Exemptions.

204. The personal property of any resident of this State, to the value of $1,000, to be selected by such resident, shall be exempt from sale on execution, or other process of any court, issued for collection of any debt contracted since the 13th day of July, 1868, or after the ratification of this Constitution.

205. 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 $2,000, shall be exempt from sale on execution, or any other process, from a court for any debt contracted since the 13th day of July, 1868, or after the ratification of this Constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of said homestead by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same.

206. The homestead of the family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted since the 13th day of July, 1868, or after the ratification of this Constitution, in all cases during the minority of the children.

207. The provisions of Sections 204 and 205 of this Constitution shall not be so construed as to prevent a laborer's lien for work done and per-

formed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

208. If the owner of a homestead die, leaving a widow, but no children, such homestead shall be exempt, and the rents and products thereof shall enure to her benefit.

209. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may afterwards be entitled by gift, grant, inheritance or devise, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations or engagements of her husband, and may be devised or bequeathed by her, the same as if she were a feme sole.

210. 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 wife, and attested by one witness.

THE PRESIDENT PRO TEM—The question is on the adoption of the Article just read. Is the Convention ready for the question?

A vote being taken the Article was adopted.

The Secretary read Article XI, as follows:

ARTICLE XI.

Taxation.

211. All taxes levied on property in this State shall be assessed in exact proportion to the value of such property, but no tax shall be assessed upon any debt for rent or hire of real or personal property while owned by the landlord or hirer during the current year of such rental or hire, if such real or personal property be assessed at its full value.

212. The power to levy taxes shall not be delegated to individuals, private corporations or associations.

213. After the ratification of this Constitution, no new debt shall be created against or incurred by this State, or its authority, except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each house of the Legislature, 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 so construed as to prevent the issuance of bonds for the purpose of refunding the existing bonded indebtedness of the State.

214. The Legislature shall not have the power to levy, in any one year, a greater rate of taxation than sixty-five one-hundredths of one per centum on the value of taxable property within this State.

215. No county in this State shall be authorized to levy a greater rate of taxation, in any one year, on the value of the taxable property therein, than one-half of one per centum; provided, that to pay debts existing on the sixth day of December, 1875, an additional rate of one-fourth of one per centum may be levied and collected, which shall be appropriated exclusively to the payment of such debts and the interest thereon; **provided further, that** to pay any debt or liability now existing against any county, incurred for the erection, construction or maintenance of the necessary public buildings or bridges, or that may hereafter be created for the erection of necessary public buildings, bridges or roads, any county may levy and collect such special taxes, not to exceed 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 were so levied and collected.

216. No city, town, village, or other municipal corporation, other than as provided 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 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 percentum 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 sixth day of December, 1875, with interest thereon, or any renewal of such debt; and provided further, that this section shall not apply to the cities of Birmingham and Huntsville and the town of Andalusia, which cities and 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 percentum 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 and town of Andalusia respectively, 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 city of Montgomery, which city shall have the right to levy and collect a tax of not exceeding one-half of one per centum per annum 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 one per centum per annum 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, and provided further, that this section shall not apply to Troy, Attalla, Gadsden, Bessemer, Woodlawn, Brewton, Pratt City,

Ensley, Wylam and Avondale, which cities and towns may from and after the ratification of this Constitution, levy and collect an additional tax of not exceeding one-half of one per-centum; and, provided further, that 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 of not exceeding three-tenths of one percentum per annum, such special tax of said city of Decatur, to be applied exclusively for the public schools, public school buildings, and such special tax of said cities of New Decatur and Cullman to be applied exclusively to educational purposes and to be expended under this respective boards of public school trustees; and public improvements; but this additional tax shall not be levied by Troy, Attalla, Gadsden, Bessemer, Woodlawn, Brewton, Pratt City, Ensley, Wylam, Avondale, Decatur, New Decatur or Cullman, 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 special 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, when so levied and collected, shall be used exclusively in the payment of the bonds and interest coupons thereon, hereafter issued in the justment of the present bonded indebtedness of said city; and provided further, that the additional tax authorized to be levied and collected by the city of Attalla shall, when so levied and collected, be used exclusively in the payment of bonds to the amount of not exceeding twenty-five thousand dollars and the interest coupons thereon, hereafter to be issued in the adjustment of the present indebtedness of said city; provided further, that the governing boards of the said cities, which are authorized to levy an additional tax, after the holding of an election as aforesaid, are hereby authorized to provide by ordinance the necessary machinery for the holding of said election and declaring the results thereof.

217. 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.

218. The Legislature shall not have the power to require counties or other municipal corporations to pay any charges which are now payable out of the State Treasury.

219. The legislature may levy a tax of not more than two and one-half per centum of the value of all estate, real and personal, money, public and private securities of every kind in this State, passing from any person who may die seized and possessed thereof, or of 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 death of the grantor, devisor or donor, to any person or persons, bodies politics 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.—The question is upon the adoption of the Article just read.

MR. SANFORD (Montgomery)—I have an amendment.

The amendment was read as follows:

"Amend Section 216 of the proposed Constitution by striking out the following words, beginning on the 21st line of page 63 of said Section, "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 centum per annum 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 centum per annum 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 renewals thereof, and for the maintenance of its public schools and public conveniences,' on page 64, and insert in lieu thereof the following:

" 'The city of Montgomery shall not levy or collect a larger rate of taxation in any one year on the property thereof than one-half of 1 per centum of the value of such property as assessed for State taxation during the preceding year; provided, that for the payment of debts existing at the time of the ratification of the Constitution of 1875, and the interest thereon, an additional rate of 1 per centum may be collected, to be applied exclusively to any such indebtedness.' "

MR. SANFORD (Montgomery)—Mr. President and fellow delegates, I ask your forbearance for a little while; I ask your patience, that you may be able to do justice. It is a matter which concerns not only Montgomery, but each one of you. The act of November 10, 1900, calling this Convention, contained various provisions, one of which I will read to you. It said "That if such Convention be called, it shall incorporate and adopt the following as a part or Section of any Constitution it may frame and adopt, to wit: 'No city, town or other municipal corporation, other than provided for in this Article, shall levy or collect a larger rate of taxation in any one year on the property thereof, than one-half of 1 per centum of the value of such property, as assessed for the State taxation during the preceding year; provided, that for the payment of debts existing on the 6th day of December, 1875, and the interest thereon, an additional rate of 1 per centum may be collected to be applied exclusively to such indebtedness.' "

That act was approved by the Democratic Convention of March 19, 1900. That Convention went forward and adopted a platform. Many of its provisions had been adhered to most religiously by this Convention. It promised to submit the Constitution to the people for ratification. That you have done. You

promised not to change the exemption laws. That you have also observed. You promised to keep Montgomery as the Capitol of the State of Alabama. That you have done. You said you would not disfranchise any white man. You have also observed with great fidelity that provision. The only provision which has been changed so far as I am able to understand is that which applies to Montgomery. Now, I ask each delegate to this Convention, if this additional tax which is put upon Montgomery were put upon the State at large, would you adopt it? Would you not violate the pledge you made, if you did so? Then if it would be a violation of your pledge to the people, if it applied to the whole State, is it less a violation of your promise when applied to the city of Montgomery? Montgomery is a part of Alabama. Her 13,000 white people are a part of your constituents, and why should you make an exception of Montgomery when you have observed your pledge with regard to every other portion of the State? What sin has Montgomery committed that she should be so punished? What crime, that you must burden her still more with indebtedness? They tell me, and they say to you, that this is not a matter of legislative courtesy. It is a matter of honor to every man who accepted a nomination under the Democratic platform of March 19, 1900, whether he was nominated for the Convention from the State at large, or for the district or for the Senatorial District, or even the counties, he adopted it, and have acted in that faith. Why should you make this change? They tell me that unless you increase the taxes upon Montgomery that she would become insolvent and repudiate. What do the private fortunes of Montgomery have to do with your honor and your pledges? What have you, each one of you, to do with the insolvency and bankruptcy or repudiation of your Capital City. I know you have a pride in her, because it is an historic city, second only to Washington in the United States now. I know you have a pride in that, but does that relieve you from the pledge you made to the people of Alabama? The people of Alabama sympathized with you in honoring Montgomery, but not in the violation of your promise made to her. When this platform was put forward, it influenced men to vote for you You were elected on it. I voted for it because when I had been once opposed to the Convention, I said to my friends: "This is a pledge of this people. They are honorable, patriotic men; they are men of prominence, and they do not dare to falsify what they have said to you, and expect future honors in the State of Alabama." Montgomery County itself was not enthusiastic for it. The city voted for it, and the city is reaping the benefit under this provision, and the trust which is reposed in your honor, in your fidelity to principle and to genuine Democracy. But it is said that it is a decrease. Under this law, you can already levy a tax of $1.50, and they propose to reduce it to $1.25. This is an error, for it would be a singular proposition that, to

relieve a city from insolvency, you would reduce the taxes from $1.50 to $1.25 in order to raise more money; to pay to its debts and carry on its improvements and its conveniences. I appeal to you to adopt this amendment.

What is more, the section in the Committee's report does what? The Constitution of 1875, which I have transcribed in the amendment, limits the taxation to one hundred cents on the hundred dollars for debts prior to the ratification of the Constitution of 1875. This section does not limit it at all. When that was done in 1875, Montgomery owed a bonded debt of $547,600, for which provision was made to pay the principal and the interest. It owes today about $1,991,620—nearly three times as much. The old law said that when you assessed the property of these people it should be according to the rate of taxation assessed by the State the preceding year. This does not say "preceding year," but it means the current year, and we know that the assessments vary from year to year, according to whether property becomes more valuable or depreciates in value. Why should you, in the very provision which refers to debts prior to 1875, make all the indebtedness of Montgomery due from the inception of the city until today that have not been paid? Why do you make that discrimination in regard to Montgomery? Why do you say the rate of taxation should be that which was assessed for the State, and everywhere else you say "for the preceding year?" Why do you make that distinction against Montgomery?

THE PRESIDENT PRO TEM.—The time of the gentleman from Montgomery has expired.

MR. SANFORD—I ask, and I intended to have done so as the commencement of my speech, that my time be extended.

MR. OATES—I ask that my colleague's time be extended.

Upon a vote being taken, the motion to extend the time of the gentleman was carried.

MR. SANFORD (Montgomery)—Why do you make that distinction? I represent the people of Montgomery, as also do my colleagues. I talk with the people on the streets. My friends see the Mayor and Aldermen and municipal officials, and they talk about insolvency. The people do not say anything about insolvency. They say, "Colonel, for God's sake don't let them put that additional burden upon us." These ordinances taxing abutting property for alleged improvements still burden heavy this people. Montgomery today is prospering even under the illegal tax of $1.12 1-2, which is unjustly levied. You put an additional tax on her, and building ceases, rents go up, to meet the additional tax; necessary articles rise in price, for the purpose of paying rent, and the young men and the young women receive less wages, in order

that the merchants may make profits; laborers cease to be employed because nobody can continue to build houses and make improvements with the additional burden upon them. I ask you, my countrymen, why do you do this? It is to your honor I appeal. I dislike to disagree with my colleagues, all of whom are honorable men. I have no doubt of their patriotism, but they are acting under a mistaken idea. If Montgomery owes more than $700,000 above her assets and cannot sell her bonds, how will putting more burdens upon her save her from repudiation and insolvency? Every tax you put upon her takes away her ability to pay what she already owes, so I beg of you not to make this distinction aganist Montgomery. Let me say to you that you are honorable men; that you are pledged, as I am pledged; that I stand by my promises, and I expect you to stand by your promise, and although Montgomery is but a part, that you will mete to her the same justice that you do to the broad State of Alabama, and to all of its people. Do not increase this tax upon her when you do not increase it upon upon others. When you say there are other towns to be taxed, they have the privilege of saying whether or not they will be so burdened by a popular vote at an election held for that purpose. There are gentlemen who, days ago, may have voted for this, and then told me afterwards they would not have voted the tax on their own place, had it not been referred back to their people to say whether they would accept the burden or not. Montgomery has not that privilege. Troy has the privilege of voting for it, and Attalla has that privilege, but Montgomery has not. All of the towns you have added an additional tax upon have the privilege, but Montgomery has no such right. Why, my countrymen, you do not want to be placed in the category of some religious hypocrites, who pray to the Lord, and wear out the knees of their breeches, asking Him to show them the right way, and then wear out the seat of their pantaloons sliding away from it. I hope that such will not be the course of the Democrats of Alabama or the delegates to this Convention, and yet that is what you are asked to do, to get this commission from the people and then betray it by voting a higher tax upon the people of Montgomery. Tell me why you should do it? Why should Montgomery bear a burden that no other town bears, without the privilege of determining it by their own votes I ask you, gentlemen, to amend this by putting Montgomery precisely where she stood when this Convention assembled. There is no harm in that, and you will make friend of a great community. Montgomery County, with its fourteen thousand votes, might approve your Constitution as it stands, and Montgomery being in that position, but without it (I do not make any threats), I doubt if Montgomery County would vote for your Constitution, if the Constitution should burden her people and rob them of their property, and you violate by your action the pledge given to them, and upon which they voted for

this Convention. What reason can be given for it? It does not relieve the city from insolvency. It is an additional burden, and although one gentleman appealed to you several days ago to vote for it, and save the great Capital City of Montgomery from the shame of repudiation and bankruptcy, and another gentleman has said that it is a decrease of taxes from $1.50 to $1.25. Is it not a strange idea that one says it is necessary, to avoid insolvency, to be taxed $1.25 per centum, and another says it is a decrease to $1.25? Look at the absurdity of the proposition.

That is the position these gentlemen occupy.

They will say it is but little. The property tax of Montgomery today for the city is 50 cents for current expenses. It pays 20 cents properly to pay the interest upon $547,000, which was the bonded debt prior to the 6th of December, 1875. It makes in all about $27,300 to pay that. It is true they have been collecting several thousand dollars more for that purpose, and applying it improperly. Now they say this is but twelve and a half cents more. It is from seventy cents to one dollar and twenty-five cents—an increase of fifty-five cents more. Why? Because of the one dollar twelve and a half cents per centum which they have collected, forty-two and a half cents is illegal and will not bear the test of the courts, or of any controversy upon it, therefore it is a tax of fifty-five cents that you have raised upon Montgomery more than upon any other city. For these reasons, I ask you, my countrymen, to adopt the amendment which I have offered. It places you precisely in the position that you held when you assembled here, and that Montgomery stood in when this Convention was called.

MR. WATTS—I am very fond of my friend, the senior delegate from Montgomery. He is a man of considerable culture and education, and a very interesting man to talk to, except on the one subject of taxation. He never is in favor of the citizen bearing the proper burden. Now, he speaks about the fact that he wants to keep his pledge. There is not a member of the Montgomery delegation who is not as anxious to keep his pledge as my learned colleague. As far as I am concerned, individually, I never made any pledge, but had I made any pledge such as he says he made, and found afterwards that it was to the ruin and bankruptcy to the city to keep that pledge, I would unhesitatingly vote against it.

MR. SANFORD (Montgomery)—I would not dishonor myself for the State of Alabama.

MR. WATTS—That is all right. I would not dishonor myself, either.

MR. SAMFORD (Pike)—I would just like to ask the gentleman from Montgomery if the Democratic party in Convention

assembled did not pledge the people of Alabama, together with the people of Montgomery, that the tax rate would not be raised?

MR. WATTS—Yes, sir, in the State.

MR. SAMFORD (Pike)—Did not the Democratic Convention adopt the enabling act as passed by the Legislature and didn't——

MR. WATTS—Hold on, I am not going to yield to you to take up the time of my speech. I can speak to one Sanford at a time. I just want to say to this Convention that there are seven representatives on the floor of this Convention from the city of Montgomery. Of those seven one alone, the gentleman who has just addressed you, is in favor of that amendment. If we were to adopt his amendment it would result in Montgomery defaulting in her interest every year. Why, the rate which he proposes there, which amounts to seventy-five cents on the hundred dollars, for every purpose, would raise in the city of Montgomery about ninety thousand dollars and the interest on her public debt is ninety-four thousand dollars, not counting the expenses of her schools, or of her Police Department, or of her Fire Department, or of her streets or anything else, and yet he would propose for this Conveniton to put upon her a rate which would put us in that condition, and in view of the fact that Mobile, that Birmingham, that Huntsville, that Attalla and a dozen other places have, by this Convention, been placed in a better position. If, gentlemen, you want to see your Capital City go down in devastation and ruin, if you want to see it go into bankruptcy, then adopt this amendment. But if you want to see her go forward, as she has been going, improving each day, growing more beautiful as she advances, vote with me to lay this amendment on the table as I now move to do.

MR. SANFORD (Montgomery) — My friends, if you table that amendment, Montgomery will floor your Constitution.

MR. WATTS—I tell you Montgomery will go overwhelmingly for this Constitution. (Applause.)

MR. JONES (Montgomery) — I hope the gentleman will withdraw that motion.

MR. WATTS—I will withdraw it.

MR. JONES—We all have an affection for the senior delegate from Montgomery. He has put himself upon record, and we endeavored in every way possible to avoid this debate, and to come to some agreement with him, but he said he had made a pledge, and that he intended, if he could get it, to have the old Constitution or nothing on that subject.

Now I will briefly explain to the members of the Convention the situation which confronts Montgomery.

When the Constitution of 1875 was adopted, the framers of it wisely, as they thought, unwisely as experience proved, fixed the rate of current expenditures for cities at fifty cents on the hundred dollars. Montgomery then had a debt of nearly six hundred and twenty thousand dollars. The Constitution of 1875 made an exception for her benefit, and said that she could levy in addition, one per cent. more for the payment of the debts, existing at the time of the ratification of that Constitution. In time, Montgomery grew. Her debt was funded. It originally bore eight per cent. It was cut down, I believe, to six per cent.

MR. SANFORD (Montgomery)—Five per cent., most of it.

MR. JONES—And finally to five per cent. The city grew. Its expenses grew, and from 1875 down to this good hour, with the approbation of ninety-five per cent. of the tax payers, every Council that she ever had levied more than the rate it was allowed to pay on the existing indebtedness, in order to eke out its current expense fund. I had the honor in 1876 to be in the Council in which George W. Stone was an honored member, a very conscientious and honorable man, and Mr. Derr and Mr. M. B. Brown, and others distinguished for their fidelity to this people, and they deliberately levied, year by year, under the guise of interest, something to eke out the small current expense fund, and that has gone on from that day to this. Now the city has grown. We owe debts, and I beg my friends pardon, but he is under one misapprehension. This rate of taxation has nothing on God's earth to do with paving. This tax upon property is not to any more paving. We have built school houses, and we have made sanitary improvements, to save our city from future visits of pestilence and fever, and we have been levying this rate of one dollar and twelve and a half cents. Our people take some pride in their schools. They may want to levy a little more. Our police department is increasing its expenses. There are a thousand things, and when we came to legislate for the welfare of Montgomery, after conference with those who knew most about its affairs, we agreed that it would be a wise and proper thing to allow the city, not to compel it, to go as far as a dollar and twenty-five cents, in order to put at rest the question of her solvency, and not have these bonds that have been issued by authority of the legislature, and in accordance with the wishes of the people and which are represented in the magnificent school houses around this city repudiated and dishonored.

MR. COLEMAN (Greene)—I am quite sure the Convention will give you all the time you want, and I want to satisfy my own conscience about this thing. I see that when this act was adopted, the representatives from Mobile and Birmingham had those cities excepted.

MR. JONES—Which act?

MR. COLEMAN—The act calling this Convention together. Why was it your representatives did not have Montgomery excepted?

MR. JONES—I do not know. I was not in the Legislature.

MR. COLEMAN—And why was it that the Democratic Convention, when this platform was adopted, which pledged us and pledged that whole Convention to abide by this act and not exceed that, why wasn't something said at that time? Do you know?

MR. JONES—I wasn't present, and do not know.

MR. COLEMAN—Then I would——

MR. JONES—One moment. The same inquiry would occur to these other cities which have been excepted.

MR. COLEMAN—They are excepted here and the other cities all have permission to vote upon this question, but your city has none.

MR. JONES—That is a new question, my friend has raised this evening. I want to say further, that while I have the greatest respect for my colleague from Montgomery, he is not and cannot be the keeper of our honor. He can be the judge of what he has pledged himself to do, and he can be the judge of what the pledges he has taken require him to do, but, as we look at it, we keep the substance of our pledge. We have not, when you come to the letter of it, raised the rate of taxation at all. Today they have got the power to levy a tax of a dollar and a half, if you stick to the letter of the law under which the taxation is raised.

MR. SANFORD (Montgomery)—I deny that they can do it, because the debt is not due.

MR. JONES—I said under the law as laid down in the Constitution, we have a rate of a dollar and a half, but we had debts existing at the time of the ratification of that Constitution, the interest on which would require that sum to be raised. That is the difference. Now, if the Constitution of 1875 allowed the city of Montgomery to levy one per cent for the payment of debts existing at the time of the ratification of that Constitution, what is the objection to embodying a similar principle in the present Constitution, and allow us for all purposes, current expenses, debts, public utilities, and schools, to levy one and a quarter? Now, what were the representatives from Montgomery to do? Here is this condition of affairs. For twenty-five years, by suffrance, it has existed, but the moment any tax-payer goes into the Chancery Court, and says that we are levying too much money under the guise of interest, they will cut down the revenue so that the city

cannot pay the interest on the other outstanding bonds. Now what would happen? What happens to any city when it repudiates? What is the harm to individuals? What is the harm to the public? Why they will bring greater calamities on the people than would accrue from a little extra taxation.

Some of us, I expect, have served this people as faithfully as my distinguished friend. We have been here, with them in war, in peace and in pestilence. We love our homes, and we are willing to take the responsibility, and let it go out among the people, where it belongs, instead of prolonging this discussion, which was needless to put my friend on record, because he was already on record.

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

MR. SANFORD (Montgomery)—I hope my friends will not do that. 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. SANFORD (Montgomery)—I have another amendment which I desire to offer.

THE PRESIDENT PRO TEM.—The Chair at present recognizes the delegate from Macon.

MR. COBB—I have an amendment.

The amendment was read as follows:

"Amend Section 211, page 62, by striking all after the word 'hire' on the third line.

MR. COBB—The section which this amendment is offered reads as follows:

"All taxes levied on the property in this State shall be assessed in exact proportion to the value of such property, but no tax shall be assessed upon any debt for rent or hire of real or personal property while owned by the landlord or hirer during the current year of such rental or hire, if such real or personal property be assessed at its full value.'

MR. COBB—Now, the words I propose to strike out are, "If such real or personal property be assessed at its full value." The reasons why I offer this amendment are these: In the first place, it is a repetition. The words that I propose to strike out constitute a repetition merely of what has gone before in the first and second lines, to wit, that all property shall be assessed at its real value. If that was all, however, I would not offer the amendment. But

the trouble that is likely to occur from the section as it is in the Constitution now, is that it gives ground for the contention that a higher particularity is required in ascertaining the value of personal property or real estate owned by a landlord or hirer during the current year that applies to other property, and inasmuch as it leads to that contention, it might lead to difficulty between the taxpayer and the tax assessor or the tax commissioner. It does no good, and may be productive of contention and harm, and, therefore, I offer the amendment.

THE PRESIDENT PRO TEM. — The question is on the adoption of the amendment proposed by the delegate from Macon.

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

Upon a vote being taken, the amendment was tabled.

MR. deGRAFFENREID—I have an amendment.

"Amend Section 216, Article XI, page 65, by adding at the end thereof, 'and provided further that this section shall not apply to the city of Selma, which city may levy and collect a tax of not exceeding one and fifteen one-hundredths of one per centum upon the value of the taxable property therein as fixed for State taxation for general purposes, payment of debts and aid to the public schools.

MR. deGRAFFENREID—That amendment is introduced by me at the request of the gentleman from Dallas, Mr. Reese. It is a matter in which I have no interest, and I yield my time to him.

MR. REESE—On the 19th and 20th of August, the Mayor and City Council of Selma petitioned the members of this Convention representing Dallas County to have this amendment introduced—rather, an amendment giving them 1 and 20 instead of 1 and 15, the amount specified there. Under the Constitution, as provided now, the law permits a tax for these purposes of 1 and 50. This is practically a reduction of 35 cents. This petition was received from the Mayor and Council of Selma on the day that this Convention adjourned. Upon the adjournment of this Convention, I and my colleagues returned to Selma, and I was on the streets of that city almost every day during the recess of this Convention, as was the case with my colleagues. I have talked with a number of the citizens of Selma, and there has not been a citizen in Selma, notwithstanding the publicity of this matter, which was made in the newspapers in Selma, there has not been a single objection urged with me by letter or otherwise. A peculiar condition of things has existed in our city, and it has been rare in the past that the Mayor and Council have agreed upon any one proposition that I recollect, for many years, and this is the only proposition for many years that has had the co-operation of both the Mayor and the Council, and I am satisfied that it is the desire of

the 15,000 inhabitants of Selma, and I hope this Convention will pass it.

MR. CRAIG—It will be observed by this circular that comes to this Convention that the Council of Selma, on the 29th day of this month, after this Article in this Constitution had been adopted by the Convention, held a meeting and they resolved "it is the sense of this Council that a constitutional provision of this kind would be very injurious to our people.

MR. REESE—Will the gentleman permit a question?

MR. CRAIG—Yes, sir.

MR. REESE—Did he say the 29th day of this month?

MR. CRAIG—That is the date here?

MR. REESE—The one I have is dated the 27th. I desire to ask one other question. Was not the gentleman shown a telegram from the Mayor and Council of Selma on the 19th or 20th of this month, and if it was not received in this hall on that date?

MR. CRAIG—I have no recollection, but even if I did, it makes no difference. We were elected here by the people of Selma as well as the county of Dallas, with the express understanding that we were not to oppress them with any other taxation except that in the Constitution of the State of Alabama. Now, these things have come to pass. These debts on the people of Selma were put upon their town before the gentleman was born. I have lived there for a long time, and have had a great deal of experience in that town in matters of property. I desire now to say that the only intimation we have had of this thing comes up here on the 29th day of this month to fix upon us a tax of $1.15 on every $100, for what? A part of this we pay now, $1.10, that is what is paid. Sixty cents of that is put on there to pay a debt that was created in 1858 and 1859, and it was created in this way: The Council now, just like this Council, they were of the opinion—and it was the sense of that Council that the city of Selma should subscribe $300,000 to a railroad, and they came up here to the Legislature of Alabama, and they got an act passed through the Legislature to authorize them to subscribe $300,000 and issue bonds on it and pay 8 per cent. interest on it. Now, gentlemen, that thing went on, and at the end of the war the debt amounted to something in the neghborhood of $600,000, and there we were in that fix. They then funded that debt at the rate of 6 per cent. per annum, and we defaulted in the payment of the interest. They then went into the courts and sued us, and got judgments against us, and it was compromised by putting it in the hands of the court so that the court could levy a tax and collect. It went on and on and no debt was paid. After a while the debt accumulated so, they wanted to fund it again. They failed to pay the interest

and I think that great lawyer, Judge Brooks, came up here and passed an act that placed Selma in such a fix that no city in the world occupies today. She is burdened with a tax, and we have a provision in the acts of the Legislature passed somewhere in 1883, by which our old city can be taken out of the hands of the people and put in the hands of a receiver, and a tax levied and our property confiscated, and taken from us to pay this bonded debt. They had an agreement, and you will find it in the acts of the Legislature of that date where they can levy as much as 1 per cent. to pay the interest on this bonded debt and to provide a sinking fund of $15,000 a year in order to pay off this debt. Now, they have gone on and had what you call a sinking fund commission, and they were to get this money. It was to be put in the bank to the credit of these commissioners, and the people were not to handle it at all, and it was to be paid out on these bonds. They have gone on and paid out some of it, but under that act of the Legislature which took all the property of the people of the city and turned it over to these bondholders, the bank there, and the stockholders got all those bonds at about 40 cents on the dollar and they hold them today and it is the best security in the United States today, because $5,000,000 or $6,000,000 of property is there to pay that debt of $350,000, I think it is now, and they do not want to collect the interest, and as I understand it, and have been informed, they have not been paying much in the sinking fund since. They do not want it. There is something better than that. The city can be put in the hands of a receiver and the property taken away from every man in the city and paid on this debt. There is another thing about this, there is a provision in this very act that it shall take ten councilmen to pass any act levying a tax on the people of that city. Do you see anything about ten Councilmen voting on this subject? There is not a single scratch of the pen here that anybody voted for it. It says the sense of the Council.

MR. REESE—Does the gentleman not recollect seeing this telegram signed by the Mayor and ten Councilmen of Selma?

MR. CRAIG—I do not. I may have seen it. I do not say I did not. I may have seen it, but have no recollection of it, but that makes no difference. The people of Selma have had no voice in the matter. They have had no chance to vote on it. They sent us here not to put any more taxes on them, but to keep them off and let them stand where they were when we came here. I said it required ten Councilmen to pass any act to increase this tax. Now, sir, the tax is $1.10 now, and they want to put this $1.10 on us permanently. That is what they want, but since this Convention passed this ordinance putting 5 per cent. on it, that Council met and agreed to—the first thing they did, two or three years ago, was to divide the offices and make two where they had one. The next thing they did was to come here and increase the sal-

aries of those officers and now they say give us money to pay these increases. The Mayor vetoed it, and they passed it over his veto to increase the salaries. Now, is this Convention going to put it upon the people of Selma, this tax of one ten for all time to come in order that they may make more offices and raise the salaries? It will do very well for men who do not pay taxes, but there are some of us who pay taxes. I move to table the amendment.

MR. REESE—I hope the gentleman will withdraw.

MR. CRAIG—No, sir, I will not withdraw.

MR. REESE—The delegates from Dallas are entitled to a hearing. I hope the Convention will vote down the gag law.

Upon a vote being taken, a division was called for and by a further vote of 52 ayes and 35 noes, the motion to table prevailed.

MR. SANFORD (Montgomery)—I have an amendment.

"Amend Section 216, page 68, line 24, by inserting in said line after the words State taxation, the words 'in the preceding year' and insert the words 'for the preceding year' after the word taxation in the first line on page 64 of said report. After the words 'public conveniences in the second line of said page, of said section, add the following words: 'but this additional tax shall not be levied and collected by the city of Montgomery unless it shall be authorized by a majority of the votes of the qualified electors, voting at a special election held for the purpose of ascertaining whether or not said tax shall be levied, provided that the purpose for which said tax is sought to be levied, shall be stated in the notice for such election, which shall be held under the direction of the Judge of Probate, the Sheriff and the Clerk of the Circuit Court of Montgomery county, under the laws regulating general elections. If such tax be authorized by the voters, the revenue derived from such special tax shall be used for no other purpose than that stated."

MR. SANFORD—I offer that amendment for the purpose of putting Montgomery upon a parity with the other towns whose taxes have been raised. I notice in Article 216, that Troy, Attalla, Gadsden, Bessemer, Woodlawn, Brewton, Pratt City, Ensley, Avondale, Decatur, New Decatur and Cullman, unless authorized by a majority vote of the qualified electors voting at a special election held for this purpose to ascertain whether or not said tax shall be levied, it shall not be collected. I place Montgomery precisely in the same position. I think it is an evidence of my devotion to them. My friend stated just now that others have served the country. I am glad to know it. I have been a citizen before some of these gentlemen were born. I served my country when some of them were wearing bibbs and were muling and pulling in their nurse's arms. I have always loved Montgomery, and its

people, and as my colleagues know they have been very partial to me. They have never failed to honor me with any position which they thought I desired. I love them very much. One of my colleagues said I did not like the municipality. He meant by that the government, and I said because it was oppressive. I love the people but have not always been fond of the administrators of its authority. It is like a young man who loves a girl, but condemns the protector. I love the ward, but sometimes damn the guardian. So it is with regard to these people. I am fond of these people, and am doing everything I can to protect them from what I think is a useless burden, for it is a singular kind of logic that tells me when a city is insolvent that you can save it by making the inhabitants bankrupt also. That is the logic of this increased tax. Putting on more taxes to save a bankrupt city which is seven hundred thousand dollars more in debt than it has assets, including its Fire Department and its cemetery, to answer its liabilities. That is the condition. Now, I hope my friends will vote for this so that if Montgomery wants this additional burden it can saddle itself with the load, but do not say that Troy, Attalla, Avondale, Wylam and many little anonymous places I never heard of until I saw this they were dragged in for taxation, shall I have this right and yet Montgomery shall be denied it. Why should you do it? What have I done that I have not the same right as my friend Samford from Troy or Davis from Gadsden or a citizen from any other place to vote for or against this proposition. I ask you therefore my friends, to sustain at least this amendment. If you insist on taxing, let it be left to the people to say whether they are willing to bear the burdens or not. I notice that some of these cities have been taken from it. Florence was stricken out. I am not certain, but Greensboro had an idea of going in a little, and got out. Anniston was threatened with the same calamity, but escaped the affliction. So on with others. Let Montgomery have the same privilege to say we will vote it, then I have not a word to say. I bow in submission to the will of my countrymen, as I have always done, and I hope this Convention will give the people the privilege of saying whether or not they will take upon themselves this additional burden. I can see no reason why it should be granted to some cities and towns and denied to Montgomery. Let me say to you that I wish this word "preceding" inserted also in the amendment so that they shall be taxed like other cities. I regret that my time is out.

MR. GRAHAM (Montgomery) — I hardly think it necessary, Mr. President, that I should enter into an elaborate discussion of the question involved in the amendment presented by my colleague. It is with sincere regret that I can not agree with him on these propositions. I have as much respect and love and consideration for the people of Montgomery county as the distin-

guished gentleman who has served them so well upon all occasions. This is the same fight, this is the same trouble, and this is the same matter which has been settled by this Convention heretofore. As it is embraced in this report of the committee in the proposed Constitution, without taking further time of the Convention to discuss the merits, I move to lay the amendment on the table.

MR. LOMAX—Mr. President, I second the motion to lay on the table.

MR. SANFORD—To deny the people the right to vote upon the question of taxation?

Upon a vote being taken a division was called for and by a further vote of forty-six ayes and thirty-two noes, the amendment was tabled.

MR. BEDDOW—I have an amendment.

"Strike out 'and' in Section 216, line fifteen and nineteen, page sixty-three, where it occurs between Birmingham and Huntsville and insert after Huntsville the word 'and Bessemer.' Strike out the word 'Bessemer' in the line three and eleven, page 64."

MR. BEDDOW—The effect of that amendment is to change the classification of Bessemer and put it in the classification of Birmingham and Huntsville. That amendment was offered by me at the request of Mr. Cornwell who lives in Bessemer and who was called home on account of the sickness of his wife. I inquired of him before he left whether or not his people wanted that change made, and he replied that they did and the City Council and Mayor also wanted it, and at his request I offer it.

MR. CUNNINGHAM—I desire to add my testimony to that offered by my colleague that this is the request of Mr. Cornwell, the delegate from Bessemer, and I hope the amendment will be adopted.

Upon a vote being taken the amendment was adopted.

MR. WHITE—I move the adoption of the Article.

Upon a vote being taken the Article was adopted.

MR. PETTUS—I ask leave to introduce a short resolution.

The resolution was read as follows:

"Be it resolved, that this Convention stand adjourned sine die at 12 o'clock meridian, Tuesday, September 3rd, 1901, A. D."

Referred to the Committee on Rules.

MR. WHITE—I ask unanimous consent to make a report.

The report was read as follows:

"Report from the Committee on Order, Consistency and Harmony.

"Mr. President, the Committee on Order, Consistency and Harmony of the Constitution, to which was referred resolution No. 459 by Mr. Sanders of Limestone, respectfully report the said resolution back with the recommendation that it do not pass.

(Signed.) Frank S. White,
Chairman."

MR. REESE—I desire to offer a very short resolution.

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

MR. WHITE—I move that the report of the Committee lie upon the table.

MR. SANDERS—I move the adoption of the resolution which the Committee on Harmony have adversely reported.

MR. WHITE—I have no objection. It was out of deference to the gentleman that I asked that it lie on the table.

MR. OATES—I rise to a point of order. The Committee having reported adversely, without a recommendation that it lie on the table, it is not in order to move to lay on the table. They have simply adversely reported it and the delegate from Limestone certainly has a right to fight that report and try to have his resolution passed, but to add a motion to lay on the table, when adversely reported, is not in order.

THE PRESIDENT PRO TEM.—The Chair did not understand that the motion was to table, but the Chairman of the Committee, as the Chair understood, simply reported it adversely and move that it lie on the table.

MR. BAREFIELD—I move that the consideration of the report come up tomorrow; that it lie over until tomorrow morning as a special order.

MR. OATES—The point that I made was that the Committee did not recommend that it lie on the table, but made an adverse report. They did not go that far.

THE PRESIDENT PRO TEM. — The Chair understands that when the Committee submitted the report the Chairman simply moved that it lie on the table to be taken up at the pleasure of the Convention.

MR. SAMFORD (Pike) — The resolution just reported adversely by the Committee, a number of the delegates of this Conveniton, think is a very important matter, and think that it ought to be considered by the Convention. I therefore move that the

consideration of that ordinance be made a special order for 12 o'clock tomorrow.

MR. SANDERS—I withdraw my motion.

There being no objection the motion was withdrawn.

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

THE PRESIDENT — The question now recurs upon the adoption of the amendment offered by the delegate from Pike, that this matter be postponed and made a special order for tomorrow.

MR. deGRAFFENREID—I rise to a point of order. The matter before the Convention now is the report of the Committee on Order, Consistency and Harmony which has reported the Constitution to the Convention. Under the rules adopted by this Convention, the particular matter of the resolution of Mr. Sanders cannot come up for consideration by this house until this report has been disposed of. You can not displace it without a suspension of the rules for that purpose.

MR. HARRISON—The rules were suspended as I understood it.

MR. SAMFORD (Pike)—Simply for the purpose of making the report.

THE PRESIDENT—The question is for fixing the time.

MR. deGRAFFENREID — And my point is you cannot fix that time because you do not know whether at that time we will be through with this report.

THE PRESIDENT PRO TEM.—The Chair would like to have anything read from the rules about it. The Chair is not clear on this subject.

MR. WHITE—The regular order cannot be displaced without a two-thirds vote.

MR. SAMFORD—I make the point of order that it can be made by a majority vote at any time. I ask this be made a special order for tomorrow at 12 o'clock and the majority of this Convention can vote to do so.

MR. PETTUS—I would like to cite the Chair to Rule 30.

MR. O'NEAL—I desire to make this point of order. The special order is the report of the Committee on Harmony and Consistency. It is a special report, but it makes no difference.

MR. PETTUS—I make the point that unanimous consent was granted to the Committee on Harmony to make its report.

THE PRESIDENT—The gentlemen will be seated until the Convention is in order.

MR. REESE—The President of the Convention has repeatedly ruled that a majority of the Convention can decide at any time what business it would consider. That question has arisen frequently, and the President of this Convention has uniformly ruled so. He has further ruled that up to the time of this, that there has been no regular order. There has been no special order, Mr. President. We have been considering the regular order. The consideration of this report was the only matter of business before this Convention, but assuming that it was a special order, it is an unquestioned rule on general parliamentary practice, and there is no rule to the contrary here, that a majority of the house can at any time refuse to consider, to lay aside one business and take up another, and the gentleman's motion is in order.

THE PRESIDENT PRO TEM.—The Chair is ready to rule. The Chair is of the opinion that the Convention, having given unanimous consent to this Committee to make a report, and the report having been made, it is in order for the Convention to set it down for a hearing.

MR. GREER (Calhoun)—I move to lay the motion of the gentleman from Pike on the table.

Upon a vote being taken, a division was called for, and, by a further vote of 50 ayes and 31 noes, the motion was tabled.

Leaves of absence were granted to Mr. Tayloe for today; to Mr. Williams of Elmore for tomorrow.

MR. EYSTER—I ask unanimous consent to offer a short resolution.

The resolution was read as follows:

Resolution 329, by Mr. Eyster:

Whereas, The members of the Committee on Harmony completed their labors before the reassembling of the Convention and returned to their respective homes; and, whereas, it would be unjust and inequitable for them not to receive their mileage, as other members, there be it

"Resolved, That the members of the Committee on Order, Consistency and Harmony be allowed their mileage the same as the other members of this Convention."

Referred to the Committee on Rules.

MR. FITTS (Tuscaloosa)—I want to introduce a short resolution to go to the Committee on Rules.

The resolution was read as follows:

"Resolved, That when this Convention adjourns on Saturday, August 21st, that it be to reassemble at noon on Tuesday, September 3rd, at which time the final draft of the Constitution shall be signed by the delegates.

Referred to the Committee on Rules.

MR. REESE—I sent to the desk a few minutes ago, and asked unanimous consent to introduce a short resolution.

The resolution was read as follows:

"Resolved, first, that all leaves of absence of members of the Convention be, and the same are hereby, revoked, to take effect on Monday, the second day of September, 1901, at 12 o'clock, meridian, and that no further leaves of absence be granted beyond said time Second, that the Secretary of this Convention is instructed to notify absent members to return at said time."

Referred to the Committee on Rules.

THE PRESIDENT PRO TEM.—The Secretary will read the next Article.

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

Upon a vote being taken, the motion was lost.

Article XII was read as follows:

ARTICLE XII

Corporations.—Municipal Corporations

220. No person, firm, association or corporation shall be authorized or permitted to use the streets, avenues, alleys or public places of any city, town or village for the construction or operation of any public utility or private enterprise, without first obtaining the consent of the proper authorities of such city, town or village.

221. The Legislature shall not enact any law which will permit any person, firm, corporation or association to pay a privilege license or other tax to the State of Alabama, and relieve him or it from the payment of all other privilege and license taxes in the State.

222. The Legislature, after the ratification of this Constitution, shall have authority to pass general laws authorizing the counties, cities, towns, villages, district or other political subdivisions of counties to issue bonds, but no bonds shall be issued under authority of a general law unless such issue of bonds be first authorized by a 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. The ballot used at such election shall contain the words "For——— bond issue," and "Against———

bond issue," (the character of the bond to be shown in the blank space), and the voter shall indicate his choice by placing a cross mark before or after the one or the other. This section shall not apply to the renewal, refunding, or reissue of bonds lawfully issued, nor to 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 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.

223. No city, town or other municipality shall make any assessments for the 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 increased value of such property by reason of the special benefits derived from such improvements.

224. No county shall become indebted, in an amount, including present indebtedness, greater than three and one-half per centum of the assessed value of the propert therein; provided, this limitation shall not affect any existing indebtedness in excess of such 3 1-2 per centum, which has already been created or authorized by existing law to be created; provided, that any county which has already incurred a debt exceeding 3 1-2 per centum of the assessed value of the property therein, shall be authorized to incur an indebtedness of 1 1-2 per centum of the assessed value of such property in addition to the debt already existing. Nothing herein contained shall prevent any county from issuing bonds, or other obligations, to fund or refund any indebtedness now existing or authorized by existing laws to be created.

225. No city, town or other municipal corporation having a population of less than 6,000, except as hereinafter provided, shall become indebted in an amount, including present indebtedness, exceeding 5 per centum of the assessed value of the property therein, except for the construction or purchase of water works, gas or electric lighting plants or sewerage, or for the improvements of streets, for which purposes an additional indebtedness not exceeding 3 per centum may be created; provided, this limitation shall not affect any debt now authorized by law to be created nor any temporary loans to be paid within one year, made in anticipation of the collection of taxes not exceeding one-fourth of the annual revenues of such city or town. All towns and cities having a population of 6,000 or more, also Gadsden, Ensley, Decatur and New Decatur, are hereby authorized to become indebted in an amount, including present indebtedness, not exceeding 7 per centum of the assessed valuation of the property therein, provided that there shall not be included in the limitation of the indebtedness of such last described cities and towns, the following described classes of indebtedness, to wit: temporary loans, to be paid within one year, made in anticipation of the collection of taxes, and not exceeding one-fourth of the general revenues, bonds or other obligations already issued, or which may hereafter be issued for the purpose of acquiring, providing or constructing school houses, waterworks and sewers; and obligations incurred and bonds issued for street or sidewalk improve-

ments, where the cost of the same, in whole or in part, is to be assessed against the property abutting said improvements; provided, that the proceeds of all obligations issued as herein provided, in excess of said 7 per centum, shall not be used for any purpose other than that for which said obligations were issued. Nothing contained in this Article shall prevent the funding or refunding of existing indebtedness. This Section shall not apply to the cities of Sheffield and Tuscumbia.

226. No city, town or village, whose present indebtedness exceeds the limitation 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 herein contained shall prevent any municipality from issuing bonds already authorized by law; provided further, this Section shall not apply to the cities of Sheffield and Tuscumbia.

227. Any person, firm or corporation who may construct or operate any public utility along or across the public streets of any city, town or village under any privileges or franchise permitting such construction or operation, shall be liable to abutting proprietors for the actual damages done to the abutting property on account of such construction, or operation.

PRIVATE CORPORATIONS.

228. The Legislature shall pass no special act conferring corporate powers, but shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal at the will of the Legislature; and shall pass general laws under which charters 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; but strictly benevolent, educational or religious corporations shall not be required to pay such a tax. The charter of any corporation shall be subject to amendment, alteration of repeal under general laws.

229. All existing charters, under which a bona fide organization shall not have taken place and business commenced in good faith within twelve months from the time of the ratification of this Constitution, shall thereafter have no validity.

230. The Legislature shall not remit the forfeiture of the charter of any corporation now existing or alter or amend the same, or pass any general or special law for the benefit of such corporation, other than an execution of a trust created by law or by contract, except upon condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

231. 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. 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, but such franchise tax shall be based on the actual amount of capital employed in this State. Strictly benevolent, educational or religious corporations shall not be required to pay such a tax.

232. No corporation shall engage in any business other than that expressly authorized in its charter or articles of incorporation.

233. No corporation shall issue stock or bonds except for money, labor done 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.

234. Municipal and other corporations and individuals invested with the privilege of taking 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 denying the right of appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise, but such appeal shall not deprive those who have obtained the judgment of condemnation from a right of entry, provided the amount of the damages assessed shall have been paid into court in money and a bond shall have been given in not less than double the amount of the damages assessed, with good and sufficient sureties to pay such damages as the property owner may sustain; and the amount of damages in all cases of appeal shall, on demand of either party, be determined by a jury according to law.

225. 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.

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

237. The legislature shall have the power to alter, amend or revoke any charter of incorporation now existing and revocable at the ratification of this Constitution, or any that may be hereafter created, whenever, in its opinion, such charter shall be injurious to the citizens of this State, in such manner, however, that no injustice shall be done to the stockholders.

238. 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.

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

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

RAILROADS AND CANALS.

241. All railroads and canals not constructed and used exclusively for private purposes 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 railway between any points in this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and each shall receive and transport the freight and passengers and cars, loaded or empty, of the others without delay or discrimination.

242. The power and authority of regulating railroad freight and passenger tariffs, the locating and building of passenger and freight depots, correcting abuses, preventing unjust discrimination and extortion and requiring reasonable and just rate of freight and passenger tariffs, 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 discrimination on the various railroads, canals and rivers of the State and to prohibit the charging of other than just and reasonable rates, and enforce the same by adequate penalties.

243. 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 or 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 five hundred dollars 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 one 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 or other transportation company or corporation by which he is employed.

244. 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.

245. No railroad, canal or 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 the execution of a trust created by law or by contract, except on condition of complete acceptance of all the provisions of this article.

The President resumed the chair.

MR. EYSTER—The Convention has been laboriously at work, and I move we now adjourn.

There were expressions of dissent.

MR. PILLANS—I move as a substitute that we remain in session until eight o'clock.

THE PRESIDENT—A substitute is not in order.

MR. PILLANS—Is it not in order to amend a motion to fix the hour of adjournment.

THE PRESIDENT—It is not a motion to fix the hour of adjournment, but is a motion to adjourn.

Upon a vote being taken a division was called for, and by a vote of 38 ayes and 54 noes the Convention refused to adjourn.

MR. KYLE—I offer an amendment.

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

THE PRESIDENT—The gentleman from Etowah has the floor, and the Chair cannot recognize the gentleman from Walker.

The amendment was read as follows: "Amend Section 226, page 68, by adding after the word 'municipal' on the eleventh line, the words 'except the city of Gadsden.'"

MR. KYLE—The object of this is the city of Gadsden procured authority from the Legislature to issue one hundred thousand

dollars of bonds, it already having authority to issue one hundred thousand dollars of bonds, making two hundred thousand dollars indebtedness on an assessed valuation of not exceeding six hundred thousand, which is largely in excess of the indebtedness permitted under the provisions of this Constitution. This amendment is to prohibit the issuance of the bonds which have already authorized by law, insofar as that city is concerned.

MR. deGRAFFENREID—Would not our purpose be affected by simply adding "and Gadsden?"

MR. KYLE—The chairman of the committee, Mr. Weakley, says that it would not, and it is at his suggestion that I offer the amendment.

Upon a vote being taken the amendment was adopted.

MR. LONG (Walker)—We have worked hard all day, and I move we do now adjourn.

Upon a vote being taken a division was called for, and by a vote of 32 ayes and 41 noes, the Convention refused to adjourn.

MR. WHITE—I have an amendment.

The amendment was read as follows: "Amend Section 231 by adding after the word 'take' in line 12 the following: 'Any foreign corporation doing business in this State may be sued by the resident citizens of this State in any county in which it does business, whether the cause of action sued on arose in this State or beyond the limits thereof.

MR. WHITE—Mr. President, this amendment was not authorized by the Committee or made at the direction of the Committee, but I will state that it is a fact now, that a foreign corporation doing business in Alabama cannot be sued by a citizen of Alabama if the cause of action arose out of the State of Alabama. In other words a passenger may take a train at Montgomery, buy his ticket in Montgomery to Atlanta, and as soon as he crosses the Georgia line, get hurt by that train, and though he lived in Montgomery, and the corporation did business in that city, and did a vast deal of it, that citizen of Alabama would have to go either to the State of Georgia, or to the State in which that corporation was incorporated to bring his suit. That often works a great hardship on citizens of Alabama, when they have to go to foreign States to bring suit. They are non-residents of those States and in all of them that I know anything about, they have to give security for costs before they can bring suit or have to make a deposit in money, and keep that deposit good until the suit is finished. Now these corporations do business in the State of Alabama by the grace of the people of this State, by the courtesy, as it were of the people of Alabama, and they ought to be sued by a citizen of Ala-

bama when they are doing business in the State by the grace of her citizens.

MR. COBB—Does your resolution confine it to corporations doing business in Alabama.

MR. WHITE—It is non-resident corporations doing business in the State. It provides that they may be sued by a resident citizen of the State.

Now an individual can be sued anywhere that he may be found. If an Alabamian should put his foot upon the streets of New York, he can be sued in that State, if they can serve process upon him, and the same thing can be done if he is in any other State.

MR. WALKER—I desire to ask the gentleman if that general rule of law to which he refers is not confined to actions for injuries resulting in death.

MR. WHITE—You mean the rule of law that is being met by the amendment

MR. WALKER—Yes, sir.

MR. WHITE—No. It applies to anything, anything on earth, where the cause of action did not arise in this State. I know whereof I speak, because I have been there.

MR. HOWZE—You have run against it.

MR. WHITE—I have run square up against it; have had a citizen of Alabama that could not bring suit in the State and had to go to another State to bring his suit. There is no mistake on earth about that being the law in Alabama today, none whatever, and in every State, I believe adjoining the State of Alabama they have provisions, that their citizens may sue these corporations in the State where the citizen resides. I know it is so in Georgia on the east and in Mississippi on the west; I believe it is so in Tennessee and in Florida. I think this is an important matter for the citizens of Alabama, and I hope the amendment will be adopted.

MR. SORRELL—I have a substitute that I desire to offer.

The substitute was read as follows:

"Foreign corporations doing business in this State must be sued in the county in which the cause of action arose."

MR. WHITE—That is the law in Alabama now.

MR. SORRELL—I cannot agree with the gentleman from Jefferson, that it would be right to permit corporations to be sued in Alabama for an injury done a citizen, though he be a citizen of Alabama, outside of the State. We are told that in other States

citizens are permitted to bring suit within their borders for damages accruing in this State. In reply to that I desire to say that we are not here to atone for the sins of other States, but we are here to establish a law for our own people that is satisfactory to the citizens of Alabama. The amendment as offered by myself provides that corporations doing business in Alabama must be sued in the County in which the cause of action arises. It is the law now that they may be sued in the County in which the right of action arose, but my amendment provides that they must be sued in that county.

The gentleman has placed his amendment of the proposition of a damage suit against railroads, and I will apply my amendment and address my argument in that direction. The proposition as presented by my substitute is simply this, is it right when a cause of action arises in Morgan County on the L. & N. Railroad say, that some enterprising lawyer in the city of Mobile who has a hankering, we might say, for damage suits against corporations, might secure the person who had suffered damage as his client, and carry him from the county of Morgan to the county of Mobile to bring his suit. I say, would it be justice to the railroad company, and would it be simple justice to the witnesses that are called from Morgan County to Mobile? They have no interest in the result of the case, but they are forced to go there on their own expenses. Is it justice? I have seen the same thing done in my section of the State, and I might say here, in passing, that this is a progressive age, and the practice of the law has progressed, I am informed, especially in damage suits, by some well noted lawyers in our sister State to the extent that in the great business centers of our sister State they have established damage suit bureaus with a hospital attachment, and while I admire the pluck and energy of our sister State I fear that if this matter is left open, that some of our progressive lawyers who enjoy suits against corporations may follow the lead as laid down by other States, and will have such establishments flourishing in Alabama. Is it right? The jurisdiction in these cases is supposed at least to be established and given for the benefit and protection of the citizens of Alabama. Now, I ask you, gentlemen of the Convention, the simple question if it is right to bring a suit in any County in which the corporation does business, and force a witness to go one hundred miles to testify for the plaintiff? He has got no way on earth to escape going, but if you bring the suit where the damage occurs, he could stay at home in his own County, and go to the county seat, and testify and go back to his home. When these damage suits are carried away from the County in which the right of action arose, these witnesses are forced to attend the trial at their own expense, and who reaps the benefit of it? I know of but two classes of people that reap the benefit, and that is the plaintiffs in the suits, and the expert lawyers in commercial centers who bring

these suits. I say, Mr. President and gentlemen of the Convention, that these provisions for bringing suits are not given to oppress, and to carry men that distance to answer, when there is a tribunal wide open for them where the cause of action arose.

MR. COBB—I desire to ask the gentleman if the plaintiff cannot select his own forum?

MR. SORRELL—The plaintiff can select his own forum, but can the witness refuse to go to that forum, or can he force you to pay his expenses before you force him to go?

MR. COBB—He can require you to pay his expenses.

MR. SORRELL—Before he goes?

MR. COBB—After the first trip.

MR. SORRELL—It is the first trip I am talking about. The first trip hurts as bad as the second, when he has got no money to go.

MR. PILLANS—Does not the gentleman assume that the witnesses in a railroad damage suit, as he describes it, necessarily live where the accident occurs?

MR. SORRELL—Ordinarily they do.

MR. PILLANS—Would not passengers who see an injury all be persons who would have to be brought from the ends of the earth to testify to the injury?

MR. SORRELL—The gentleman is under the misapprehension that damage suits grow out of injuries to passengers on the train. That is not my experience, but on the contrary, quite a number do not, and I might cite an instance. I have in mind one case which happened in my county, and one in the adjoining county of Coosa, where the suits were brought at Birmingham against the Central of Georgia Railway. Witnesses were forced to go there in attendance upon court, and to stay there a week upon their own expense, when if this amendment had been in force, the suits would of necessity have been brought in the county where the cause of action arose and where the witnesses lived, and they could have attended the trial, and staid at their homes without expense. I say that in every county in Alabama there is a forum wide open to these gentlemen who seek to bring these suits, in which absolute justice can be meted out. It is no argument to say that they cannot get justice in these interior counties. We have been living, Mr. President, in these interior counties, and the litigation there has gone smoothly on, men's lives, their liberty and property rights have been protected in these counties, without going to these centers of commercial interests to find counsel to protect their interests. Whenever you place upon them the abso-

lute demand that these cases be litigated in the county where the cause of action arises, justice will continue to be meted out to both parties to the cause.

MR. WHITE—Is it not a fact that under the Constitution as it now stands, they can be sued in any county where they have an agent without reference to where the injury occurs?

MR. SORRELL—They can do it, but my amendment says they must do it. They say it would be absolute injustice for a man to be injured in Mobile, and be forced back to Mobile to bring suit. I put the plain proposition to you if there is any merit in this claim? Is it not a pure case of freeze-out against the railroads? If there is justice in his claim there is enough at stake for him to go to Mobile to try his case, and he will gladly go, and if it is a question of what is nearer right, to carry him to Mobile to try his own case, or to force the witnesses from Mobile at their own expense to come to Birmingham or some other place that his counsel, and himself, might choose to bring them to for their own convenience, I leave you gentlemen to answer the proposition.

MR. GRAAHM (Talladega)—I move that we adjourn.

MR. deGRAFFENREID—I move to lay the amendment of the gentleman from Tallapoosa upon the table.

THE PRESIDENT—The gentleman from Tallapoosa has the floor, his time has not expired.

Leaves of absence were granted to Mr. Browne of Talladega, for tomorrow, Mr. Fitts for tomorrow, Mr. Vaughan for tomorrow, Mr. Burnett for tomorrow, and Mr. Parker of Elmore, for tomorrow; Mr. Thompson for today and tomorrow, and the hour of 7 o'clock having arrived Convention adjourned until tomorrow morning.

EIGHTIETH DAY

MONTGOMERY, ALA.,
Saturday, August 31, 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, our Lord how excellent is Thy name in all the earth, who hath set Thy glory above the Heavens. We would come before Thee this morning acknowledging our unworthiness of Thee

and Thy blessings, and yet praying that Thou wouldst this day bless us according to our needs. We feel this morning that we are dependent upon Thee for the life that we have, and for the strength that we have, and we come before Thee praying that Thou wouldst help us, that we may put our trust in Thee. Bless this day's deliberations, and may the Constitution here made be such as will elevate the morals of our State, and improve it in every respect. Bless each and every member of this Convention; bless their homes and their families, and keep us by Thy power. Forgive our sins, and at last in Heaven save us, we ask for Christ sake. Amen."

Upon a call of the roll 91 delegates responded to their names.

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

MR. SMITH (Mobile)—I desire to submit a report of the Rules Committee on one question. Others will be submitted later.

The report was read as follows:

Substitute by Rules Committee for resolution 322 by Mr. Long of Walker.

Resolved, that the Committee on Order, Harmony and Consistency of the Whole Constitution be and it is hereby instructed to prepare and report to the Convention an ordinance extending the terms of office of the present Sheriffs for two additional years, and making their successors elective in 1906 for terms of four years; and that the committee make such further report as may be necessary to harmonize the Constitution with the ordinance so to be reported by it.

MR. deGRAFFENREID—I have a minority report.

The minority report was read as follows:

MINORITY REPORT.

The undersigned member of the Committee on Rules begs leave to say that he is not able to concur in the report of the majority of the Committee on Rules in recommending the extension of the terms of the present Sheriffs for two years. It has been at least forty days since this Convention determined to establish quadrennial elections in this State, but not until this Convention, on day before yesterday, refused to allow Sheriffs to succeed themselves, was it proposed that this Convention should extend the term of the present Sheriffs for any period whatever. To now do so might not be improperly construed as an effort to placate officers, whose demands upon us have not been met. While it may be thought by some that the Constitution to be adopted by

this Convention will be popularized and its ratification assured if the Sheriff who is the returning officer of elections in each county is directly interested in the election held for that purpose, the inexpediency and impropriety of the measure proposed, it seems to me, are beyond question.

While this Convention has lengthened the terms of the Senators whose terms expire in 1904 for two years, such Senators will draw no salaries and will perform no duties unless the Legislature is convened in extraordinary session. The Sheriffs, on the other hand, are officers of influence and power, with active duties to perform and to their offices, in a large number of cases, are attached handsome perquisites. Unless the Legislature should, at its next session, in like manner, extend the terms of the present Tax Collectors, Tax Assessors and County Commissioners, which was certainly not contemplated when those officers were elected, for two years, an election in 1904 will be necessary, and as this is true, there is no reason why Sheriffs should not then be elected. This Convention has, in the article on the Executive Department, which has been fromally adopted and is now in the hands of the Committee on Engrossment, provided that the Sheriff elected in 1904 shall hold office for a term of six years, and that all succeeding Sheriffs shall hold office for a term of four years. This renders the proposed action recommended by the committee unnecessary.

Believing as I do that we should confine ourselves to the business for which this Convention was called by the people, and that the action proposed is unnecessary and without precedent, I recommend that the said report of the Committee on Rules be not adopted.

Ed. deGraffenreid,
Of the Committee on Rules.

MR. deGRAFFENREID—Mr. President, the reason why I oppose the action of the Committee on Rules in recommending to this Convention that the terms of the present Sheriffs be extended two years is plainly set forth in the minority report. There have been several measures introduced in this Convention since we met, with reference to the office of Sheriff, and this Convention has acted several times upon these matters, and at the instance of those who profess to represent the Sheriffs, have several times changed its action. As stated in the minority report, on day before yesterday, this Conventon, by a close vote, after mature consideration, while a number of Sheriffs were in Montgomery, refused to change the existing laws and allow two terms. Immediately upon the heels of that action, comes this proposed measure. Before that time, and since the recess, this Convention had adopted the article on the Executive Department, which provides that the Sheriffs elected in 1904 shall hold office for six years. By doing that every election in the State of Alabama is harmonized, and if

the proposed measure now introduced from the Committee on Rules is adopted, the Legislature following the precedent established by this Convention, to avoid an election in 1904, will have to extend the terms of office of the Tax Assessor and the Tax Collector and the County Commissioner and the Superintendent of Education in each county for two years more. I know it has been said by some members who favor this measure, that if the officers mentioned have their terms extended it will greatly popularize the Constitution, but I believe that this Constitution should go before the people upon its merits and that we should make no bid of any sort, for popularity, or for its ratification, by the extension of the office of any person whatever. It is true that we have extended the offices of the Senators whose terms expire in 1904, to 1906, but those people will have no duties to perform; they will draw no salaries, and they will do nothing unless the Governor convenes the Legislature in extraordinary session. The action of the Convention in that regard is above criticism.

MR. BAREFIELD—Isn't the principle just the same thing?

MR. deGRAFFENREID—No, sir, it is not. One is an office of profit and the other is not.

MR. OATES—I just wanted to ask if it is not a fact that the question relative to extending the term of Senators was not agitated early in the session and before the Committee on Legislative Department, and if the effect of it was not called to the attention of the Convention and the reason why it was not done.

MR. deGRAFFENREID—Yes, sir, that is my recollection, and I want to say further, that when the delegates to this Convention came direct and fresh from the people, when these delegates who are now here first came to Montgomery, I dare say that, if the proposition now before this Convention had been placed before it, there is not a delegate here who would then have voted for it. I leave the question with you.

MR. SMITH (Mobile)—So far as the majority of the Committee is concerned, they acted upon this matter absolutely independent of any question of controversy between the sheriffs and the gentlemen who seemed to have been opposing the interests of the sheriffs. Some portion of the Committee that voted in favor of the resolution have, I believe, consistently voted against the propositions made by the sheriffs, so that I believe they were actuated in passing this resolution, not by any desire to make a compromise with the sheriffs, or from any fear of threats on the part of the sheriffs. So far as I am individually concerned, I have said a number of times, and it is undoubtedly true, that in my section, no fight that is advocated by the office-holders, as office-holders can succeed. If the office-holders get together in my section of the country and make a fight as a body, we will whip them every

time they come to the polls. Just let them make it an office-holders' fight and the people will turn them down. I voted for this, however, not with any idea that the sheriffs had us under whip and lash, but because I saw no reason why the election of the executive officers should not be put upon a uniform basis. It has become necessary for us to extend the terms of one set of sheriffs. We have got to do that. Either the present term of two years, or the sheriffs elected as their successors have got to have an additional term of two years.

MR. GREER (Calhoun)—Don't you think it would be much better and will be more agreeable to the people to elect these sheriffs for six years, knowing at the time that they voted for them they were to have a six years' term, than to legislate them into office for two years?

MR. SMITH—No, sir. We have got to extend the terms of one set of sheriffs or the other. Now the election of every other constitutional executive officer falls in 1906, and not in 1904, and to extend the term of the sheriffs to 1906, places their election upon the same date with the election of the other constitutional executive officers.

MR. deGRAFFENREID—The Convention, by its action in providing that the sheriffs elected in 1904 shall hold office until 1910, settled all conflicts in the matter of elections, did it not?

MR. SMITH—Not if the Convention votes for this resolution, they have not.

MR. deGRAFFENREID—But if it stands where it is now, it has, has it not?

MR. SMITH (Mobile)—Yes, everything is settled, if nothing is changed. Everything in life or in the world is settled, as it is, if there is no power to change it. What I called settled is something irrevocably done.

MR. PILLANS—Does not the resolution of the Committee on Rules provide merely for an ordinance independent of the Constitution?

MR. SMITH—It is for the purpose of reconciling the provisions of the Constitution that it is reported.

Now, then, to reply to the gentleman over there (Mr. Greer of Calhoun), who wanted to know if the people would not like it best to extend the terms of the sheriffs that they will elect the next time. I will say I think the gentleman's idea of what the people like, of how much they like to give one man a certain office at one time, and of how much they like to give another man the advantage at another time, is all humbug.

MR. GREER—Is not the principle wrong to legislate a man into office?

MR. SMITH—I will try to answer one of the questions, and then I will try to answer the other. As I said before, this idea that the people are all anxious and hankering after giving some candidate an advantage is a humbug. It is the office-seeker who is always parading about how much the people are desirous of supporting him. I believe the people have selected the existing sheriffs with as much good will as they have ever selected any other sheriffs, or ever will select them, and I believe that they would just as soon have their terms extended two years as to have the terms of the next succeeding sheriffs extended.

MR. ROGERS (Sumter)—Is it not reasonable to suppose that a majority of the people elected the last sheriffs, and, therefore, if they are continued in office two years, they have been put there by the will of the majority?

MR. SMITH—Undoubtedly, and not only that, but the people, when they shall have voted upon this Constitution, will have determined whether we have done right in this and all other matters, and if it is just the love of having the power to say that they did it, then they will have that privilege under those circumstances, as well as the other.

MR. PILLANS—Will the people have a vote on an ordinance extending the terms of officers not mentioned in the Constitution? Is not their vote confined to the Constitution alone?

MR. SMITH (Mobile)—I do not think the people will vote on any single ordinance, section, paragraph or resolution in this Constitution.

Now, in answer to the fourth or fifth question of my friends from Calhoun—I have forgotten the number of it—he wants to know whether it is right to legislate people into office. I do not understand when a man is in office that we are legislating him into office. I do not understand when we extend his term two years we are doing any more legislating into office than when we say the next man shall have the extra term. He is there not by our election, but by the grace and vote of the people, and so far as I know, the people are not dissatisfied with what they did in the last election, and if we do what is right to harmonize our Constitution, there will be no special objection made to it. At any rate, it seems to me that we have to extend the term of one set of officers or another; we had as well extend the term of the present incumbents, and I, therefore, move to lay the minority report upon the table.

MR. HOWZE—On that I call for the ayes and noes.

The call was sustained.

Upon the call of the roll, the vote resulted as follows:

AYES.

Messrs. President,
Altman,
Ashcraft,
Banks,
Barefield,
Blackwell,
Burns,
Cardon,
Carmichael, of Colbert,
Chapman,
Cobb,
Coleman, of Walker,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
Duke,
Eyster,
Ferguson,
Fletcher,
Gilmore,
Glover,
Grant,
Greer, of Perry,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hodges,
Hood,
Inge,
Jackson,
Jones, of Bibb,
Jones, of Wilcox,
Kirk,
Knight,
Kyle,
Ledbetter,
Lomax,
Long (Walker),
Macdonald,
McMillan (Baldwin),
Malone,
Merrill,
Miller (Wilcox),
NeSmith,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Opp,
Palmer,
Parker (Cullman),
Pettus,
Proctor,
Reese,
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Sanders,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spragins,
Weakley,
Weatherly,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson (Clarke),
Wilson (Wash'gton),
Winn.

Total—74.

NOES.

Bartlett,
Beddow,
Bethune,
Boone,
Brooks,
Byars,
Carnathon,
Case,
Cofer,
deGraffenreid,
Eley,
Foshee,
Freeman,
Graham, of Montgomery,
Graham, of Talladega,
Grayson,
Greer, of Calhoun,
Howell,
Howze,
Jones, of Montgomery,
Lowe (Jefferson),
McMillan (Wilcox),
Martin,
Murphree,
Norman,
Oates,
O'Rear,
Pearce,
Phillips,
Pillans,
Porter,
Reynolds (Henry),
Sanford,
Selheimer,
Sentell,
Sloan,
Spears,
Stewart,
Studdard,
Tayloe,
Waddell,
Walker,
Watts,
White,
Whiteside.

Total—46.

ABSENT OR NOT VOTING.

Almon,	Jenkins,	Mulkey,
Beavers,	Jones, of Hale,	Norwood,
Browne,	King,	Parker (Elmore),
Bulger,	Kirkland,	Renfro,
Burnett,	Leigh,	Reynolds (Chilton),
Carmichael, of Coffee,	Locklin,	Robinson,
Coleman, of Greene,	Long (Butler),	Searcy,
Cornwall,	Lowe (Lawrence),	Sollie,
Espy,	Maxwell,	Thompson,
Fitts,	Moody,	Vaughan,
Hinson,	Morrisette,	Willet.

PAIRS.

AYES.	NOES.
Pitts,	Henderson.

So the motion to table prevailed.

MR. SANDERS—I now move the previous question on the resolution reported by the Committee.

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

The main question was ordered, and a vote being taken the resolution was adopted.

MR. GREER (Calhoun)—I rise to a question of personal privilege. The gentleman from Mobile (Mr. Smith) in reply to the question which I propounded, stated that the cry about the people was humbug and only made from those who were seeking office. I want to say this, that I am not willing for the gentleman from Mobile to say what is or what is not a humbug, and so far as being an office-seeker, Mr. President, I am as clear from being an office-seeker as my friend from Mobile. I have never sought or held office before.

MR. BOONE—Mention the gentleman from Mobile to whom you refer.

MR. GREER—Mr. Smith.

MR. SMITH—I am glad that the gentleman called for the name of the gentleman from Mobile who had never sought an office. I do not want any confusion on that subject because it was liable to occur. (Laughter.)

Mr. Boone sought recognition.

THE PRESIDENT—The gentleman from Mobile has the floor.

A DELEGATE—Which one?

THE PRESIDENT—Mr. Smith. (Laughter.)

MR. SMITH—I am sorry that the gentleman from Calhoun (Mr. Greer) was not willing for me to say what is a humbug and what is not, but his edict is ex post facto, it has been said. (Laughter.)

MR. BOONE—Mr. President, I rise to a question of privilege. I am unwilling to let the people at home, or the gentlemen of this Convention, think in my intercourse with the several delegates of this Convention, or in what I say upon this floor that I was in any way discourteous as the gentleman, in my judgment, was to the gentleman from Calhoun, and the other day to the gentleman from Jefferson, Mr. Beddow.

MR. SMITH—I waive the exception, the gentleman need not take an appeal. (Laughter.)

Leaves of absence were granted as follows: To Mr. Norwood for today; to Mr. Eley for afternoon session today; indefinite leave on account of sickness to Mr. Almon; to Mr. Handley for Monday; Mr. Bulger for today.

MR. COLEMAN (Greene)—Mr. President, I rise to move a reconsideration of the vote by which the following amendment was made yesterday in the Article on Suffrage, "of real and personal property in this State."

MR. COLEMAN (Greene)—Mr. President and delegates of the Convention, this amendment involves a great deal more to one section of the State than the provision made for the officers, their election, or perhaps any other provision that has been discussed in the last three or four days. It was never intended by saying that $300 worth of personal property of real estate, to prescribe qualifications which would enable a man to vote. The real purpose was to disable certain parties from voting in this State. Now we have been willing to concede to the white people of Alabmaa any provision that they could frame, and we are willing to do it now, by which they can all be—

MR. HARRISON—Will the gentleman yield?

MR. COLEMAN—Yes, sir.

MR. HARRISON—As I understood the delegate from Greene, the motion was to reconsider a provision which I was under the impression you did not vote for.

MR. COLEMAN—I did vote. I voted purposely, having this thing in view.

MR. SAMFORD (Pike)—If the gentleman will permit me, I voted aye.

MR. COLEMAN—I had this thing in view. Now I would like to be heard because this is an important question to us. We came here to be relieved of a certain class of voters. If you put a provision in this Constitution, by which a sufficient number of them will be admitted to the franchise to dominate our elections, of what advantage is this Convention to us? It would be better for us to retain the power we have now, though we use it by means which we abhor, rather than accept a proposition which will in law enable a majority of them to dominate us in our elections. Now if any man who has the interest of the white people at heart, can frame or devise any plan by which they can be admitted to exercise the elective franchise, I for one, and I know I speak the sentiments of every white man from the Black Belt, will indorse it. We have voted the most liberal provisions to educate these people of any State in the Union and if you are not satisfied we will do anything you want done, but we want relief, and we cannot get it if you unite personal and real property to the extent of $300. All over our little towns and in the country, the negroes have bought their little places of three, four and five acres, not worth $300, but they have got those little places worth from $50 to $75. I doubt not but what there is a hundred of them in my own little town. When you confine them to $300 worth of land, they have not got it. If you hold them down to $300 worth of personal property they have not got it. But if you let the two be united they have got it, and notwithstanding all that may have been said about the Black Belt, they are as scrupulous in the observance of the law as any people, and they will enforce this law precisely as you adopt it here. Now personal property is changeable. It is in one man's hands today and some others tomorrow. It is not a safe criterion. We prefer the $300 of real estate, but to satisfy the demands of other sections of the State, we conceded to $300 worth of personal property. Let it be one or the other, and if you are not satisfied with the provisions by which all your people can be admitted to the exercise of the elective franchise, for goodness sake, write out something and we will sign it. We have asked for two things. We wanted relief and we wanted representation. You have given us one and a thrill of gratitude and satisfaction went all through our section of the State, but now you propose to enfranchise a sufficient number of them to take away from us our power, our dominion of the elective franchise in our section of the country, and it is wrong. It is not what we want. I say to you, Mr. President, it makes no difference with us, what provision you write out for your people, we will sign it, we will indorse it, but give us relief from that great burden which rests upon us, and has for so long a time, and which we expected to obtain from this Convention. It is all that we ask. We will ratify your Constitution. No man need be afraid of its ratification, if you will give us the relief that we want and the relief we ought to have. We are entitled to it and we ask nothing more. It was

a mistake. That provision was made precisely that way for a precise purpose, because by an estimate, these parties were not in sufficient numbers to own either the one or the other to materially interfere with the majority of the white voters in these counties. If there is anything here by which any white man is disfranchised. I would like to see it pointed out. We thought we had them all in. Some gentleman said yesterday that we could not go on the stump and defend it, as it was. Why, fellow delegates, you cannot defend many things if you take the whole people into consideration, but you can defend it and satisfactorily when it is understood that by this provision, the ignorant and venal vote will be eliminated, and the white man continued in dominion in this State.

Mr. Graham of Talladega took the chair.

MR. COLEMAN—I know the difficulties under which I am addressing this Convention this morning. I know it is late in the session, but I had supposed that all these question were finally fixed. We have voted with this in view all the way through. You cannot find a proposition demanded by, and necessary for, the white counties, that we have not conceded, and conceded freely, and why not concede to us the protection which is necessary for us. I feel it is my duty to call your attention to this. I would not have discharged my duty conscientiously to my people and to the State of Alabama and its best interests if I had let it go without calling your attention to it again, and I ask you to reconsider this vote by which this amendment was put in there, and if you desire any other amendment, I care not what it is, if you think it is necessary for the benefit of the white people of Alabama, we stand ready to support it. It is our political creed that the white man is fitted to exercise the elective franchise, and that the other race is not. There is where we have stood and there is where we have voted all the time. That is what we desire and it would be effectually done but for the provision of the fifteenth amendment which requires us to be very careful in how we frame the organic law touching the question of franchise, and I hope the delegates out of consideration for us and our position, and the condition we are in, will reconsider the vote that I may move to strike out just that line and nothing more.

MR. ROGERS—I dislike very much to take issue with the distinguished gentleman from Greene County, but he does not speak for all the Black Belt when he speaks this way. ' I am from the Black Belt myself, and when this movement came from North Alabama to make it in the aggregate $300, of both real estate and personal property, I voted for it, and I shall vote for it again this morning. There is not a considerable per centage of negroes in the Black Belt who own $300 worth of property, when you take

it in the aggregate. Therefore, I do not fear that this provision will give us any considerable trouble.

MR. COLEMAN—How many negroes, take your own place, have you sold mules to, who still owe you for them.

MR. ROGERS—I can answer the gentleman in this way. I do my business a little different. I do not sell those negroes my mules for the simple reason that I am forced to pay their poll tax. I hold their property in my own name, and I say to them, when you are able to pay me for this property, it is yours ,and it does not go upon the Assessor's books. That is the way I do my business, and that is the way men do who do an advancing business in the Black Belt.

MR. COLEMAN—That may be yours, but don't you know it is the general rule that they do do it.

MR. ROGERS—I do not believe it is, sir.

MR. COLEMAN—It is in my county.

MR. ROGERS—It is not so in mine. We hold the property when we sell it upon a credit, taking under the law passed in 1898 —before that we were not forced to do so,—a paper saying that this property shall remain in my name and shall be assessed in my name, and if the gentleman will examine the books of Greene County in which my lands lie, he will find from year to year, there will be assessed against J. A. Rogers, so many mules, from 20 to 60. I do not want to be harassed by poll tax, and by having my property assessed along with that of others. It is my property.

MR. COLEMAN—I have another question. I would not do this, but I want to be understood. Don't you know that in law, when you sell a man a piece of property on credit, whether he pays for it or not, in law it is his property, it makes no difference whether you withhold it by mortgage or anything else.

MR. ROGERS (Sumter)—Whenever you make a sale in law, (I am not a lawyer), if it is conditional, it is not a delivery until the conditions are complied with. If I sell a mule, to be paid for in November, and do not take a note for it, there is no delivery of the property until they pay the money.

MR. KIRK—Who pays the taxes upon the property?

MR. ROGERS—I pay the taxes on the property, and it is in my own name. I believe this is the course pursued by the wise men who are in business there and who know business methods. I simply want to say that the gentleman is not speaking for all the Black Belt and not for my county.

MR. COLEMAN—It is a question for every lawyer in this house to determine whether or not property belongs to him or the negro.

MR. ROGERS—I will say to you, unless the Assessor's books show that the negro pays taxes on the property, he cannot vote, it matters not where the property lies. If the tax books do not show that he pays taxes on the property, he cannot vote under this provision. You say he shall pay taxes on three hundred dollars of property, and if the tax books do not show that he pays those taxes, how will he vote? It makes no difference whether it belongs to him or a man in Europe, if he does not comply with this provision, he cannot vote.

MR. SANDERS—It has been said that this reduction in the qualifications for voting has been inserted in the interests of the white people of North Alabama. As an humble representative of that section, I desire to say I do not believe that the white people of the section of the State are asking for this change in the suffrage clause. We have protected the living white voter by granting to him under the temporary clause a life certificate. We have provided that the young man when he becomes of age after 1903 shall be vested with the right to vote if he possesses simply the easy qualification of being able to read and write. I think, Mr. President, that that is an ample provision, an ample protection for the white man of Alabama, and all that we will inquire under our oaths to guarantee to him. In my opinion, the young man of Alabama, whether he can read or write now, who has not the ambition and aspiration to qualify himself to vote after 1903, by complying with the simple requirement of being able to read and write, ought not to vote. I do not believe the white people in this State, in North Alabama, are demanding that these suffrage conditions and provisions be made any easier for them. The man who objects to the property test as a qualification for voting, will not be appeased by the fact that you have simply reduced the amount of property which he is required to own. I believe it would be wiser if we increased that property test.

MR PILLANS—Will the gentleman allow an interruption?

MR. SANDERS—When I get through, then I will be glad to answer any question. I believe it would be wiser to increase the propert test rather than reduce it, for we have protected the white man under the temporary plan, and we have protected him under the permanent plan, and we are merely lowering the standard to such an extent and to such a degree that a great many negroes will qualify in Alabama, who could not qualify before, and I am not ashamed to say that I came here for the purpose of disfranchising, so far as is consistent with my oath and within the limits of the Federal Constitution, every negro in the State of Alabama that we could possibly reach. (Applause). I do not

believe that is low ground. I do not believe that is narrow. I do not believe that is selfish. I so much believe in the God-given right of the supremacy of the white man in this country that I believe it is his duty to rule and to take the reigns of government in his hands. (Applause). I just want to say that I speak for the people of my own county. I will not assume to speak for any other section, but I believe the sentiment of the Tennessee Valley is pretty uniform throughout, and our people do not want this reduction. They believe in the plan just as it has been reported and adopted heretofore, and I believe you weaken it, and destroy the respect which has already been built up in that section for this suffrage article and plan, by now lowering the standard so as to let in a great deluge of negroes who may put a mule and a wagon and a little ten-acre patch together, amounting in all to about three hundred dollars, and come in and vote. I heartily favor the motion to reconsider in order that this suffrage provision may be restored as it was originally before the amendment of the gentleman from Lee (Mr. Harrison) was adopted yesterday.

MR. PILLANS—There is no member of this Convention, certainly on the dominant side, who will yield one whit to the gentleman in his allegiance to the Anglo-Saxon race, and it will not do to attempt to drive measures through here by a mere appeal to the prejudices of the white race.

We all want to keep the reins of government in the hands of the white people of Alabama, and want them to continue to rule over the destinies of Alabama, and the gentleman does not differ with any of us in that respect, and when he extorted applause by his eloquent remarks, he was likely to mislead the other delegates into supposing that only the view he was supporting was the one that led to white supremacy. I deny that, and I desire to call the attention of the delegates to the fact, that his was an attempt to misstate the position of those who are opposed to reconsidering, by the use of the expression, "reducing the standard." There has been no reduction of the standard, by the action of this house taken yesterday. There was already a property qualification put upon those unfortunates that have not had the advantages of my friend, of you and myself; and who, in consequence, have not acquired a knowledge of letters. The property qualification put upon the illiterates of the State, fixed a minimum of $300 of taxable property. Isn't it so? That is the substance of the report which was brought in by the Suffrage Committee, and that is the provision you thought that you had adopted. Now, when you come to weigh this property qualification, you find that if a man in North Alabama or South Alabama or Middle Alabama, for I know no sections in this our dear State, dies, leaving two illiterate sons, and those two sons, with nothing but their good right arms with which to work out their future and their fortunes, so progress that when they

arrive at the voting age one of them has acquired but a forty acre tract of land worth but twenty-five dollars, he can vote, yet his brother who has a farm and stock assessed at five hundred dollars, cannot. A forty acre tract owned by any negro man in the State of Alabama, of whatever value (and they all go up in the pine hills and buy land when they can) they all go up on the pine hills and have their little forty acre tract entitles this illiterate negro to vote.

MR. COLEMAN—I hope the gentleman will give me an opportunity to reply.

MR. PILLANS—I will ask if they do not select the pine hills whenever they can?

MR. COLEMAN (Greene)—I desire to have an opportunity to reply.

MR. PILLANS—The gentleman desires to reply. The gentleman has consumed a great deal of the attention of this body on this subject and from his side came the cloture on the debate yesterday, and then, when they failed by a vote of 90 to 30, they ask you today to reconsider, which is somewhat like the plea of the baby act. I do not say that offensively. But I say that every negro man who has a tract of forty acres of land can vote, and that might not be worth fifty cents an acre, so that the son who has acquired forty acres is a voter. The next son gets three hundred dollars worth of goods. He can vote. The next son acquires two hundred and seventy-five dollars worth of mules and a farm worth two hundred and seventy-five dollars. He is the thriftiest man of the lot. He helps the State more than the others. He is the worthiest citizen of the lot, so far as we can measure worth by progress and the payment of taxes, and the gentlemen say he must not vote. This is illogical; you cannot go before the civilized world and justify that position. If they cannot justify that position then how do they answer it? By producing the Black Belt in evidence, and they say that this will let in a thousand negroes. While we have not the tax books to know how accurate the views of the gentleman on the subject are. I cannot believe that he is right in his view. I cannot believe it will let in any considerable quantity, but whether it does or not, the answer that is made is the most complete non sequitur ever made. The Suffrage Committee who after long and deliberate consideration, were expected to bring in the most rational plan came in with one, and when you show it is wholly irrational in one particular, they say to you, give us a better plan. They say: "You who support the amendment or object to our illogical plan, from North Alabama or from South Alabama, give us a better plan," instanter, though we took two months to evolve the plan that has this fault in it, a fault which I think was cured by the amendment which this Convention rati-

fied yesterday by a vote of 90 to 40. Now, two gentlemen from the Black Belt have spoken and one tells you what I believe the Tax Assessor's books if here, would show throughout that section and that is, that there are very few of the colored race who pay taxes on three hundred dollars worth of property in the aggregate; but if there are too many who pay on that amount of assessed property, and that is not large enough, raise it; but while doing so, in the name of God make a rational rule, that you can justify to your consciences, your reason and to the people that sent you here.

MR. COLEMAN (Greene)—I wish to read to you the provision. There is nothing in here that the owner shall pay the taxes, the very question I wanted to call to the attention of the gentleman from Sumter. It reads: "The owner in good faith, in his own right, of forty acres of land situate in this State, upon which they reside; or the owner in good faith, in his own right, or the husband of any woman who is the owner in good faith, in her own right, of real estate, situate in this State, assessed for taxation at the value of three hundred dollars 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 three hundred dollars 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." Not by the owner, but shall have been paid. The title remains as I stated to this Convention before, and you know it as a lawyer—

MR. PILLANS—I do not see that that relates to anything I was saying, but it brings me to the difference between the learned gentleman and the gentleman from Sumter, who, while not a lawyer, displays a very great knowledge of law, as he does of all other branches of science and wisdom. I am constrained to differ with my distinguished and learned friend, who says that a man who buys a mule under a conditional contract does get title as an owner, and to agree with the gentleman who is not a lawyer that where the title is reserved the buyer is not the owner, and I know that, of the eighty-nine lawyers in this house, eighty-seven will agree with me. If there is anything established in the laws of this State it is that a man can make a contract for future sale of property with present delivery of possession, and with a reservation of title in the seller, and that no title passes to the buyer until the final payment is made. I see my friend from Chambers fully agrees with me.

MR. COLEMAN—By parol?

MR. PILLANS—Recently there was a statute passed which required it to be in writing, but that is a perfectly immaterial

thing. That goes into the question of how you clothe or evidence the transaction.

MR. COLEMAN—Don't the gentleman himself know in the very case he puts, the gentleman says he puts it on his book, there is nothing in writing between them, that is not a conditional sale?

MR. PILLANS—That may be so.

MR. DUKE—Isn't it a fact that it is a conditional sale, even if it is not in writing as between the parties? Isn't it a good sale between the parties and void only as to third parties who haven't had notice?

MR. PILLANS—I thank you for the suggestion. That is true. I had overlooked it. It is only a recording statute, providing for notice by recording it, so that a third person may not be deceived by the apparent ownership of the one in possession, because our courts had always theretofore held that the fact that there was an apparent title in the vendee did not give an equity to the purchaser from him as against the seller's reserved title and therefore the legislature intervened and required a writing so far as third parties were concerned. I will therefore move to table the motion to reconsider.

MR. COLEMAN—I desire to ask the question if the statute does not declare it to be null and void?

MR. PILLANS—I do not want to lose my opportunity to move to table. I suppose Mr. Duke can answer it. I make the motion to table the motion to reconsider.

MR. COLEMAN—Upon that I call for the ayes and noes.

MR. SMITH (Morgan M.)—Will not the gentleman withdraw that a moment.

MR. PILLANS—Yes sir. Being unwilling to cut off debate, I will withdraw it.

MR. SMITH (Morgan)—If there is anything I am familiar with it is this line of business, and I rise to concur in the remarks made by the gentleman from Greene. If I had ever made a success in a business way, it has been in advancing mules and helping negroes to make crops, and I think notwithstanding my friend from Sumter says all business men sell mules to parties and still own them, that this is a very dangerous proposition. I can take half a dozen business men in my county, and if I prefer to sell every negro on my plantation or those whom I advance to, $300 worth of property, I can vote, with half a dozen others like me, nearly every negro in my county, and you could not question this sale.

MR. PILLANS—Isn't that true if you sell him two mules worth $150 apiece?

MR. SMITH—I understand that, but as I understand it, we will not sell them land. If they are required to have $300 worth of real estate, that is another question.

MR. ROGERS (Sumter)—In the alternative, as the Suffrage Committee has reported it, they say if a man owns $300 worth of property upon which he pays taxes he may vote. Upon your proposition what is to hinder me from going to Texas and getting three car loads of Texas ponies worth $5 apiece, and bring them back to Sumter County and selling them to negroes at $305 apiece. Nobody can question the price at which I sell them and they would every one have over $300 worth of property, and I can vote with a half dozen others every negro in the county, and you cannot question the sale.

MR. SMITH—I will answer the gentleman by saying that I am not well pleased with this permanent plan anyway, and his argument is all against it. I would rather have it $1,000 worth of personal property. The question the gentleman has propounded is against his own argument.

MR. COLEMAN—The clause does provide against the emergency. It says bona fide owners. The word "bona fide" was put in there to meet the decision of the Supreme Court.

MR. SMITH—This permanent plan of suffrage has not been perfected to suit me. I have met the objection already in my county on this question. In several beats in our county we have negroes who are going to read and write and who have some property, a great many of whom have property enough to come in and carry elections in these several beats, and the gentleman admitted that to me the other day as his objection, and I would that this personal property clause be raised to $1,000. We are loathe to sell negroes land in the Black Belt, but when I desire to have voters, and have my way, I can easily give them $300 worth of personal property and the negro will vote with me in order to have the privilege. I do not say we intend to do that. The Black Belt is sincere in this fight, we are disposed here, and you have found it, notwithstanding we have been charged to the contrary, to do everything in our power to relieve us of this ignorant, vicious franchise which is held by those whom we have been called here to disfranchise.

MR. LONG (Walker)—I just wanted to ask you if $1,000 is better than $300, hadn't you better make it $1,000,000? Wouldn't that be better than $1,000?

MR. SMITH (Morgan)—I submit we have an almost insurmountable barrier, and when the gentleman from Mobile under-

takes to pick flaws, he ought to be ready to offer something better to this Convention. I have no patience with a man when we are doing our very best to accomplish the ends for which we were sent here, to pick flaws without offering something better. We desire a better remedy if we can get it. I tell you we are not here, the Black Belt has not called this body together, the sons of Alabama have not done so, for a frivolous purpose. We are not here for the interest of the people of North Alabama, or any other section. We know what we have to meet in our homes, and in our counties. We know we have gone just as far as we possibly can. We know that we are going to split in spite of everything we can do, and when we do that, we do not want to appeal to the negro as an arbitrator between the white men in the Black Belt, that is why the men of the Black Belt have been anxious to call this Convention together. Heed the remarks of that grand old man that knows the condition of the Black Belt. In the temporary plan, every poor man can vote. He holds his certificate in his pocket. What man is it will say that the negro can acquire a better education than the Caucasian race? After 1903, our temporary plan is a good one. Our permanent plan I do not like very much, but I will not criticize it because I am not competent to suggest anything better. The permanent plan is the one I want changed for the better. You forget every white man in Alabama can register, and the poor man will read and write. The white counties have nothing to fear on this line, and if, perchance, some poor fellow cannot read and write and has not this property, I assure you it is a long ways better for you to cast his vote than it is to put this incubus in the Black Belt upon the white people of our counties.

MR. HARRISON—I regret that the distinguished gentleman from Greene did not give some reason why this Convention should reverse its action of yesterday. From all of his remarks, there is but one reason, and that is that the Black Belt will be displeased, or it will not suit them if we change it. Now, I have been willing on all occasions to accord everything to the Black Belt that I could, constitutionally, or rightfully, but there are some white men as well as negroes in Alabama, and I believe that the white people should have a right to insist upon a proper criterion upon which every white man should vote. It has been demonstrated by the delegate from Mobile in his illustration of the Three Sons how unjust it would be even to white men as among negroes. How can we justify it?

MR. COLEMAN (Greene)—Has he not until 1904 in which to learn to read and write?

MR. HARRISON—Has not the negro the same right?

MR. COLEMAN—Of course he has.

MR. HARRISON—How can that make a distinction. If the gentleman from Autauga (Mr. M. M. Smith), was right, that it would increase it, it would be a different proposition, but this amendment did not increase or decrease, but simply equalize it, and prevented the discrimination which upon its face was so unjust that this Convention overwhelmingly adopted it. I cannot conceive whether the gentleman from Greene or the delegate from Sumter is right. I read the language of this, and submit it to the lawyers of the Convention particularly, and to the distinguished Chairman of this Committee himself. How does it read? "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." And these words are repeated, in every alternative proposition, down to and including this amendment, to wit: that it must be the owner in his own right to do this, and there is no room to speak of any of the subterfuges referred to about Texas ponies or anything else. The language is "in his own right in good faith," and I submit when you apply that test to the Black Belt, or to the White Belt, it is right, and none of the subterfuges would be entertained or considered by the Registrar in enforcing the provision. It is only to equalize the matter, that the amendment was offered. I said on yesterday we could not justify it to the poor white men or black men, that it was not right, that one man, whatever his color might be, if you are going to place a property qualification upon him, should because he happens to own this amount in personal or real property, have this privilege of voting, when his neighbor or brother who has perhaps almost twice as much and is perhaps a more considerate man and better investor, and does not put all he has in real estate or personal property, but divides it, shall not have that right. I say we cannot justify it.

MR. WEATHERLY—Suppose the effect of this amendment would be as a fact to let into the suffrage from 10 to 20 per cent. more negroes in the Black Belt, and you know that to be the fact, would you insist upon the amendment?

MR. HARRISON—Under my oath I would not discriminate on account of race, color and previous condition. I want a rule that is applicable to all, and I could not vote for it in any other shape. I will state, however, that I do not believe it would have that effect.

MR. WEATHERLY—That is a matter of belief. Do you know what would be the effect. Have we not to rely upon the testimony of those in the Black Belt?

MR. HARRISON—Yes, and I would as soon rely upon one as upon another. These gentlemen seem to differ among themselves. I do not believe it is the duty of this Convention to legislate for one section of the State and I think what is good for North Alabama ought to be good for the Black Belt, and vice versa.

MR. WEATHERLY—Suppose under all the testimony that you have heard, your judgment is left in doubt as to the effect of this amendment in letting in an increased per centage of negroes?

MR. HARRISON—I could not make a distinction, whatever might be my wishes, and I would not do it.

MR. COLEMAN—May I ask the gentleman a question? When you voted for that clause, which said that only those that understood the duties and obligations of citizenship, should vote, didn't you do it for the purpose of excluding the negroes and letting in the white men?

MR. HARRISON—I did not, sir.

MR. COLEMAN—I did.

MR. HARRISON—I did not. I believed that I could indulge the presumption that every officer will perform his duties, and I was willing to support it, and I am willing to let you gentlemen of the Black Belt or White Belt enforce it, because I believe it is constitutional and right. This matter has been sufficiently discussed, and in order that the Convention may proceed with the business before it, I move to lay the motion to reconsider upon the table.

MR. OATES—I will ask my friend to withhold that motion for two minutes.

MR. HARRISON—If I have the time, I will. How much time will I have?

THE PRESIDENT PRO TEM—The gentleman has three minutes.

MR. OATES—I want to say in this connection that if I had a doubt in my mind as to the propriety of a property qualification for the suffrage—if a property qualification for the suffrage is to be indulged, with the object in view, several days ago, I prepared a proposition, but despairing of its being considered favorably, I never offered it. It is short and I want to have it read at the Clerk's desk, as expressive of my view, if a property qualification is to be required.

The Secretary read the proposition as follows:

Resolved, That every male citizen of this State who is a citizen of the United States and all who have legally declared their intention to become citizens of the United States and who actually consummate the same within five years from and after the ratification of this Constitution and continue to reside in this State up to that date and who is not an idiot or insane and who has not been convicted of a felony and imprisoned in the penitentiary therefor,

and not restored to his political rights, who has resided in this State for one year, in the county six months and in the precinct or ward three months before he offers to vote, are hereby declared to be legal electors, and entitle to vote at all elections, one ballot; provided, that every voter pays his poll tax three months preceding any election; and provided, further, that any voter who owns and pays all taxes on $500 worth of property or upwards, shall have the right to cast two ballots, and all of said ballots shall be received, counted and returns made thereof, as prescribed by law.

Sec. 2. Any qualified elector who is hereafter convicted of any offense, punishable by imprisonment in the penitentiary, or of any offense bearing moral turpitude, or of buying the vote of any elector or selling his own vote or offering to buy or sell the same for money or any other consideration, or bribing or offering to bribe an elector or officer of an election, or for committing a fraud in any election, shall be disfranchised and have no right to vote in any election until restored to his right to vote, and no one shall be thus restored except by an act of the Legislature which shall not be passed until three years after the expiration of the sentence imposed upon him for such violation of the law.

Sec. 3. The Legislature shall provide by law for the registration of voters and the conduct of elections.

MR. HARRISON—I now renew my motion to lay the motion to reconsider on the table.

MR. COBB—On that I call for the ayes and noes.

The call was sustained.

The call of the roll resulted as follows:

AYES.

Banks,
Bartlett,
Beavers,
Beddow,
Blackwell,
Boone,
Brooks,
Byars,
Cardon,
Case,
Cofer,
Davis, of DeKalb,
Davis, of Etowah,
Duke,
Foshee,
Freeman,
Gilmore,
Greer, of Calhoun,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hodges,
Howell,
Jones, of Bibb,
Long (Walker),
Lowe (Jefferson),
Lowe (Lawrence),
McMillan (Baldwin),
Martin,
Moody,
Murphree,
Oates,
O'Neill (Jefferson),
Pearce,
Pettus,
Phillips,
Pillans,
Porter,
Rogers (Sumter),
Sentell,
Sloan,
Spears,
Spragins,
Studdard,
Waddell,
White,
Whiteside,
Williams (Marengo).

Total—50.

NOES.

Messrs. President,	Greer, of Perry,	O'Rear,
Altman,	Handley,	Palmer,
Barefield,	Hood,	Parker (Cullman),
Bethune,	Howze,	Reese,
Burns,	Inge,	Reynolds (Henry),
Carnathon,	Jackson,	Rogers (Lowndes),
Chapman,	Jones, of Montgomery,	Samford,
Cobb,	Jones, of Wilcox,	Sanders,
Coleman, of Greene,	Kirk,	Sanford,
Coleman, of Walker,	Knight,	Smith (Mobile),
Craig,	Kyle,	Smith, Mac. A.,
Cunningham,	Ledbetter,	Smith, Morgan M.,
deGraffenreid,	Lomax,	Sorrell,
Eley,	Macdonald,	Stewart,
Eyster,	McMillan (Wilcox),	Tayloe,
Ferguson,	Malone,	Walker,
Fletcher,	Merrill,	Watts,
Foster,	Miller (Marengo),	Weakley,
Glover,	Miller (Wilcox),	Weatherly,
Graham, of Montgomery,	NeSmith,	Williams (Barbour),
Graham, of Talladega,	Norman,	Williams (Elmore),
Grant,	O'Neal (Lauderdale),	Wilson (Wash'gton),
Grayson,	Opp,	Winn.

Total—69.

ABSENT OR NOT VOTING.

Almon,	Jenkins,	Pitts,
Ashcraft,	Jones, of Hale,	Proctor,
Browne,	King,	Renfro,
Bulger,	Kirkland,	Reynolds (Chilton),
Burnett,	Leigh,	Robinson,
Carmichael, of Colbert,	Locklin,	Searcy,
Carmichael, of Coffee,	Long (Butler),	Selheimer,
Cornwall,	Maxwell,	Sollie,
Dent,	Morriette,	Thompson,
Espy,	Mulkey,	Vaughan,
Fitts,	Norwood,	Willet,
Hinson,	Parker (Elmore),	Wilson (Clarke),

So the motion to table was lost.

MR. WILLIAMS (Marengo)—Mr. President and gentlemen of the Convention——

MR. COLEMAN (Greene)—What is the question before the Convention?

MR. WILLIAMS (Marengo)—The motion to table was lost, and, as I understand, the question before the House is as to whether or not we shall reconsider.

THE PRESIDENT PRO TEM.—That is the question before the Convention.

MR. WILLIAMS—As has been suggested to me by my good friend on my left (Mr. Pearce), we are not going to get away from here as soon as we thought we were. One of the biggest kicks I heard when I went home during our recent recess was, "When are you fellows going to finish? You do a thing in the afternoon and you undo it in the morning?" The boys at home are getting tired of this matter of reconsideration, and this matter right before us this morning is a question of the difference between tweedle dee and tweedle dum, and nothing else in the world. I trust that the Convention has not lost sight of the question, the only question that is before us. Don't go off on technicalities or law points, and any things of that kind. Stick to the question. This suffrage provision that we have amended, provides that a person who owns $300 worth of real estate can vote, or who owns $300 worth of personal property can vote, and all in the world that this amendment has done is to unite those two things. It is only a matter perhaps of one cent at times. If a man has $300 worth of property, why not let him vote it. Now, the hullabaloo of $300 worth of mules or Texas ponies being advanced can be done at $300 just as well as at $250. It was aptly illustrated by the gentleman from Mobile, only he did not go quite far enough. Suppose a man owns forty acres of land worth $25, he owns forty head of sheep worth $200. The man dies and leaves two sons. One son gets forty acres of land worth $25 and the other son gets forty head of sheep worth $200. Now, the one that gets the sheep, although in common sense if they are worth $200, they are worth more than the forty acres of land; yet you permit the man with the forty acres of poor land to vote, and the man having sheep to the value of $200 cannot vote.

MR. HOWZE—Does the gentleman know whether or not those fellows can read and write?

MR. WILLIAMS—Some of them can and some of them cannot. I mean by my illustration that the ancestor dies and leaves—

MR. PILLANS—You are speaking and all of us refer to the illiteracy feature of the Constitution. There can't be any doubt about that.

MR. WILLIAMS—Of course. So far as agreeing with the Grand Old Man in this Convention, I do not think there is anybody in the Convention who reverences the Grand Old Man more than I do, but when he comes and attempts to speak for the whole Black Belt, I think he is wrong sometimes, and he certainly is wrong this time. It is a question of tweedle dee and tweedle dum. It is a question of whether you will stand by the principle you announced last night, or will you do like the boys at home say you

are doing? When are we going to get away from here? Let's stop this reconsideration of matters.

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

MR. WILLIAMS—Yes.

MR. deGRAFFENREID—Is not the question really whether we will stand by what we did last night or whether we will stand by what we did after six weeks or to months' consideration of this matter before recess?

MR. WILLIAMS—Whether it be six weeks or two months or last night, the principle remains the same, that it is done and we ought to stop this reconsideration business. There is no real reason why this matter should be reconsidered. The gentlemen on the other side have not advanced any proposition in the world why it should be done, and I tell you that in my opinion, the people of the Black Belt don't care a snap of their finger whether you put it in there or whether you don't, but I tell you my opinion is that they want the whole property qualification cut out, and if it had not been for the reverence and respect I had for the Chairman of the Suffrage Committee, I should have voted against that property qualification, for I am against it. It reminds me of Ben Franklin's jackass. He owns him one day and votes, and next day, he sells him and cannot vote, and the question remains, which votes, the jackass or the man?

MR. KNIGHT—I would like to ask the gentleman from Marengo a question. Whether he had the opportunity to communicate with the people in the Black Belt so as to speak for the whole Black Belt?

MR. WILLIAMS—I would not arrogate to myself to speak for the whole Black Belt.

MR. KNIGHT—I will say that the plan as it now stands, as reported by the Committee, the people are delighted with it in my county and will be very much dissatisfied with this amendment.

MR. WILLIAMS—I expect you will find people on both sides of every question that is worth consideration at all.

The President resumed the chair.

MR. O'NEAL (Lauderdale)—The gentlemen from the Black Belt contend that the effect of this proposition as it was originally incorporated would be to decrease the number of negroes who can vote, and the amendment would increase the number 20 per cent. Are you willing to increase the number of negroes who can vote in elections in Alabama?

MR. WILLIAMS (Marengo)—No, sir; but the proposition does not make any difference, there are not any more going to vote.

MR. O'NEAL—The higher you raise the property qualification, the fewer can vote.

MR. WILLIAMS (Marengo)—No; not unless you put it up to one thousand or fifteen hundred dollars.

MR. O'NEAL—Then you do not want any property qualification.

MR WILLIAMS—No.

MR. O'NEAL—Do you want every negro who can read and write to vote.

MR. WILLIAMS—Don't you thing it would disfranchise about as many white people?

MR. O'NEAL—I do not think it disfranchises any of them.

MR. WILLIAMS—Well, there it is. I do not think it does the other way. I say the matter does not amount to a snap of the finger. You man add ten dollars to the price of a mule and advance it, as suggested by the gentleman from Sumter, and it is a bona fide sale, and the people in my county are not making these conditional sales since the Supreme Court said if the conditional thing that was sold died you lost your debt, and I submit the proposition to my friend from Greene, if it does not make an absolute sale.

THE PRESIDENT—The time of the gentleman has expired.

MR. COLEMAN—I rise to a question of parliamentary inquiry. If I move the previous question first, have I ten minutes in which to close.

THE PRESIDENT—If the previous question is ordered, the delegate has ten minutes in which to close.

MR. COLEMAN—I move to reconsider the vote by which the motion to reconsider was adopted, and upon that I call for the previous question.

The previous question was ordered.

THE PRESIDENT—The question will be upon the motion to reconsider.

MR. COLEMAN—Mr. President and delegates of the Convention, I feel very grateful to the delegates of this Convention for the manner in which they have referred to me, and for the respect the last gentleman who address you expressed. (Mr. Wil-

liams, Marengo). I do not intend to speak for the entire Black Belt, but I will say to everybody in this Convention that I was battling against these hordes and against the party who would have ruined us when he was in his swaddling clothes, and I have been in that warfare ever since until now, and if I do not know the people of the Black Belt (having been solicitor for twelve or fifteen years) all over that country, there is no man in Alabama that does know them, and I know I am sincere when I say I do represent a large majority of them and I know it. (Applause.) There is a great difference, delegates of the Convention, between the two propositions. I will illustrate it. In my town there are a dozen there who own little cabins worth twenty-five or fifty dollars, and they own about four or five acres of land, and it is their home, but they are not worth three hundred dollars and they do not own forty acres of land either. That is the reason they cannot get in and it is that way throughout the country. We put the forty acres in there at the demand of the delegates from the white counties but when you keep it separate, he has not three hundred dollars in real estate, and he hasn't got it in three hundred dollars of personal property, and he will never get it on credit if his right to vote depends upon it. We know how to take care of ourselves, if you will give us the power to do it. That is all we want.

Now, Mr. President, this is a serious question. It is worth everything that has been done. I have said before, we conceded you everything. I yield five minutes of my time now to the distinguished gentleman from Macon to close.

MR. COBB (Macon)—Mr. President, this is an important matter to discuss within the limits of five minutes, but it is perhaps enough. We have considered it well and now certainly in the last days of the Convention we take another plan and put aside our mature thoughts of three months. We had better pause. The only objection that has been raised that I have heard upon this matter of changing from the plan originally adopted, and that adopted yesterday, rests upon the idea of justice and equity. It is not equitable, it is not just.

MR. PILLANS—May I ask a question.

MR. COBB—No, sir, I cannot yield.

MR. PILLANS—Do you think it is logical——

MR. COBB—If the gentleman has any logic he has yet to display it. The only objection that has been made is that it would not be just or equitable and in advancing these arguments so pertinently as the gentleman claimed, and with eloquence and power they forget all together the consideration of what suffrage means and upon what it is founded. It is not a right that

belongs to any citizen or any man. It is a pure privilege which the State extends to certain men in the interest not of the man, but of the State itself. That is all about it and when you come to attempt to adjust a great question like this, upon the little narrow views that would control us in entering into a contract for the purchase and sale of a horse you would degrade the question and put it far below that elevation to which it ought to be raised. There is more or less arbitrariness in this matter. We all recognize that. We would like to be fair to everybody and that is what we came here for. We, the representatives of the people of Alabama believe two things: one is that the white men in Alabama should rule its destinies and control them, and the other is that the other class of our citizens whom we respect in their place, are not fit men to exercise the right of suffrage, and my friend from Lee over there (Mr. Harrison) in his great liberality and fairness, is not in accord either with the people of Alabama or the delegates upon this floor. (Applause.) Now then I repeat that we cannot adjust this matter upon this little narrow basis. We are to do the best we can for the purpose of accomplishing the next in view and that is the control of the State by the white people of the State and not upon the idea that we are making the contract with each individual citizen. That is the view I wanted to present. Now then I have not time to go into the reasons why it is better to stand upon the report of the committee. There are many reasons. None of us would like to put this qualification in at all if we could avoid it. There is something to a certain extent obnoxious to us all to have the qualification for the right of suffrage rest on property, but I am arguing about the right, for the justice and equity to the individual, that is all. Why if you want to be exceedingly far, if you want to be exceedingly just, strike out the whole thing and have no property qualification at all. That is where it would land us and that is where I would like to go, but we cannot do it on account of the conditions that surround us. We all understand that very well. Now this thing, has it been adjusted so as to secure in the best possible way in our power the end we have in view, to give the suffrage to the white people of the country, the control of the government to the white people of the country and to them alone. I think we have. I think this reconsideration ought to be had and let us go back to that mature plan that we have thought over and spoken over here for three months.

I yield the balance of my time to General Jones.

THE PRESIDENT—The motion is to reconsider the vote whereby the article on suffrage was adopted.

MR. HARRISON—I call for the ayes and noes.

The call was sustained.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,
Altman,
Ashcraft,
Barefield,
Bethune,
Burns,
Carnathon,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Cunningham,
deGraffenreid,
Eley,
Eyster,
Ferguson,
Fletcher,
Glover,
Graham, of Montgomery,
Granham, of Talladega,
Grant,
Grayson,
Greer, of Perry,
Handley,
Hood,
Howze,
Inge,
Jackson,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Knight,
Ledbetter,
Lomax,
Macdonald,
McMillan (Wilcox),
Malone,
Merrill,
NeSmith,
Norman,
O'Neal (Lauderdale),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Reese,
Reynolds, of Henry,
Rogers (Lowndes),
Samford,
Sanders,
Sanford,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Stewart,
Tayloe,
Walker,
Watts,
Weakley,
Weatherly,
Williams (Barbour),
Williams (Elmore),
Wilson (Washington),
Winn,

TOTAL—67

NOES

Banks,
Bartlett,
Beavers,
Beddow,
Blackwell,
Boone,
Brooks,
Byars,
Cardon,
Case,
Cofer,
Duke,
Foshee,
Foster,
Freeman,
Long, of Walker,
Lowe, of Lawrence,
McMillan, of Baldwin,
Martin,
Miller (Marengo),
Moody,
Murphree,
Oates,
O'Neill, of Jefferson,
Pearce,
Pettus,
Phillips,
Pillans,
Porter,
Proctor,
Gilmore,
Greer, of Calhoun,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hodges,
Howell,
Jones, of Bibb,
Kyle,
Rogers (Sumter),
Selheimer,
Sentell,
Sloan,
Spears,
Spragins,
Stoddard,
Waddell,
White,
Whiteside,
Williams (Marengo),

TOTAL—52

ABSENT OR NOT VOTING

Almon,	Hinson,	Norwood,
Browne,	Jenkins,	Parker (Elmore),
Bulger,	Jones, of Hale,	Pitts,
Burnett,	King,	Renfro,
Carmichael, of Colbert,	Kirkland,	Reynolds (Chilton),
Carmichael, of Coffee,	Leigh,	Robinson,
Cornwall,	Locklin,	Searcy,
Davis, of DeKalb,	Long, of Butler,	Sollie,
Davis, of Etowah,	Lowe, of Jefferson,	Vaughan,
Dent,	Maxwell,	Thompson,
Espy,	Morrisette,	Willet,
Fitts,	Mulkey,	Wilson (Clarke),

There being 69 ayes and 51 noes the motion to consider prevailed.

MR. COLEMAN—I move to reconsider the vote whereby the amendment to the article on suffrage was adopted.

THE PRESIDENT—The question is on the motion to reconsider the vote whereby the amendment of the gentleman from Lee was adopted.

MR. HEFLIN (Chambers)—The friends who favor striking this amendment from the suffrage plan have been heard at length—

MR. deGRAFFENREID — Has not the previous question been ordered?

MR. HEFLIN—It has not been ordered.

THE PRESIDENT—The previous question was ordered as the Chair understands it upon the motion to reconsider the vote whereby the article was adopted. The question now is upon the motion to reconsider the vote whereby the amendment offered by the gentleman from Lee was adopted. The gentleman from Greene failed to move the previous question upon the motion to reconsider the amendment.

MR. HEFLIN—I was paying close attention, and I happened to catch it that he did not move the previous question. Mr. President, I think that on yesterday this Convention by a vote of 80 to 27 adopted one of the wisest provisions of the Constitution that we will soon submit to the people. So far as the black belt of Alabama is concerned, it has always been amply able to take care of itself. It has stood like a mighty wall against the foes of the Democratic party, and it has forever waved the flag of white supremacy from that wall. It has never been in danger. The black belt of the State is satisfied with the suffrage plan we have adopted. We ask them from North Alabama to give us this amendment that we may carry votes there that we will otherwise lose. We ask

it in the interest of the man who toils and has one hundred and fifty dollars worth of land and one hundred and fifty dollars in personal property. It is unjust, it is unfair, it is not right to say to a man who has one hundred and fifty dollars in personal property and one hundred and fifty in real estate that he cannot vote. It is unjust, Mr. President, to say a man who has $299.99 of real property and $299.99 of personal property that he cannot vote. There is no good reason in it. There is no fairness in it, and I appeal to the wisdom of this Convention today not to turn down the man who happens to have three hundred dollars worth of personal property. I appeal to the man who is the friend of the poor men, not to strike him this blow in the wee small hours of this Convention. Gentlemen of the Convention rise up today and say to the man who has accumulated property and has it divided, that we will not strike you down, and allow the man who has only three hundred dollars and advantage, because forsooth, it is in real estate to vote, when you have five hundred and ninety-nine dollars and ninety-nine cents worth divided.

MR. WEATHERLY—Suppose the amendment of the gentleman from Lee should be adopted, so that the qualification would be three hundred dollars worth of real and personal property, how would you answer the objection that the person owning $299.99 of real and personal property could not vote, while the person owning three hundred dollars could vote. How are you going to explain the apparent injustice of a person who owns $299.99 worth of real and personal property not being able to vote?

MR. HEFLIN—And the other owns three hundred dollars worth of personal property, I understand that to be the question?

MR. WEATHERLY—The difference of one cent makes the difference in the right to vote.

MR. HEFLIN—The difference is this, if he has three hundred dollars worth of personal property he can vote, and if it is in real estate he can vote, but if he hasn't it in personal property alone, singly and solely, purely and wholly, he cannot vote, or unless he has it in real estate. He has got to have it. The plan says, if he has three hundred dollars' worth of real estate he can vote, or $300 worth of personal property he can vote. Now, we say if he happens to be fortunate enough to have it in real estate and personal property, in the right of fairness and in the light of right, he ought to be allowed to vote. It is as unfair as if you were to say to a man, you must have five hundred dollars in gold. He cannot have it in gold and silver mixed. Here is the real property standing off by itself and there is the personal property, and you say you must have this or you must have that. The young man that has inherited land can vote, but this poor fellow who has been unfortunate and who possibly all his life has been unfortunate, you take from him the right to vote, when he has almost six hundred dol-

lars' worth of property, because he does not measure up to somebody's idea that he must have it in real estate or in personal property. Mr. President, I do not desire to detain this Convention because I want to get through. I do not believe that this matter ought to be reconsidered. I believe that when we go out on the stump before the people of Alabama that will be one of the strongest planks in the platform in North Alabama. Gentlemen speak here about the Black Belt, and I appeal to them. They will take care of themselves anyhow. They have done it in the past. Give us this plan now and we will meet you at the line that divides the State with an overwhelming majority from North Alabama. I appeal to this Convention to let this provision stay.

MR. COLEMAN (Greene)—I hardly think it is necessary to say anything in reply to what has been said. Time and again upon this floor, the gentleman has asked for such provision, and then come down with overwhelming vote in favor of the Constitution. We have heard him time and again express himself as satisfied with the Constitution and the report of the Committee as made. We have conceded to him propositions in order that he might get the whole vote in the white counties and in the Black Belt he cared nothing at all for the gratification and demand of those people. He speaks of the Black Belt. We have stood solid, and you know very well we have stood solid and saved the party time and again to the State of Alabama, and today the Black Belt is voting almost solid and the gentleman is lining with those who have heretofore solidly always voted against us. That is enough, it seems to me, to satisfy any Democrat.

MR. HEFLIN—Will the gentleman permit a question? I want to ask about that lining up. Don't you think a man should do what he thinks is right?

MR. COLEMAN—Yes, and that is the reason delegates are coming to the rescue of the Black Belt in this crisis of theirs. That is the reason, and I am sorry we have not found you where we expected you to be lined up with those of the Black Belt.

MR. HEFLIN—Have I not been with you?

MR. COLEMAN—Yes, you have, but now you have gone off.

MR. HEFLIN—Won't you come with us just one time?

MR. COLEMAN—We have taken care of the white counties in the hills, of all that you have asked for down to the last day.

MR. SMITH (Morgan M.)—I want to ask if you have not provided a temporary plan by which all these white people can come in?

MR. COLEMAN—Not only can come in, but we have given them funds more liberally than any State in the Union to set the

white people up so they can vote hereafter. All we ask is protection, and it cannot damage a single white man in the State. I move the previous question upon the adoption of the motion to reconsider the vote whereby the amendment was adopted.

MR. HEFLIN—I call for the ayes and noes.

MR. ROGERS (Sumter) — I rise to a question of personal privilege. An allusion has been made by the chairman of the committee to those of us who were formerly with that committee on their voting against it. I want to say for myself that I did not understand that provision. That is the explanation of my course here today. I thought, as a matter of course, that when you said three hundred dollars' worth of property——

MR. COLEMAN—I call the gentleman to order. I do not think he has stated a question of personal privilege.

MR. ROGERS—It is a question of personal privilege. It is an explanation and a question of personal privilege, sir.

MR. COLEMAN—I call for the ruling of the Chair.

MR. ROGERS—I am willing to abide by the decision of the President.

THE PRESIDENT—It does not seem to the Chair to be a question of privilege to answer an argument.

MR. ROGERS—I beg pardon, it is not answering the argument. The question of personal privilege is where allusion is made to the conduct of some person.

MR. COLEMAN—I call for judgment.

MR. ROGERS—I call for judgment; justice, not judgment.

THE PRESIDENT—It seems to the chair that the argument does not come within the——

MR. COBB—I desire to submit to the Chair that a man cannot explain his vote under a question of personal privilege.

MR. ROGERS—I am not explaining my vote.

THE PRESIDENT—The Chair understands that a gentleman may rise to a question of personal privilege when some reflection has been cast upon him.

MR. ROGERS—And there is the very point. The gentleman is trying to cast reflection upon men by that allusion.

MR. COLEMAN—I did not have the gentleman in my mind. I call for the decision.

MR. ROGERS—It does not matter whether you have me in your mind or not, you had my conduct in your mind.

MR. HEFLIN—I call for the question.

THE PRESIDENT—The question is on the motion of the previous question, and nothing would be in order at this time which is upon the merits of the issue.

MR. HEFLIN—I demand the ayes and noes.

The demand was withdrawn.

The main question was ordered.

THE PRESIDENT—The question will be upon the motion to reconsider the vote whereby the amendment offered by the gentleman from Lee was adopted.

MR. HEFLIN—I call for the ayes and noes.

The call was sustained.

Upon a call of the roll the vote resulted as folllows:

AYES

Messrs. President,
Altman,
Barefield,
Bethune,
Burns,
Carnathon,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Cunningham,
Dent,
deGraffenreid,
Eley,
Eyster,
Fletcher,
Glover,
Graham, of Montgomery,
Graham, of, Talladega,
Grant,
Grayson,
Greer, of Perry,
Handley,
Hood,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Knight,
Ledbetter,
Lomax,
Macdonald,
McMillan, of Wilcox,
Malone,
Merrill,
Miller, of Marengo,
Miller, of Wilcox,
NeSmith,
Norman,
O'Neal, of Lauderdale,
Opp,
O'Rear,
Palmer,
Parker, of Cullman,
Reese,
Reynolds (Henry),
Rogers, of Lowndes,
Sanders,
Smith, of Mobile,
Smith, Mac A.,
Smith, Morgan M.,
Sorrell,
Stewart,
Tayloe,
Walker,
Watts,
Weakley,
Weatherly,
Williams, of Barbour,
Wilson, of Washington,
Winn,

TOTAL—66

NOES

Banks,
Bartlett,
Beavers,
Beddow,
Blackwell,
Boone,
Brooks,
Byars,
Cardon,
Case,
Cofer,
Davis, of DeKalb,

Davis, of Etowah,
Duke,
Foshee,
Foster,
Freeman,
Gilmore,
Greer, of Calhoun,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Hodges,
Howell,
Jones, of Bibb,
Kyle,
Long, of Walker,
Lowe, of Jefferson,
Lowe, of Lawrence,
McMillan (Baldwin),
Martin,
Moody,
Murphree,
Oates,
O'Neill (Jefferson),
Pearce,
Pettus,
Phillips,
Pillans,
Porter,
Proctor,
Rogers, of Sumter,
Selheimer,
Sentell,
Sloan,
Spears,
Spragins,
Waddell,
White,
Whiteside,
Williams, of Marengo,
Wilson, of Clarke,

TOTAL—55

ABSENT OR NOT VOTING

Almon,
Ashcraft,
Browne,
Bulger,
Burnett,
Carmichael, of Colbert,
Carmichael, of Coffee,
Cornwall,
Espy,
Ferguson,
Fitts,
Jones, of Hale,
King,
Kirkland,
Leigh,
Locklin,
Long, of Butler,
Maxwell,
Morrisette,
Mulkey,
Norwood,
Parker, of Elmore,
Pitts,
Renfro,
Reynolds, of Chilton,
Robinson,
Samford,
Sanford,
Searcy,
Sollie,
Studdard,
Thompson,
Vaughan,
Willet,
Williams, of Elmore,

There being 66 ayes and 55 noes the motion to reconsider prevailed.

MR. COLEMAN—I move to lay on the table the amendment offered by the delegate from Lee.

Upon a vote being taken the motion prevailed.

MR. COLEMAN—I move the adoption of the Article.

Upon a vote being taken the Article was adopted.

MR. HEFLIN (Chambers)—I desire to give notice that I will make a motion to reconsider the vote by which the Article was adopted.

There were expressions of dissent.

MR. deGRAFFENREID—I desire to make a motion to reconsider the vote whereby the Article on Executive Department was adopted by the Convention, in order that the Committee on

Order, Consistency and Harmony may properly make the changes that the action of the House this morning with reference to sheriffs requires.

Upon a vote being taken the motion prevailed.

MR. deGRAFFENREID—I now move that the Article be referred to the Committee on Order, Consistency and Harmony.

It was so ordered.

MR. EYSTER—I desire to correct the stenographic report. Section 216. The words "and public improvements" occur after the words "school trustees" as applied to the amendment in reference to New Decatur, whereas, they should appear following the words "public school buildings" as the amendment applies to the city of Decatur. I have examined the Journal of yesterday's proceedings and find that it is correct and the error is evidently on the part of the printer in transposing that phrase. I desire that correction be made in the stenographic report in order that it may not mislead the people affected by it.

THE PRESIDENT—The stenographer will make note of the correction.

MR. CRAIG—I desire to make a correction in the statement made by me yesterday. I stated yesterday the circular I had was dated the 29th. On closer examination I find it was dated the 27th.

THE PRESIDENT—The regular order will be the consideration of the Article on Corporations. The pending question is the amendment offered by the gentleman from Tallapoosa (Mr. Sorrell.) The gentleman at the time of adjournment had one-half minute left.

MR. SORRELL—In this one-half minute of time left I have nothing to say except to insist that the provision as offered by myself is just, fair and equitable to all parties, and I leave the matter for this Convention to pass on.

MR. COBB—I desire to make a motion to lay both amendments on the table.

MR. BLACKWELL—I call for a division of the question. for a longer period than thirty years."

THE PRESIDENT—It is moved that both amendments be laid upon the table.

MR. COBB—Before that is put——

MR. PILLANS—It is not debatable. The gentleman cannot speak after he has made the motion.

THE PRESIDENT—A division of the question is demanded.

MR. COBB—Before making it——

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

THE PRESIDENT—A motion to table is not debatable.

MR. COBB—I do not desire to apply the cloture——

THE PRESIDENT—Unfortunately the gentleman applied it to himself. The Chair will have to follow the rules of the Convention. The question is on the motion to table the amendment offered by the gentleman from Tuscaloosa.

MR. PILLANS — I withdraw the call for a division of the question.

MR PETTUS—I ask for a division.

Upon a vote being taken, both amendments were tabled.

MR. BOONE—I desire to offer an amendment which has been recommended by the Committee on Order, Consistency and Harmony of the Constitution to the Article on Corporations.

The amendment was read as follows: Amend the Article on Corporations by adding the following immediately after Section 227, page 68. "No city or town having a population of more than six thousand shall have authority to grant to any person, firm, corporation or association the right to use its streets, avenues, alleys or public places for the construction or operation of water works, gas works, telephone or telegraph lines, electric light or power plants, steam or other heating plants, street railroads or any other public utility except railroads, other than street railroads, for a longer period than thirty years."

MR. BOONE—I do not desire to take up the time of the Convention more than five minutes on that amendment which will be found on the first page of the Committee's report. The object of that amendment is to prevent municipal corporations from granting franchises which are irrevocable for a longer period than thirty years. The experience of all municipalities where that has been done has exemplified that it is not to the interests of the people. Now, why should it not be done? Some say that it would keep these public utilities from being put in different cities in Alabama. It might as well be said that the establishment of national banks in Alabama would not be done because under the act of Congress regulating national banks, no national bank can be chartered for a longer period than twenty years. Such is the law in Alabama that we have adopted here in reference to banks, and the title by prescription to property is twenty years. Now, let us try and do something in the interests of the people.

MR. O'NEAL—I understand you to say the purpose of the amendment is to prevent any irrevocable franchises to corporations. Is that the purpose of it?

MR. BOONE — By municipalities for a longer period than thirty years.

MR. O'NEAL — They cannot grant irrevocable franchises now.

MR. BOONE—If the gentleman excepts to the phrase I will reframe it, and say grant any franchise for a longer period than thirty years.

MR. O'NEAL—I did not want anything in the Constitution to sanction the granting of irrevocable privileges.

MR. BOONE—If you will read it on the first page. It does not say anything about being irrevocable at all. It prohibits the grant of a franchise for longer than thirty years.

I move to expunge that much of my argument. (Laughter.)

Now, I desire to read to the Convention an extract from a paper by Mr. Bird S. Coler, Comptroller of the city of New York, addressed to the League of American Municipalities, held at Charleston, S. C., last December, in which he said:

"Here lies the problem then. On the one hand not to discourage entering capital and on the other hand, to place some limit on its profits. Now, if the city makes a poor bargain, but that bargain has only, say twenty-five years to run, there is no great harm done; for twenty-five years is as nothing in the life of a great city, but if the franchise be granted in perpetuity, or a very long period, like that of the New York and Harlem Company, which runs until the year 2389, no matter how advantageous the bargain may seem today, it is likely to appear quite ridiculous one hundred years from now. Short terms for franchises are, therefore, the most important thing. If that principle be strictly adhered to, more than half the fight is won.'

Now, gentlemen, in the city which I have the honor to represent at the present time there is a corporation which has a franchise good until 1942, and an effort is being made to extend that franchise fifty years from that date. I say to you that it is the unanimous opinion of those who have the most intimate knowledge of the principles of the government of the cities of this county, that it is not in the interest of the people to let it be in their power to grant to these corporations charters for a period longer than thirty years. This proposition has been indorsed by the entire Committee on Order, Consistency and Harmony, after thoughtful consideration of it, and I move its adoption.

MR. SMITH (Mobile)—The purpose of the length of franchises is not always thoroughly understood. Whatever may be the conditions in the wealthier communities, where people can construct their own improvements, the fact is that in the South at any rate, all improvements are constructed by the system of selling mortgage bonds; in other words the plant itself is mortgaged, and the money with which to construct it is raised by a sale of those bonds. Of course it is advisable and necessary, and to the interest of the people, too, that those bonds should sell at a fair market value, and the tendency in this age, at any rate, is to issue long and not short term bonds. Bonds issued for a period of ten years will not bring anything like as much as bonds issued for twenty years, the tendency being to long investments.

Now if the franchise is to expire almost immediately after the expiration or maturity of the bonds, then the property upon which the bonds are given as security, does not amount to any security at all. For instance, if you take a street railway plant or a lighting plant, or any other plant, and it has a franchise for twenty years, and you issue upon that and put upon the market, bonds which expire in twenty years, no person will want to buy them for the reason that you have the plant, and you use it for twenty years, and get the good of it, and then you default in the payment of your bonds, and the bond holder has no security. His security has died contemporaneously with the maturity of the bonds, and there is nothing left to the bondholders.

MR. BOONE—Does the law requiring banks to be chartered for more than twenty years National and State prohibit millions of dollars all over the United States from being invested in the stock of those banks, and haven't they got property also all through the State?

MR. SMITH—Banks have property all through the State?

MR. BOONE—Yes, sir.

MR. SMITH—I do not know it if they have.

MR. BOONE—And hasn't the street railroad its property at the end of that time?

MR. SMITH—Yes, it has got its junk if that is what you call property. As far as the banks are concerned, I would say that I never knew a bank to construct its buildings or operate or do its business upon mortgages, and therefore I do not see what banks have to do with the question under discussion. As to having its property at the expiration of the term. I presume the gentleman knows that nobody would buy bonds upon the condition that when they matured they might take up the old iron and cross ties and sell them for junk.

Now then as I said, the charters must extend beyond the period of the maturity of the bonds or the bonds will not sell. If you issue twenty year bonds, the franchise ought to extend a sufficient period beyond that time to enable the bond holder to obtain a bond which will be of some value beyond the maturity of the bond.

So far as the conditions in our own city are concerned, although the gentleman who has spoken is the City Attorney, and I presume is advising the city officials in regard to that matter, he is nevertheless mistaken as to the question pending. It is true there are three franchises there which expire at different periods. There is now a proposition to consolidate the several issues of bonds. I am quite certain that one franchise is perpetual; another expires in something like twenty-five years and the other in thirty-seven years. Now, in order to take in the several issues of bonds upon these several enterprises there is an effort to make a future period of maturity so that the consolidated bonds can be made to mature at a later date than the several issues of bonds now outstanding.

MR. BOONE—The gentleman has stated that I was a City Attorney. Is it not true that he is attorney for the railway company?

MR. SMITH—Yes, for every street railroad in Mobile, I believe, and for every national bank also, but I do not see what bearing that has. Now then there is a proposition in the city of Mobile and I was present as the attorney of the street railroad at the time it was made, to give to the city twelve hundred dollars a year during the forty years they have the free franchise, together with the forty years extension they sought. The committee having the matter under consideration, however, have agreed to recommend twenty-five years, and it stands now upon the proposition to extend it twenty-five years from the expiration of the present charter. If the gentleman will take his table, he will find that upon a five per cent. basis, that is an offer to give to Mobile a sum or payment which amounts to sixteen thousand and some odd dollars per annum during the extended period, which I believe all who have had it under consideration deem ample compensation, but that of course is entirely aside from this question.

THE PRESIDENT—The time of the gentleman has expired.

MR SMITH (Mobile)—I move to lay the amendment upon the table.

MR. PILLANS—When the gentleman's time has expired, I do not believe he has the floor to make the motion, and therefore I think that I am entitled to recognition.

THE PRESIDENT—The Chair will entertain a motion made before the gentleman tables his seat. It has been the custom to do so.

Upon a vote being taken, a division was called for and by a vote of 24 ayes and 49 noes, the motion to table was lost.

MR. GRAHAM (Montgomery)—Before the motion was entered to lay the amendment upon the table I intended to submit my views upon the proposition offered by my friend from Mobile (Mr. Boone), but was cut off. It has been frequently said in this Convention since we have been in session that this, that or another proposition was a matter for legislation, with more or less accuracy. If there is any matter which is the subject of legislation and should be left to be passed upon by the Legislature, this is the one. It is not intended by those who are familiar with the government of municipal corporations that laws should be enacted which would be inelastic. Within a certain circle and within a certain time and within certain circumstances, the laws should be fixed but when it comes to matters of policy, instead of matters of principle, they should be relegated to the Legislature or to the legislative body governing the municipality. As said by my distinguished friend from Mobile (Mr. Smith) public utilities are not elected by one man or by two men or by three men, but by an aggregation of money through an organization known as a corporation. It is absolutely impossible to build a street railroad, waterworks, and other utilities which are of the highest value to municipalities, without the aggregation of capital in a corporation. If this law becomes a part of the Constitution, the fundamental law of the State of Alabama being inelastic in its nature, the days of improvements the days of building public utilities and the days of prosperity of municipalities in the State of Alabama are gone; and those cities which may, in the future, desire them will be absolutely cut off from the benefits which would arise from having such utilities in their streets, over or under them. I say it is unwise for us to incorporate a matter of policy in this Constitution. It should be left to the General Assembly and extended by that body to the legislative authority of the municipality, surrounded by proper restrictions so that no harm can result to the people of the municipality. I think, upon a second consideration, the members of this Convention will be bound to arrive at the conclusion that a gross injustice will be done to ambitious cities in Alabama that are without these utilities. If the amendment is adopted, the Convention will do an injustice and a harm to them. The older cities of the State, most of them, have these utilities. The cities of Birmingham, Mobile, Montgomery, Huntsville and Selma, have them nearly all, but should this amendment become a law, the other cities of Alabama will be absolutely cut off from their benefits and their people will be injured for many years to come. I say this is not

the time, this is not the place, and the Constitution is not the instrument which should control a subject of this character. It might be, by general language, put into the fundamental law; but the time of limitation, the time within which these rights should be exercised, should be left to the control of the Legislature. I hope the Convention, when they come to vote upon this proposition, will take into consideration the other cities in the State in addition to those which already enjoy these utilities.

MR. PILLANS—I had not expected to address myself to the Convention upon this subject, because, it seemed to me, to address itself so plainly to the favorable judgment of the members, and that on its face so plain was the propriety of the adoption of the clause, that I did not think it would be worth while to make an argument, but, in view of what has been said against it, I shall submit some views upon the subject. In the first place, as to the contrast of the weaker cities with the greater ones, and the contrast between their opportunities, it will be observed that this proposed amendment only applies to those cities which exceed six thousand in population. Those that have less are not included in the proposition at all. Now, with regard to the towns of six thousand population or more, it says:

"No city or town, having a population of more than six thousand, shall have authority to grant to any person, firm, corporation or association, the right to use its streets, avenues, alleys or public places for the construction or operation of water works, gas works, telephone or telegraph lines, electric light or power plants, steam or other heating plants, street railroads, or any other public utility, except railroads other than street railroads, for a longer period than thirty years."

Such franchise, if once granted, plainly establishes a monopoly, as any man can see; the city of Montgomery today is suffering under a monopoly in the street railroad business. My friends from Montgomery will hardly deny this, and no man in this Convention has failed to suffer from the inconveniences that come from abuses of their franchise by the concern that has this practical monopoly of the streets of Montgomery. For what period they have the monopoly, I do not know, but a gas works, an electric light plant and a street railroad plant, once established, is essentially a monopoly.

MR. GRAHAM (Montgomery)—Will the gentleman from Mobile please define whether or not he uses the word monopoly in its restricted or general sense?

MR. PILLANS—I use it in its practical sense.

MR. GRAHAM—Will the gentleman permit me to make a statement to him with reference to the situation in Montgomery?

MR. PILLANS—Certainly.

MR. GRAHAM—I state that there is no monopoly in Montgomery with reference to the street railways.

MR. PILLANS—There is no monopoly in a legal sense, but when the city has granted the use of its streets, Dexter Avenue, for instance, to a particular railroad company, this grant and the construction of the railway practically works a monopoly, because nobody else can find room to lay tracks, and that is the case in Montgomery and Mobile. So it is with a gas works concern, in any town when its mains are laid throughout the city; it is a practical monopoly, and we all know that. The necessity for the passage of this law is best illustrated by what is going on in the city of Mobile, as frankly avowed to you by my distinguished colleague who has spoken to this question. There are but two railway companies in that city, and they are now consolidated with the gas works and the electric light plant. For their interest, not for the interest of the public, this consolidated concern has proposed to Mobile that the city shall extend the life of their franchises forty years on top of franchises that will not run out for forty years yet. In other words, they say today to that municipality: Tie yourselves up, practically, for eighty years, that is, for nearly three generations—and what do you suppose is the chief offer of compensation that was originally made? I do not know what it is now. Among other things, they said they would furnish gas to the people at, I believe it was, $1.80 a thousand, when all the municipalities of the United States are crying out for "dollar gas," and some of them are getting it at $1 per 1,000, yet the great privilege we were to have for selling our birthright to them for eighty years was the mess of pottage of $1.80 gas in one of the cheapest coal cities in the United States, next to those in the immense coal producing sections. Mobile stands with the rail rates given on coal, as one of the cheapest coal ports in the Union.

That is an example of the way the city's rights are liable to be frittered away by the city authorities because they are not protected by a constitutional provision which will keep this generation from giving away that which should belong to the next generation.

MR. SMITH (Mobile)—You do not mean that is the proposition now offered.

MR. PILLANS—I do not know what the proposition is that is now extended. That was the original proposition, to give us gas at $1.80. I saw it in the newspapers. My friend represents all the street railroad companies, which, by the way, were two, but are now, merged into one. Now, it is urged that there would be no improvements put in the towns unless you gave a longer duration to the franchise than thirty years. Do the gentlemen show to you that in the modern cities of the nation a longer franchise

is given than thirty years? It was shown by Mr. Coler in the extract read by my colleague, Mr. Boone, that thirty years was the extreme time for which a franchise should be given. Has the experience of other cities shown that he was wrong? If the bonds should be issued for twenty years, my colleague who last spoke says purchasers would not take these bonds upon which these things are to be constructed unless the franchise had more than ten years to run after the expiration of the bonds, because he says there would be nothing left but junk at the expiration of the franchise. I will call your attention to the unsoundness of that proposition. In the city of Montgomery some gentlemen proceeded against the water works company that used to supply this fair city with water, by quo warranto proceedings, based on the fact that they used Alabama River water and not pure water, and delivered it to their patrons in violation of their charter. Their charter was forfeited and annulled, and their franchise came to a sudden end, and what was the result? Did it result that they lost all they had? Don't you know that the property of that water works company was a tremendous asset of great value, which was afterwards sold, dollar for dollar of the amount of the bonds which were outstanding? So, it will not do to say that if you want to promote enterprise in a certain city by encouraging the putting in it of most endless franchises on the ground that otherwise the investors buying the corporate bonds will be in danger, if the bonds be twenty year bonds, because at the end of the twenty years the company has got nothing. The plant of a water works or a gas company or a street railroad company is not junk when the franchise terminates. It is most valuable.

You charter banks for twenty years. You have just said that every bank in the State of Alabama shall wind up in twenty years. Dose its property become valueless at the end of twenty years? Does it lose its assets at the end of twenty years?

MR. GRAHAM (Montgomery)—Is it not a fact that ample provision is made for the extension of bank charters?

MR. PILLANS—No sir.

THE PRESIDENT—The time of the gentleman has expired.

MR. PILLANS—I move the previous question upon the amendment and the Section.

MR. SAMFORD (Pike)—I move to lay the amendment upon the table.

MR. BOONE—I make the point of order that the motion has been put.

THE PRESIDENT—The motion is not in order, because it has been voted upon by the Convention. The question is shall the main question be now put?

Upon a vote being taken the main question was ordered.

THE PRESIDENT—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. FOSTER—The Committee desires to offer an amendment. On page 72, line 2, by some oversight of both the Committee on Corporations and the Committee on Harmony, we overlooked the fact that the Section as written stated that the jurisdiction should be in the "county." The Committee asks that it be made to read "That the Circuit Court or any other court of like jurisdiction in" be inserted at the beginning of that sentence, so that it will read "the Circuit Court or any other court of like jurisdiction in any county," etc.

THE PRESIDENT—The gentleman from Tuscaloosa, representing the Committee on Order, Consistency and Harmony, asks unanimous consent to insert the words indicated by him.

The consent was given, and amendment allowed.

MR. WILLIAMS (Marengo)—I have an amendment.

The amendment was read as follows:

Amend the Article by adding Sec. —.

Section —. Neither the State of Alabama, nor any subdivision thereof shall engage in the sale or purchase of spiritous, vinous or malt liquors in the manner commonly called and known as dispensaries, but such subdivisions of said State as are now engaged in such business shall not be affected thereby, but shall continue in such business until such time as they may hereafter be forbidden by law.

MR. WILLIAMS—I yield my time to Mr. Long of Walker.

MR. LONG (Walker)—I am not a very good advocate and do not intend to make a speech but I will say I am strictly opposed to legalizing the whiskey traffic in Alabama. If you will all consult your dictionaries, you will find the word dispensary means a place where medicines are distributed gratis, and up until the time Ben Tillman advocated the dispensary in South Carolina, it had been recognized ever since the time when John Wesley way back in the seventeenth century established a dispensary in London.

"Dispensary" as used now, is another word for "rum shop" though it is more respectable, and therefore the church people used the word "dispensary" instead of "rum shop" or "rum dive." We have seen the effects of dispensaries in this State. We know the effects in towns in this State where they do business, and where they do good, and there are certain other localities where

they may do a great deal of harm. If it is wrong for the church to sell whiskey it is certainly wrong for anybody else, and vise versa. If whiskey is to be sold, it should be sold by whiskey men, by saloon-keepers. If gambling is to be done, it should be done by gamblers, and not by church members. The broad principle of right or wrong looking at it from a Democratic standpoint, no State, county or municipality has the right to engage in any private business, especially for profit, to the exclusion of any of its citizens. From a Democratic standpoint that cannot be denied. It can only be excused, and the advocates of this excuse it because they say it is good for the morals of the communties. I deny that. More drunkards are created in these prohibition towns, because they buy it by the jug full or bottle full and take it off in rooms and drink it, and it is worse than drinking it over the bar. I hope the amendment will be adopted.

MR. BEDDOW—In view of the fact that the dispensary business is of such ancient origin, having originated back in the seventeenth century (laughter) I move that we keep it up, and move to lay the amendment upon the table.

Upon a vote being taken the amendment was laid upon the table.

MR. BEDDOW—I move the previous question upon the adoption of the Article.

THE PRESIDENT—The previous question is moved upon the adoption of the Article. The question is shall the main question be now put.

Upon a vote being taken the main question was ordered.

Upon a further vote being taken the Article was adopted.

MR. SMITH (Mobile)—The Committee on Rules would be glad to report if it is in order. The Committee desires to report favorably on Resolution 329.

Resolution 329 by Mr. Eyster was read as follows:

Resolution 329, by Mr. Eyster:

"Whereas, The members of the Committee on Harmony completed their labors before the reassembling of the Convention and returned to their respective homes; and, whereas, it would be unjust and inequitable for them not to receive their mileage, as other members, there be it

"Resolved, That the members of the Committee on Order, Consistency and Harmony be allowed their mileage the same as the other members of this Convention."

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

Upon a vote being taken the resolution was adopted.

MR. SMITH (Mobile)—I desire to report Resolution 331.

The resolution and substitute were read as follows:

"Resolved, first, that all leaves of absence of members of the Convention be, and the same are hereby, revoked, to take effect on Monday, the second day of September, 1901, at 12 o'clock, meridian, and that no further leaves of absence be granted beyond said time. Second, that the Secretary of this Convention is instructed to notify absent members to return at said time."

The substitute was read as follows:

"Resolved, that all leaves of absence to members of this Convention, except on account of sickness, be and they are, hereby revoked, to take effect on Tuesday, September 3rd, at 9 a.m., and no further leave of absence shall be granted.

"Be it further resolved, That the Secretary of the Convention be instructed to notify the absent members to return at said time.

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

Upon a vote being taken the substitute was adopted, and upon a further vote the resolution as amended was adopted.

Article XIII on Banks and Banking was read as follows:

ARTICLE XIII.

Banks and Banking.

246. The Legislature shall not have the power to establish or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this Constitution.

247. No bank shall be established otherwise than under a general banking law, nor otherwise than upon a specie basis; provided, that any bank may be established with authority to issue bills to circulate as money in an amount equal to the face value of bonds of the United States, or of this State, convertible into specie at their face value, which shall, before such bank is authorized to issue its bills for circulation, be deposited with the State Treasurer, or other depository prescribed by law, in an amount equal to the aggregate of such proposed issue, with power in such Treasurer or depository to dispose of any or all of such bonds for a sufficient amount of specie to redeem the circulating notes of such bank at any time and without delay, should such bank suspend specie payment or fail to redeem its notes on demand.

248. All bills or notes issued as money shall be at all times redeemable in gold or silver, and no law shall be passed sanctioning, directly or indirectly, the suspension by any bank or banking company of specie payment.

249. Holders of bank notes and depositors who have not stipulated for interest, shall, for such notes and deposits, be entitled in case of insolvency, to preference of payment over all other creditors; provided, this section shall apply to all banks, whether incorporated or not.

250. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, unless the time be extended by law, and promptly thereafter close its business; but after it has closed its business it shall have corporate capacity to sue and shall be liable to suits until its affairs and liabilities are fully closed.

251. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.

252. Neither the State nor any political subdivision thereof ever be given or lent to any banking company, association or corporation.

253. The Legislature shall be appropriated laws provide for the examination by some public officer, of all banks and banking institutions and trust companies engaged in a banking business in this State; and each of such banks and banking companies or institutions shall, through its president or such other officer as the Legislature may designate, make a report under oath of its resources and liabilities at least twice a year.

254. The provisions of this Article shall apply to all banks except to national banks, and to all trust companies and individuals doing a banking business, whether incorporated or not.

MR. BEDDOW—I move the adoption of the Article, and upon that move the previous question.

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 was trying to call attention to the fact that the gentleman from Marengo has an amendment to offer which the Chairman of the Committee said the Committee would not oppose.

MR. FLETCHER—No, I did not say that. I said that I, personally, did not oppose it.

THE PRESIDENT—The previous question has been ordered, and unless the Convention desires to recede from that then the Chair will submit the question on the adoption of the Article.

Upon a vote being taken, the Article was adopted.

MR. EYSTER—I will call attention to the fact that the resolution reported by the Committee on Rules a moment ago, with reference to the payment of mileage to members, under the rules, I think, would have to be passed by an aye and no vote.

THE PRESIDENT—In the opinion of the Chair, the Committee on Harmony would have been entitled to their mileage under the regular order of this Convention, and it was merely limited by a resolution passed by this Convention, and it seems to the Chair another resolution repealing that resolution would not have to be passed by an aye and no vote.

MR. EYSTER—But that Committee is expressly excluded from the operation of that resolution.

THE PRESIDENT—Their general right to mileage under an ordinance which this Convention passed about a month ago extending the time of the Convention.

Article XIV on Education was read as follows:

ARTICLE XIV

Education

255. The Legislature shall establish, organize and maintain a liberal system of public schools throughout the State for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the number of children of school age therein, and shall be so apportioned to the schools in the districts or townships in the county as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships. Separate schools shall be provided for white and colored children, and no child of either race shall be permitted to attend a school of the other race.

256. The principal of all funds arising from the sale or other disposition of lands or other property, which has been or may here after be granted or intrusted to this State or given by the United States for educational purposes shall be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific object of the original grants or appropriations.

257. All lands or other property given by individuals, or appropriated by the State for educational purposes, and all estates of deceased persons who die without leaving a will or heir, shall be faithfully applied to the maintenance of the public schools.

258. All poll taxes collected in this State shall be applied to the support of the public schools in the respective counties where collected.

259. The income arising from the sixteenth section trust fund, the surplus revenue fund, until it is called for by the United States government, and the funds enumerated in Sections 256 and 257 of this Constitution, together with a special annual tax of thirty cents on each one hundred dollars of taxable property in this State, which the Legislature shall levy, shall be applied to the support and maintenance of the public schools, and it shall be the duty of the Legislature to increase the public school fund from time to time, as necessity therefor and the condition of the treasury and the resources of the State may justify; provided, that nothing herein contained shall be so construed as to authorize the Legislature to levy in any one year a greater rate of State taxation for all purposes, including schools, than sixty-five cents on each one hundred dollars' worth of taxable property; and provided further, that nothing contained shall prevent the Legislature from first providing for the payment of the bonded indebtedness of the State and interest thereon out of all the revenues of the State.

260. Not more than four per cent of all moneys raised, or which may hereafter be appropriated for the support of public schools, shall be used or expended otherwise than for the payment of teachers employed in such schools; provided, that the Legislature may, by a vote of two-thirds of each house, suspend the operation of this section.

261. The supervision of the public schools shall be vested in a Superintendent of Education, whose powers, duties and compensation shall be fixed by law.

262. No money raised for the support of the public schools, shall be appropriated to or used for the support of any sectarian or denominational school.

263. The State University shall be under the management and control of a board of trustees which shall consist of two members from the Congressional District in which the University is located, one from each of the other Congressional Districts in the State, the Superintendent of Education and the Governor, who shall be ex officio president of the board. The members of the board of trustees as now constituted shall hold office until their respective terms expire under existing law, and until their successors shall be elected and confirmed as hereinafter required. Successors to those trustees whose terms expire in 1902 shall hold office until 1907; successors to those trustees whose terms expire in 1904 shall hold office until 1911; successors to those trustees whose terms expire in 1906 shall hold office until 1915; and thereafter their successors shall hold office for a term of twelve years. When the term of any member of such board shall expire, the remaining members of the board shall be secret ballot elect his successor; provided, that any trustee so elected shall hold office from the date of his election until his confirmation or rejection by the Senate, and, if confirmed, until the expiration of the term for which he was elected, and until his successor is elected. At every meeting of the Legislature, the Superintendent of Education shall certify to the Senate the names of all who shall have been so elected since the last session of the Legislature, and the Senate

shall confirm or reject them, as it shall determine is for the best interest of the University. If it reject the names of any members, it shall thereupon elect trustees in the stead of those rejected. In case of a vacancy on said board by death or resignation of a member or from any cause other than the expiration of his term of office, the board shall elect his successor, who shall hold office until the next session of the Legislature. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such.

264. After the ratification of this Constitution, there shall be paid out of the treasury of this State at the time and in the manner provided by law, the sum of not less than thirty-six thousand dollars per annum as interest on the funds of the University of Alabama, heretofore covered into the treasury, for the maintenance and support of said institution; provided, that the Legislature shall have the power at any time they deem proper for the best interest of said university to abolish the military system at said institution, or reduce the said system to a department of instruction, and that such action on the part of the Legislature shall not cause any diminution of the amount of the annual interest payably out of the treasury for the support and maintenance of said University.

265. The Alabama Polytechnic Institute, formerly called the Agricultural and Mechanical College, shall be under the management and control of a board of trustees, which shall consist of two members from the Congressional District in which the Institute is located, and one each of the other Congressional Districts in the State; said trustees shall be appointed by the Governor, by and with the advice and consent of the Senate, and they shall hold office for a term of twelve years, and until their successors shall be appointed and qualified. The board shall be divided into three classes, as nearly equal as may be so that one-third may be chosen quadrennially. Vacancies occurring in the office of trustees from death or resignation, and the vacancies regularly occurring in 1905, shall be filled by the Governor, and such appointee shall hold office until the next meeting of the Legislature. Successors to those trustees whose terms expire in 1903 shall hold office until 1911: successors to those whose terms expire in nineteen hundred and five shall hold office until nineteen hundred and fifteen; and successors to those whose terms of office expire in nineteen hundred and seven shall hold office until nineteen hundred and nineteen. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such.

266. The Legislature shall not have power to change the location of the State University, or the Alabama Polytechnic Institute, or the Alabama Schools for the Deaf and the Blind, or the Alabama Girls' Industrial School, as now established by law, except upon a vote of two-thirds of the Legislature taken by yeas and nays and entered upon the journals.

267. The Legislature shall provide for taking a school census by townships and districts throughout the State not oftener than once in two years, and shall provide for the punishment of all persons or officers making false

or fraudulent enumerations and returns; provided, the State Superintendent of Education may order and supervise the taking of a new census in any township, district or county whenever he may have reasonable cause to believe that false or fraudulent returns have been made.

268. The several counties in this State shall have power to levy and collect a special tax not exceeding ten cents on each one hundred dollars of taxable property in such counties, for the support of public schools; provided that the rate of such tax, the time it is to continue, and the purpose thereof, shall have been first submitted to a vote of the qualified electors of the county, and voted for by three-fifths of those voting at such election; but the rate of such special tax shall not increase the rate of taxation, State and county combined, in any one year, to more than one dollar and twenty-five cents on each one hundred dollars of taxable property; excluding, however, all special county taxes for public buildings, roads, bridges and the payment of debts existing at the ratification of the Constitution of eighteen hundred and seventy-five. The funds arising from such special school tax shall be so apportioned and paid through the proper school officials to the several schools in the townships and districts in the county that the school terms of the respective schools shall be extended by such supplement as nearly the same length of time as practicable; provided, that this section shall not apply to the cities of Decatur, New Decatur and Cullman.

269. The provisions of this article and of any act of the Legislature passing in pursuance thereof to establish, organize and maintain a system of public schools throughout the State, shall apply to Mobile county only so far as to authorize and require the authorities designated by law to draw the portions of the funds to which said county shall be entitled for school purposes and to make reports to the Superintendent of Education as may be prescribed by law; and all special incomes and powers of taxation as now authorized by law for the benefit of public schools in said county shall remain undisturbed until otherwise provided by the Legislature; provided, that separate schools for each race shall always be maintained by said school authorities.

THE PRESIDENT—The question will be upon the adoption of the article.

MR. CASE—I have an amendment which I wish to offer.

Amend the report of the Committee on Education on page 79 by striking out all the words after the conjunction "and" preceded by a semicolon in the 12th line up to the word "the" preceded by the 14th line.

THE PRESIDENT—The question will be on the adoption of the amendment offered by the gentleman from DeKalb.

MR. CASE—I wish to say, Mr. President, that it is not my amendment personally, only, but I am requested by the people of

DeKalb, whom I have endeavored to the best of my ability to represent.

Mr. President, under the old Constitution, Mobile is allowed special privileges. She is allowed to retain for her public schools all the revenue derived from the sale of whisky in the city of Mobile, besides she shares equally in the general funds of the State of Alabama to the detriment of the rest of the counties of this noble State. Mr. President, under the old Constitution it allows the General Assembly of Alabama to alter that organic law whenever it may see proper. This is an injustice, and I want to say, Mr. President, that I had the honor several years ago to represent upon this floor those people of North Alabama, and I want to say, Mr. President, that there is no hope to ever change that provision by the General Assembly of the State of Alabama, that they give free free rides to the city of Mobile, that they carry those representatives, as it were in the palms of their hands, and when a question pertaining to the sacred rights of the people of Alabama comes up, they are ready to trample down those rights. Mr. President, more than once has it been hurled in my face that I am no Democrat, but I want to say, Mr. President, that on the principles of the Democracy of Thomas Jefferson of equal and exact justice and privilege to all men of whatever state of persuasion, equal and exact privileges and special privileges to none, I am as good a Democrat as stands beneath the canopy of heaven, on equal and exact justice to all men—Jeffersonian principles—but they tell me that Thomas Jefferson is dead, but those principles will live in the minds of the American people forever and forever.

MR. MULKEY—I rise to a point of order, the gentleman is not addressing himself to the amendment.

THE PRESIDENT—The Chair was unable to follow the gentleman in his eloquent address, and is therefore unable to say whether he confined himself to the question or not.

MR. CASE—I want to say to say to you that it don't matter with me by whatever name I am called, I want to be patriotic, and I want to be just, and I want to be fair. It has been said by one of the greatest exponents of patriotism that if we wish to raise up a race of statesmen higher than politicians, we should follow the characters celebrated in the Bible—Joseph and Moses, Josiah and Samuel, Daniel and Paul, and teach to them the gentle wisdom of Jesus Christ. As true patriots our object should be our country, our whole country and nothing but our country, and by the blessings of God should become a vast and splendid monument, not oppression or tyranny, but peace and liberty upon the world may gaze with admiration forever. Mr. President, how shall Alabama become a monument upon which the whole world may gaze with admiration forever, but she can never be so if governed by unequal privileges.

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

MR. GRAHAM (Talladega)—I move to lay the amendment on the table.

MR. CASE — I hope the Convention will be courageous enough to take the ayes and noes upon this proposition.

THE PRESIDENT—The ayes and noes are demanded, is the demand sustained?

The call was not sustained.

Upon a vote being taken the amendment was laid upon the table.

MR. FOSTER — These matters having been considered by the committee I move that the rules be dispensed with, and that the article be not referred back to the Committee on Harmony.

MR. KYLE—I have an amendment.

The Secretary read the amendment as follows:

Amend Article XIV on Education by striking out Section 268.

THE PRESIDENT—The question will be on the adoption of the amendment offered by the gentleman from Etowah.

MR. KYLE—I offer this amendment in order to secure twenty thousand votes in North Alabama who are unwilling for any county to have the special privileges that Mobile has. Under the existing statutes Mobile draws three dollars and eighty-eight cents per capita for schools.

MR. SPRAGINS—I rise to a point of order. The gentleman is not speaking to the amendment, he has the wrong section.

The amendment was changed to apply to Section 269.

MR. KYLE—As I was remarking Mobile draws three dollars and eighty-eight cents—I obtained the figures from the Superintendent of Education—whereas other counties only receive one dollar and thirty-eight cents. This would be a terrible thing in the hands of the enemies of the Constitution with which to fight its adoption in North Alabama, and as Mobile claims this, under statutory provision, there is no necessity for it in this Constitution, and I think it wise to strike that out in order to get us a better chance for the adoption of the Constitution all over the State where other counties only get one dollar and thirty-eight cents as compared with three dollars and eighty-eight cents in Mobile county.

I hope the amendment will be adopted.

MR. GRAHAM (Talladega)—This matter has been fully discussed before the Convention several times, and I move to lay the amendment upon the table.

A vote being taken the motion to table prevailed.

MR. BEDDOW—I move the adoption of the article as amended and call for the previous question.

The previous question was ordered, and a further vote being taken the article was adopted.

MR. WHITE—As the amendments are very immaterial and have already been considered by the Committee on the Order, Consistency and Harmony, I move that the rules be suspended and the usual reference to that committee be dispensed with.

A vote being taken the motion was adopted.

MR. deGRAFFENREID—I ask unanimous consent to be allowed to introduce a resolution.

Leave was granted.

The Secretary read the resolution as follows: "Resolved, that the Convention remain in session until two o'clock today unless the work now before it is sooner completed.

MR. deGRAFFENREID—I want to state that we can get through in fifteen of twenty minutes, and I move the suspension of the rules for the purpose of putting the resolution on its passage.

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

The Secretary read Article XV, Militia, as follows:

ARTICLLE XV

Militia, etc.

270. The Legislature shall have power to declare who shall constitute the militia of the State, and to provide for organizing, arming and disciplining the same; and the Legislature may provide for the organization of a State naval militia.

271. The Legislature, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

272. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, they may be appointed by the Governor.

273. Volunteer organizations of infantry, cavalry and artillery and naval militia may be formed in such manner and under such restrictions and with such privileges as may be provided by law.

274. The militia and volunteer forces shall, in all cases, except treason, fellony and breach of the peace, be privileged from arrest during their attendance at musters, parades, and elections, and in going to and returning from the same.

275. The Governor shall, with the advice and consent of the Senate, appoint all general officers whose term of office shall be four years. The Governor, the generals and regimental and battalion commanders shall appoint their own staffs, as may be provided by law.

276. The Legislature shall provide for the safe keeping of the arms, ammunition and accoutrements and military records, banners and relics of the State.

277. The officers and men of the militia and volunteer forces shall not be entitled to or receive any pay, rations, or emoluments when not in active service.

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

MR. BEDDOW—I move that the Article be adopted and upon that I call for the previous question.

The main question was ordered, and a further vote being taken the Article was adopted.

MR. WHITE—I ask unanimous consent to make a report from the Committee on Harmony.

The Secretary read the report as follows:

Report of the Committee on Order, Harmony and Consistency of the Constitution:

Mr. President:

Your Committee to which was re-referred Article VII on Impeachments respectfully report that they have examined the Article and the amendments thereto, and find the same correct, and in proper form, except the two amendments to Section 173, which have been rewritten and incorporated in said section, which section as amended and rewritten, has been incorporated into the Article and is herewith returned to the Convention with the recommendation that it be adopted.

Respectfully submitted,

Frank S. White, Chairman.

ARTICLE VII

Impeachments

The Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, Commissioner of Agriculture and Industries and Justices 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 officer 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 of impeachment, under oath or affirmation on articles or charges preferred by the House of Representatives.

When the Governor or Lieutenant Governor is impeached, the Chief Justice, or if he be absent or disqualified, then one of the Associate Justices of the Supreme Court to be selected by it, shall preside over the Senate when sitting as a court of impeachment.

If at any time when the Legislature is not in session, a majority of all the members elected to the House of Representatives shall certify in writing to the Secretary of State their desire to meet, to consider the impeachment of the Governor, Lieutenant Governor or other officer administering the office of Governor, it shall be the duty of the Secretary of State immediately to notify the Speaker of the House, who shall, within ten days after receipt of such notice, summon the members of the House by publication in some newspaper, published at the capital, to assemble at the Capitol on a day to be fixed by the Speaker, not later than fifteen days after the receipt of the notice to him from the Secretary of State, to consider the impeachment of the Governor, Lieutenant Governor, or other officer administering the office of Governor. If the House of Representatives prefer articles of impeachment, the Speaker of the House shall forthwith notify the Lieutenant Governor, unless he be the officer impeached, in which event, he shall notify the Secretary of State, who shall summon, in the manner hereinabove provided for, the members of the Senate to assemble at the Capitol on a day to be named in said summon, not later than ten days after receipt of the notice from the Speaker of the House for the purpose of organizing as a court of impeachment, the Senate when then organized, shall hear and try such articles of impeachment against the Governor, Lieutenant Governor or other officer exercising the powers of the office of Governor, as may be preferred by the House of Representatives.

The Chancellors, Judges of the Circuit Courts, Judges of the Probate Courts and Judges of other Courts, from which an appeal may be taken directly to the Supreme Court and Solicitors and

Sheriffs, may be removed from office for any of the causes specified in the preceding section, or elsewhere in this Constitution by the Supreme Court under such regulations as may be prescribed by law. The Legislature may provide for the impeachment or removal of other officers than those named in this Article.

The Clerks of the Circuits or Courts of like jurisdiction, of Criminal Courts, Tax Collectors, Tax Assessors, County Treasurers, County Superintendents of Education, Judges of Inferior Courts created under authority of Section 168 of this Constitution, Coroners, Justices of the Peace, Notaries Public, Constables and all other County officers, Mayors, intendants 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 143 of this Constitution by the Circuit or other courts of like jurisdiction, or a 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 shall be secured.

The penalties in cases arising under the three preceding sections shall not extend beyond removal from office and disqualification from holding office, under the authority of this State for the term for which the officer was elected or appointed, but the accused shall be liable to indictment and punishment as prescribed by law.

MR. WHITE—I move the adoption of the report.

Upon a vote being taken, the report was adopted.

THE PRESIDENT—The question will be upon the adoption of the Article.

MR. WHITE—The Committee has made some changes in the amendment as was adopted by the Convention; therefore, I think it is necessary to adopt it as amended.

A vote being taken, the Article as amended was adopted.

MR. WHITE—I desire to ask unanimous consent to offer another report from the same committee.

Leave was granted.

The Secretary read the report as follows:

Report of the Committee on Order, Harmony and Consistency of the Constitution:

MR. PRESIDENT—Your Committee, to which was referred the Article on Suffrage and Elections, respectfully report that the amendments adopted by the Convention have been put in proper form and are herewith returned to the Convention with the recom-

mendation that they be adopted as amended, and incorporated in said Article.

Respectfully submitted,

Frank S. White, Chairman,

First—Those who can read and write any Article of the Constitution of the United States in the English language and who are physically unable to work, and those who can read and write any Article of the Constitution of the United States in the English language and 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; and those who are unable to lead and write, if such inability is due solely to physical disability; or,

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

A vote being taken, the amendment was adopted, and, on a further vote, the Article as amended was adopted.

The Secretary read Article XVI, Oath of Office, as follows:

ARTICLE XVI

Oath of Office

278. All members of the Legislature, and all officers, executive and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath or affirmation:

"I, ————, solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States, and the Constitution of the State of Alabama, so long as I continue a citizen thereof; and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter, to the best of my ability. So help me God."

This oath may be administered by the presiding officer of either house of the Legislature, or by any offficer authorized by law to administer an oath.

MR. BEDDOW—I move that the Article be adopted.

A vote being taken, the Article was adopted.

The Secretary read Article XVII, Miscellaneous Provisions, as follows:

ARTICLLE XVII

Miscellaneous Provisions

279. 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, unless otherwise provided in this Constitution, 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.

280. 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.

281. It is made the duty of the Legislature to enact all laws necessary to give effect to the provisions of this Constitution.

MR. BEDDOW—I desire to offer an amendment.

The Secretary read the amendment as follows:

"After the first day of January, 1904, the labor of convicts shall not be let out by contracts to any person, co-partnership, company, or corporation, and the Legislature shall by law provide for the working of convicts for the benefit of the State and the various counties thereof."

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

MR. BEDDOW—I promise the President and the Convention that I will not consume much of their time on this question, though it is one near to my heart, and near to the heart of my people. For a number of years the convicts of the entire State have been saddled upon Jefferson County. They have been worked in the mines of that county for years, and every convict worked in the mines takes the place of free labor, and all that we desire to do in this matter is to secure some plan similar to that in other States of the Union where the convicts are employed in matters of public improvement. For a number of years we have been laboring to get rid of this incubus on Jefferson County. Every other division of this State has had some courtesy shown it—the Black Belt, South Alabama, and Mobile, but Jefferson County and North Alabama now ask to be relieved of this incubus. My amendment makes it the duty of the Legislature after the first of January, 1904, to remove from the mines of Jefferson County convict labor. In our recent Legislature my colleague, (Dr. Cunningham), made a gallant fight along this line and lost. He is a member of this

Convention and is in hearty sympathy with this movement, and no doubt you will endorse this action by an able speech on this occasion. If you will do this for Jefferson County, I, for one, would be willing to leave my office and devote my time from now on until the election upon the ratification of this Constitution, and proclaim it throughout the length and breadth of the State of Alabama, and to recommend it with my heart to everyone of our constituents. I believe that Jefferson County will march up as a solid phalanx and unbroken column to the support of this Constitution if you will do this for them, and it is asking no more than they deserve. They have borne this burden long enough, these convicts ought to be taken out of the mines and work upon public improvements and roads of the State, and without detaining you longer, gentlemen of the Convention, I will close by asking that you pass this resolution.

MR. deGRAFFENREID—I move to lay the amendment of the gentleman from Jefferson on the table.

MR. CUNNINGHAM—I call for the ayes and noes.

The call was not sustained.

A vote being taken, the motion to table prevailed.

MR. BEDDOW—I desire to offer another amendment.

The Secretary read the amendment as follows:

"Amend Article on Miscellaneous Provisions by adding a new Section as follows: 'After January 1st, 1904, no convict sentenced to hard labor for the county shall be let out by contract to any person, copartnership, company or corporation outside of the county in which conviction is had, nor shall any person convicted of misdemeanor be worked in any coal, ore, or other underground mine by serving sentence.'"

MR. BEDDOW—The difference between that Section that I have offered, and the one that has been voted down, is this, that it limits the convicts that are sent to the mines to felony cases, and prevents the counties all over the State sending such convicts as those that are convicted of misdemeanors to the penitentiary to work out short sentences, and I desire to yield my time to the gentleman from Jefferson on this question, Dr. Cunningham.

MR. CUNNINGHAM—There seems to be a kind of disposition or insinuation upon this great question of reform in the State of Alabama that the ex-Senator of Jefferson County and the present Representative from the Senatorial District of Jefferson County is not honest and not sincere. I want to say, Mr. President, that in the great moral reform in the State of Alabama looking to the reformation of the convict system of Alabama, I not only

brought to bear upon it every possible energy and every possible ability that I possessed, but my whole heart and soul, and because of its defeat, sir, I voluntarily retired from politics in my county. So much for the personal aspect of this question.

Now, let us come to the merits of the amendment offered by my colleague from Jefferson. Mr. President, one of the ablest addresses or messages that has ever been delivered by any Governor of the State of Alabama was by a distinguished delegate upon this floor, the Hon. Wm. C. Oates, who was Governor of the State a few years ago. In that message he took to task the convict system of the State of Alabama, and in that able document he conclusively showed the necessity for reform in the convict system of the State, and that the county convict system should be abolished. Mr. President, I wish to say candidly that it is a digrace to the civilization of this State, and to its Christian sentiment, and I say to you, sir, that this amendment should be adopted. It has upon it the very stamp of morality, of justice and of fairness. It means life. Why, sir, the Constitution of the State of Alabama provides that there shall be no imprisonment for debt, and yet if I am caught with a concealed weapon—(which I do not carry)—

MR. BOONE—May I interrupt the gentleman a moment?

MR. CUNNINGHAM—No sir, my time is short.

MR. BOONE—Just to ask you to discuss the scope of the amendment, so we will understand it.

MR. CUNNINGHAM—In the seven or eight minutes of time that I have it would be impossible.

MR. BOONE—I would move to extend the time.

MR. CUNNINGHAM—But I will say this much. It has been established by experience and observation, and I call upon the gentleman from Madison, Mr. Grayson, to substantiate what I say, that the mortality among convicts, recently convicted, shows that the longer a man stays in the coal mines the lower the rate of mortality. The long-time men, as a general proposition, are physically better qualified to work in coal mines and consequently the mortality is much less. For instance, the average mortality has been about 5 per cent. at Pratt City, and when you come to analyze that, you find among the first class a mortality of 1 1-2 per cent., of second class 2 1-2 per cent., of third class 4 per cent., and of fourth class 7 or 8 per cent. The men of the fourth class are those recently convicted, and it therefore follows that in order to keep up an average of convicts, say 500, whose average term is six months, it would take double the number whose average term is twelve months, and inasmuch as the morbidity and mortality, prevails mostly among those recently convicted, this amendment, if put into effect will save the lives of 3 or 4 per cent. of those

who annually die in the State of Alabama. I insist in the presence of this magnificent audience that when you sentence a man for costs in the State of Alabama, you are frequently sentencing him to death. That is plain enough, and the statistics show it beyond the shadow of a doubt. I am glad of the opportunity here today in this body of law-makers, in this magnificent assemblage regardless of any personal interest that I may have, or of any financial interest of anybody with whom I am associated, to strike one blow and a last and a final blow for God, morality and for humanity. I say, Mr. President, that this amendment ought to be adopted, because it is a step in the right direction. It is a reform that comments itself to everybody in the State of Alabama who listens and who feels for the suffering, and it makes no difference whether he be white or whether he be black.

Now, another question. In regard to coal mines as a business in relation to health. There is nothing better established than a coal mine should be a healthy mine, well ventilated, well drained, of sufficient thickness of seam, etc., to enable them to work in it with comfort.

MR. JENKINS—I rise to a point of order. This is new matter that ought to be referred to a committee, and I make the point of order that it is out of order.

THE PRESIDENT—That might be a reason why the Convention should not adopt the amendment, but no reason why the Convention should not consider the amendment.

MR. CUNNINGHAM—The other proposition is this. That it requires a healthy man to go into it, and if you have an unhealthy or unsanitary mine, then it will destroy the health of an able-bodied man, or you may have a healthy and sanitary mine, and place an unhealthy man and take his life or destroy his health. Those are two rules that operate permanently because they are the laws of nature, which neither Constitution nor statutory law can abolish, nor can the financial interest of the State, or the costs to county officers change these two natural laws. Then, I say to you, Mr. President, should this great Convention, called for the purpose of accomplishing a great moral reform, called for the purpose of placing the State of Alabama in the right direction, along the line of morality, truth and justice, commit a murder every four days in the year, and that is what the State of Alabama does when it fails to make a discrimination in the class of men who work in the coal mines. They say it is a legislative matter, let us put it in the organic law, and say that men convicted of a misdemeanor—

MR. WHITE—I desire to state that it is in the organic law of Mississippi across the border, in California and other States.

THE PRESIDENT—The time of the gentleman has expired.

MR. JONES (Montgomery)—I move that the time of the gentleman be extended.

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

MR. JENKINS—I must decline to yield the floor. I do not think this question ought to be brought in here, it is not germane under our rules without going to a committee and being referred and discussed. It is a new subject, and, Mr. President, I want to say that this question has come up in the Legislature time and time again——

MR. JONES—Will my friend from Wilcox yield for a moment to enable me to make a motion to extend the time of the gentleman from Jefferson, Mr. Cunningham?

MR. JENKINS—When I get through, he can have plenty of time. I do not intend to make any set speech. I want to say this, that this question has been gone over time and again in the Legislature. If you take the convicts, county or State, out of the mines, where are you going to put them, there is but one place, and that is on the farms, and the State farm of Alabama has been a howling farce ever since established. In less than four years it lost three hundred thousand dollars to the State of Alabama.

MR. OATES—Have you ever examined the report of the commissioners as to the income of the convict system during the two years I had the honor to be Governor, where it shows $128,000 in earnings to the State?

MR. JENKINS—I will state that in the last Legislature, the question came up, and it had come up in a previous session, and we obtained statistics from the Department, from Mr. Lawson and others, and it was shown that the State in four years, had lost three hundred thousand dollars upon its State farm, whereas the mines were always a paying investment.

MR. BEDDOW—I would ask the gentleman to yield the floor for a moment, I wish to make a motion to extend the time of the gentleman from Jefferson.

MR. JENKINS—I must decline. Take the convicts in my County for the last five years, what have we been getting? Only three dollars, and we could take the same men and get nine dollars, twelve dollars and sometimes fourteen dollars, that is the difference. We have made it a little better by passing a special law, but for five years we only received three dollars from convicts, whereas the State Convict Board gets nine dollars, ten dollars and fourteen dollars for their convicts. It is a question of business and we should not be carried off our feet by sentiment. Sentiment suggests putting them on the farm, the farms today are not

paying investments with low prices, storms, frosts, and everything of that sort; there is no profit about it. It is absurd for us to go into any business, and I move to lay the amendment upon the table.

MR. BEDDOW — I move that the rules be suspended and that Dr. Cunningham be allowed to finish his speech.

THE PRESIDENT—The question is now upon the motion to table.

MR. BEDDOW—I will ask the gentleman to please withdraw that.

THE PRESIDENT—The gentleman declines.

MR. BEDDOW—Then I demand the ayes and noes.

The call was sustained.

The reading of the amendment was called for.

The Secretary read the amendment as follows: "Amend Article on Miscellaneous Provisions by adding a new section as follows: After January 1st, 1904, no convict sentenced to hard labor for the county shall be let out by contract to any person, co-partnership, company or corporation outside of the County in which conviction is had, nor shall any person convicted of misdemeanor be worked in any coal, ore or other under-ground mine by serving sentence."

THE PRESIDENT — The question is upon the motion to table the amendment, and the call for the ayes and noes has been sustained.

The call of the roll resulted as follows:

AYES

Messrs. President,	Fletcher,	Martin,
Altman,	Foshee,	Merrill,
Barefield,	Foster,	Miller (Marengo),
Bethune,	Glover,	Miller (Wilcox),
Burns,	Grayson,	Murphree,
Carmichael, of Colbert,	Greer, of Calhoun,	Norman,
Chapman,	Heflin, of Chambers,	Opp,
Cobb,	Hinson,	Palmer,
Coleman, of Greene,	Inge,	Parker (Cullman),
Coleman, of Walker,	Jenkins,	Phillips,
Davis, of Etowah,	King,	Rogers (Sumter),
Dent,	Knight,	Samford,
deGraffenreid,	Kyle,	Sanford,
Eley,	Lomax,	Sentell,
Eyster,	McMillan (Baldwin),	Smith (Mobile),

Smith, Mac. A.,
Spragins,
Studdard,
Tayloe,
Waddell,
Walker,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson (Washington),

TOTAL—56

NOES

Ashcraft,
Banks,
Bartlett,
Beavers,
Beddow,
Blackwell,
Boone,
Byars,
Cardon,
Case,
Cofer,
Craig,
Cunningham,
Davis, of DeKalb,
Ferguson,
Grant,
Greer, of Perry,
Heflin, of Randolph,
Henderson,
Hodges,
Hood,
Howell,
Howze,
Jackson,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Ledbetter,
Long (Walker),
Lowe (Jefferson),
Macdonald,
McMillan (Wilcox),
Malone,
Moody,
Mulkey,
Oates,
O'Neal (Lauderdale),
O'Neill (Jefferson),
O'Rear,
Pearce,
Pettus,
Pillans,
Porter,
Proctor,
Reese,
Reynolds (Henry),
Rogers (Lowndes),
Sanders,
Selheimer,
Spears,
Stewart,
Watts,
Weakley,
White,
Winn,

TOTAL—55

ABSENT OR NOT VOTING

Almon,
Brooks,
Browne,
Bulger,
Burnett,
Carmichael, of Coffee,
Carnathon,
Cornwall,
Duke,
Espy,
Fitts,
Freeman,
Gilmore,
Graham, of Montgomery,
Graham, of Talladega,
Haley,
Handley,
Harrison,
Jones, of Hale,
Kirk,
Kirkland,
Leigh,
Locklin,
Long (Butler),
Lowe (Lawrence),
Maxwell,
Morrisette,
NeSmith,
Norwood,
Parker (Elmore),
Pitts,
Renfro,
Reynolds (Chilton),
Robinson,
Searcy,
Sloan,
Smith, Morgan M.,
Sollie,
Sorrell,
Thompson,
Vaughan,
Weatherly,
Willet,
Wilson (Clarke).

There being 56 ayes and 55 noes, the amendment was laid on the table.

MR. deGRAFFENREID—I move the adoption of the Article, and upon that I call for the previous question.

The main question was ordered.

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

Upon a vote being taken, the Article was adopted.

MR. WHITE—I desire to have unanimous consent to make a report from the Committee on Order, Consistency and Harmony.

Mr. President:

The Committee on Order, Consistency and Harmony of the Whole Constitution beg leave to report that the Article on Executive Department submitted to this Committee has been re-examined and Section 138 re-written so as to incorporate in proper form the amendment passed this morning extending the terms of office of the present sheriff and I herewith return the Article as re-written with the recommendation that the section as amended be passed.

(Signed.) Frank S. White,
Chairman."

MR. REESE—I move the previous question.

The main question was ordered.

THE PRESIDENT—The question is on the adoption of the Article as amended.

Upon a vote being taken the Article was adopted as amended.

MR. deGRAFFENREID—I move the adoption of the Article as amended.

A vote being taken the Article was adopted.

Article XVIII was read as follows:

ARTICLE XVIII.

Mode of Amending the Constitution.

282. Amendments may be proposed to this Constitution by the Legislature 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 Legislature 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 Legislature at which the amendments are proposed, or upon another day appointed by the Legislature not less than three months after the final adjournment of the session of the Legislature at which the amendments were 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 Legislature shall direct, for at least eight successive weeks next preceding the day appointed for such election. On the day so appointed for such election. On the day so appointed, an election shall be held for the vote of the qualified electors of the State upon the proposed amendment. If such election be held on the day of the general election, the officers of such general election shall open a poll for the vote of the qualified electors upon 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, and tabulated and returns thereof made to the Secretary of State, and counted, in the same manner as in elections for representatives to the Legislature; and if it shall thereupon appear that a majority of the qualified electors who voted at such election upon the proposed amendments voted 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. Representation in the Legislature shall be based upon population, and such basis of representation shall not be changed by constitutional amendment.

283. Upon the ballots used at all elections provided for in Section 282 of this Constitution, the substance or subject matter of each proposed amendment shall be so printed that the nature thereof shall be clearly indicated. Following each proposed amendment on the ballot shall be printed the word "Yes," and immediately under that shall be printed the word "No." The choice of the elector shall be indicated by a cross mark opposite the word expressing his desire, and no amendment shall be adopted unless it receive the affirmative vote of a majority of all the qualified electors who vote at such election.

284. No convention shall hereafter be held for the purpose of altering or amending the Constitution of this State unless, after the Legislature, by a vote of a majority of all 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 be first submitted to a vote of all the qualified electors of the State and approved by a majority of those voting at such election. No act or resolution of the Legislature 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 session at which such act or resolution was passed; provided, nothing herein contained shall be construed as restricting the jurisdiction and power of the convention, when 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 for the purpose of altering, revising or amending the existing Constitution.

285. All votes of the Legislature upon the 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 year and nays and entered on the journals. No act or resolution of the Legislature 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.

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

Upon a vote being taken, the Article was adopted.

THE SCHEDULE.

The Schedule was read as follows:

In order that no injury or inconvenience may arise from the alterations and amendments made by this Constitution to the existing Constitution of this State, and to carry this Constitution into effect, it is hereby ordained and declared.

1. That all laws in force at the ratification of this Constitution and not inconsistent therewith, shall remain in force until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims and contracts of the State, counties, individuals, or bodies corporate, not inconsistent with this Constitution, shall continue to be valid as if this Constitution had not been ratified.

2. That all bonds executed by or to any officer of this State, all recognizances, obligations, and all other instruments executed to this State, or to any subdivision or municipality thereof, before the ratification of this Constitution, and all fines, taxes, penalties and forfeitures due and owing to the State, or any subdivision or municipality thereof, and all writs, suits, prosecutions, claims and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the ratification of this Constitution. All indictments which hase been found, or which may hereafter be found, for any crime or offense committed before the ratification of this Constitution, shall be proceeded upon in the same manner as if this Constitution had not been ratified.

3. That all the executive and judicial officers and all other officers in this State, who shall have been elected at the election held in this State on the first day of August, 1898, or who have been appointed since that time, and all members of the present

General Assembly and all who may hereafter be elected members of the present General Assembly, and all other officers holding office at the time of the ratification of this Constitution, shall continue in office and exercise the duties thereof until their respective terms shall expire, as provided by the Constitution of 1875, or the laws of this State.

4. This Constitution shall be submitted to the qualified electors of this State for ratification or rejection, as authorized and required by an act of the General Assembly of this State, entitled "An Act to provide for holding a convention to revise and amend the Constitution of this State," approved the 11th day of December, 1900.

5. That instead of the publications as required by the act to provide for holding a Convention to revise and amend the Constitution approved December 11, 1900, the Governor of the State is hereby authorized to take such steps as will give general publicity and circulation to this Constitution in a manner as economical as practicable.

6. The salaries of the executive and judicial and all other officers of the State who may be holding office at the time of the ratification of this Constitution and the payment of the present members of the General Assembly shall not be affected by the provisions of this Constitution.

MR. WILLIAMS (Barbour)—I have an amendment.

"Amend the fourth paragraph of the schedule by striking out the period at the end thereof and inserting a comma in lieu thereof, and by adding immediately thereafter the following: 'And no elector shall be deprived of his right to vote at the election to be held for such purpose by reason of his not being registered.

MR. WILLIAMS—I ask unanimous consent for that amendment.

Upon a vote being taken, the amendment was adopted.

MR. CRAIG—I have an amendment.

"Amend Section 3 by adding to the end thereof the following words: 'all laws and parts of laws inconsistent with this section are hereby repealed.'"

THE PRESIDENT—The question is upon the adoption of the amendment.

At the last Legislature, some acts were passed and under those acts the terms of some officers have not expired and will not expire until 1904. The question may arise under this section as to whether they go out of office or not. I wanted to make it

contain that they would remain, so that there would be no question hereafter.

MR. BEDDOW—The committee feel that there is no necessity for the amendment, and I move to lay it on the table.

Upon a vote being taken, the amendment was tabled.

MR. LONG—I want to ask if it is not necessary where it reads "that all the executive and judicial officers and all other officers in this State, who shall have been elected at the election held in this State on the 1st day of August, 1898, or who have been appointed since that time," to add "except as otherwise provided in this Constitution." I just submit that for the committee. There will be conflict if you do not put it in.

MR. JONES (Montgomery)—The committee thinks that the language here covers the point: "shall continue in office and exercise the duties thereof until their respective terms shall expire as provided by the present Constitution of 1875 and the laws of this State."

MR. deGRAFFENREID—Since that we have extended the Sheriff's office two years. It ought to be "except as otherwise provided in this Constitution."

MR. WILLIAMS (Barbour)—I move the adoption of the article and call for the previous question.

MR. COLEMAN—Withdraw that for a moment.

MR. WILLIAMS—I yield in favor of the gentleman from Greene.

MR. COLEMAN—I would like to offer a short amendment. The last amendment was, I believe, that no elector shall be deprived of his right to vote. I would like to add to that "who was authorized to vote under the present laws or who was authorized to vote at the last election."

The proposition is this. It may be that those who failed to register were not authorized to vote at the last election. Now you will authorize them to vote anyway, but if you confine the right to vote to those who were authorized to vote.

THE PRESIDENT—Who were otherwise qualified to vote.

MR. COLEMAN.—Who were otherwise qualified to vote—That is all. That is the amendment I want to offer.

THE PRESIDENT—Does the Committee accept the amendment?

MR. WHITE—No sir.

THE PRESIDENT—The question will be upon the question offered by the gentleman from Greene.

MR. WHITE—I want to state that the difficulty about the amendment offered by the gentleman from Greene is that it deprives all those who happen not to be registered at the time; that is, persons who move from one ward to another in the cities, and they move there every year. They are not allowed to vote at all under his arrangement. There is the danger in it, those coming of age since that time, and those who moved into the county since that time are not allowed to register, and there is the danger in it.

MR. COLEMAN (Greene)—This is a very important proposition. It will not do to undertake to register them all, because we can never do it, but all who have been registered, and are competent, and if you desire it, all those who have become of age, just so you do not require them all to come and register again.

MR. WHITE—It should be just like the Committee reported it. We studied it carefully. That was gone over by the Committee. The Committee adopted what they thought was the only feasible thing to do and to carry out our pledges that we would re-submit this question to the people of Alabama.

MR. COLEMAN—Do you contemplate a re-registration?

MR. WHITE—No sir, I do not. I move to lay the amendment upon the table.

THE PRESIDENT—The Chair will submit the motion to table the amendment as soon as the gentleman sends up the amendment.

MR. JONES (Montgomery)—While we are waiting, for the information of members who do not understand exactly how to vote on this proposition, I would like to have the Clerk read the fourth subdivision of the schedule as adopted with the amendment to it.

The fourth subdivision with the amendment was read as requested.

The amendment was read by Mr. Coleman as follows:

"Move that he be a qualified voter or become such as provided by existing law."

MR. WHITE—I move to lay the amendment upon the table.

Upon a vote being taken the motion to table the amendment prevailed.

MR. SANFORD (Montgomery)—I have an amendment.

The amendment was read as follows:

Amend Section 5 by adding the following: "But such election upon the ratification of the Constitution shall not be held in less than thirty days from the date of the Proclamation of the Governor."

MR. BAREFIELD—I move to lay the amendment upon the table.

Upon a vote being taken the motion to table the amendment prevailed.

MR. BURNS—I would like to take a half a minute to offer an amendment.

The amendment was read as follows:

"Nothing in this Constitution shall be construed as enlarging or increasing the powers of any corporation or of diminishing the authority of any Railroad Commission."

MR. WILLIAMS (Barbour)—I move to lay it upon the table.

Upon a vote being taken the motion to lay on the table prevailed.

MR. BOONE—I offer an amendment which the Committee thinks is material.

The amendment was read as follows:

Amend Section 1 of the schedule by inserting in the sixth line between the words "counties" and "individuals," the words "municipal corporations."

MR. BOONE—I do that because the Supreme Court has held that the words "body corporate" do not apply to municipal corporations.

Upon a vote being taken the amendment was adopted.

MR. WILLIAMS (Barbour)—I move the adoption of the Article as amended, and upon that I call for the previous question.

THE PRESIDENT—The motion is to adopt the Article as amended and upon that the previous question is called. The question is shall the main question be now put?

Upon a vote being taken the main question was ordered.

Upon a further vote being taken the Article was adopted.

MR. WHITE—There are a number of ordinances for passage which have been recommended by the Committee on Order, Consistency and Harmony.

THE PRESIDENT—It seems to the Chair that some motion should be made to submit this report to the Committee on Engrossment.

MR. WHITE—I move that the Constitution be adopted as a whole.

THE PRESIDENT—That will require an aye and no vote. The rule requires that it shall be adopted when it comes from the Enrollment Committee.

MR. WHITE—It is to be adopted as a whole and the time to do it is now.

MR. ROGERS (Sumter)—The rule provides that it shall be adopted as a whole, and you cannot do it until it is enrolled.

THE PRESIDENT—Rule 53 reads: "The Committee on Order, Consistency and Harmony of the Constitution shall report the entire proposed Constitution to the Convention, and the Constitution so reported shall be read and acted upon article by article (this rule has been modified by striking out 'section by section') and submitted to a vote of the Convention; if a majority of the members present shall vote therefor the same shall be adopted, but if amended in any particular it shall be re-referred with such amendments to the said committee, who shall cause the Constitution with such amendments so adopted to be rewritten and report the same to the Convention for its action. When the Constitution shall have been finally adopted by the Convention it shall be enrolled, and when enrolled, it shall be again read and attested by the President and Secretary and each delegate to the Convention, presonally, shall sign his name thereto."

The Constitution will not be referred to the Committee on enrollment.

MR. REESE—I desire to make a correction in the stenographic report.

(Loud expressions of dissent.)

MR. PILLANS—If that is done won't it have to be referred back and read. Is it not proper that we now, having had it all read, adopt the Constitution upon an aye and no vote?

THE PRESIDENT—The rule says that when the Constitution shall have been finally adopted by the Convention it shall be again read and attested. The Chair rules that reference to the Committee on Enrollment is now in order.

MR. LOMAX—I desire to make a parliamentary inquiry. Under that rule is it not required that the Constitution be finally adopted before it is enrolled.

THE PRESIDENT—The Constitution has been adopted article by article.

MR. LOMAX—But not as a whole.

THE PRESIDENT—The chair thinks so. The Constitution has been taken up as a whole and adopted article by article.

MR. PILLANS—When we were adopting it article by article we did not do it by yeas and nays. The Chair was of the opinion, and I think correctly, that when we got through we would then by an aye and no vote adopt the entire article.

MR. O'NEAL (Lauderdale)—To save all questions. I think we had better adopt it by an aye and no vote.

MR. PILLANS—Therefore I move that it be now adopted by a yea and nay vote.

THE PRESIDENT—Will the gentleman withdraw his motion to refer it to the committee?

MR. HEFLIN (Chambers)—I think the Convention ought after this whole Constitution has been written and read to this Convention, assembled here again Monday then vote on it.

MR. O'NEAL—We have got to do that anyhow. It says when the Constitution shall be definitely adopted.

MR. HEFLIN—I wish to make an inquiry. If we adopt it now, when we come back Monday it will have to be read and adopted again?

THE PRESIDENT—Yes.

MR. HEFLIN—Then I withdraw my motion.

THE PRESIDENT—It is moved that the Constitution be adopted by an aye and no vote. As many as favor the adoption of the Constitution will say aye and those opposed no as their names are called.

MR. deGRAFFENREID—Before the call of the roll commences, as the clock is about to strike two and under the orders of the Convention it will have to adjourn at two 'clock, I move to suspend the rule and that the Convention stay in session fifteen minutes.

THE PRESIDENT—As the roll is being called the Convention will not adjourn. Proceed with the call of the roll.

During roll call:

MR. WHITE—I ask unanimous consent to explain my vote.

The consent was given.

MR. WHITE—To my regret, owing to the fact that I believe that some of the suffrage planks, or one of them, violates the Federal Constitution, which I took an oath to support, I will have to vote "No."

Upon the call of the roll the vote resulted as follows:

AYES.

Messrs. Presirent,
Altman,
Ashcraft,
Barefield,
Beavers,
Bethune,
Blackwell,
Boone,
Burnett,
Cardon,
Carmichael, of Colbert,
Case,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Cunningham,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Ferguson,
Fletcher,
Foster,
Graham, of Montgomery,
Grant,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Hodges,
Hood,
Howell,
Howze,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Knight,
Kyle,
Ledbetter,
Lomax,
Long (Walker),
Lowe (Jefferson),
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Martin,
Maxwell,
Moody,
Murphree,
Norman,
O'Neal (Lauderdale),
O'Neill (Jefferson),
Opp,
O'Rear,
Palmer,
Parker (Cullman),
Pearce,
Pettus,
Pillans,
Proctor,
Reese,
Reynolds (Henry),
Rogers (Lowndes),
Rogers (Sumter),
Samford,
Sanders,
Selheimer,
Sentell,
Smith (Mobile),
Smith, Mac. A.,
Spragins,
Stewart,
Tayloe,
Waddell,
Walker,
Watts,
Weakley,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson (Wash'gton).

Total—95.

NOES.

Bartlett,
Beddow,
Byars,
Cofer,
Foshee,
Phillips,
Porter,
Spears,
Studdard,
White,

Total—10.

ABSENT OR NOT VOTING.

Almon,	Harrison,	Pitts,
Banks,	Jones, of Hale,	Renfro,
Brooks,	King,	Reynolds (Chilton),
Browne,	Kirkland,	Robinson,
Bulger,	Leigh,	Sanford,
Burns,	Locklin,	Searcy,
Carmichael, of Coffee,	Long (Butler),	Sloan,
Carnathon,	Lowe (Lawrence),	Smith, Morgan, M.. .
Cornwall,	Merrill,	Sollie,
Espy,	Miller (Marengo),	Sorrell,
Fitts,	Miller (Wilcox),	Thompson,
Freeman,	Morrisette,	Vaughan,
Gilmore,	Mulkey,	Weatherly,
Glover,	NeSmith,	Willet,
Graham, of Talladega,	Norwood,	Wilson (Clarke),
Haley,	Oates,	Winn.
Handley,	Parker (Elmore),	

And the Constitution was adopted. (Loud and prolonged applause.)

MR. REESE—I desire to make a correction in the stenographic report.

(Laughter and cries of "no.")

MR. BLACKWELL—The ruling passion strong to the end.

MR. REESE—At the conclusion of the remarks of the gentleman from Dallas (Mr. Craig) yesterday, when he finished his attack upon the Mayor and Council of my city, he made a motion to take the matter before the house, and shut off the discussion. At that point my colleague, Mr. Vaughn, rose and requested him to withdraw the motion. The stenographic report has me as making that request to withdraw the motion, but the gentleman from Dallas, Mr. Vaughn, made the request, and it was not until after the request of Mr. Vaughn was refused that I then made the request, and I desire to put myself and Mr. Vaughn straight upon the record.

MR. deGRAFFENREID—There are one or two ordinances not yet acted upon by the Convention, and I move that the Convention stay in session until they are acted upon.

THE PRESIDENT—It is moved that the Convention remain in session until the ordinances reported by the Committee on Order, Consistency and Harmony have been disposed of.

Upon a vote being taken the motion was carried.

MR. WHITE—I rise to ask that the regular order be pursued with reference to taking up and adopting these ordinances.

THE PRESIDENT—In the opinion of the Chair the regular order should be pursued until this work before the Convention is concluded.

Ordinance No. 459 was read as follows:

An Ordinance.

To appropriate $143.75 for the payment of C. B. Brown and the Alabama Printing Company for services rendered for the State of Alabama for the use of the Constitutional Convention.

Section 1. Be it ordained by the people of Alabama in Convention assembled, That there be and is hereby, appropriated out of any moneys in the State Treasury not otherwise appropriated the sum of one hundred and forty-three and 75-100 to be paid the Alabama Printing Co. and C. B. Brown for services performed for the State of Alabama for use of this Convention as follows:

Sec. 2. The State Auditor is hereby directed to draw his warrant on the State Treasurer in favor of C. B. Brown, for the sum of thirty dollars for typewriting done by him for the Committee on Order, Consistency and Harmony of the Whole Constitution, and he, said Auditor, is also directed to draw his warrant on the State Treasurer in favor of the Alabama Printing Co. for the sum of $118.75 for printing three hundred copies of the report of said Committee for the use of this Convention.

Referred to the Committee on Schedule, Printing and Incidental Expenses.

THE PRESIDENT—As many as favor the adoption of the ordinance 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,	Brooks,	Coleman, of Walker,
Altman,	Browne,	Craig,
Ashcraft,	Burns,	Cunningham,
Banks,	Byars,	Davis, of DeKalb,
Barefield,	Cardon,	Davis, of Etowah,
Bartlett,	Carmichael, of Colbert,	Dent,
Beavers,	Carnathon,	deGraffenreid,
Beddow,	Case,	Duke,
Bethune,	Chapman,	Eyster,
Blackwell,	Cobb,	Ferguson,
Boone,	Coleman, of Greene,	Fletcher,

Foshee,	Jones, of Montgomery,	Palmer,
Foster,	Jones, of Wilcox,	Parker (Cullman),
Freeman,	Knight,	Parker (Elmore),
Gilmore,	Kyle,	Pettus,
Glover,	Long, of Walker,	Proctor,
Graham, of Montgomery,	Lowe, of Lawrence,	Reynolds, of Henry,
Grant,	McMillan, of Baldwin,	Rogers (Sumter),
Grayson,	McMillan (Wilcox),	Samford,
Greer, of Calhoun,	Malone,	Sanders,
Greer, of Perry,	Martin,	Sollie,
Heflin, of Chambers,	Merrill,	Spears,
Heflin, of Randolph,	Miller (Marengo),	Spragins,
Hodges,	Miller (Wilcox),	Stewart,
Hood,	Moody,	Waddell,
Howell,	Murphree,	Walker,
Howze,	O'Neal (Lauderdale),	White,
Inge,	O'Neill, of Jefferson,	Williams (Barbour),
Jenkins,	Opp,	Williams (Marengo),
Jones, of Bibb,	O'Rear,	Williams (Elmore).

Total—90.

ABSENT OR NOT VOTING.

Almon,	Locklin,	Sanford,
Bulger,	Lomax,	Searcy,
Burnett,	Long, of Butler,	Selheimer,
Carmichael, of Coffee,	Lowe, of Jefferson,	Sentell,
Cofer,	Macdonald,	Sloan,
Cornwall,	Maxwell,	Smith (Mobile),
Eley,	Morrisette,	Smith, Mac. A.,
Espy,	Mulkey,	Smith, Morgan M.,
Fitts,	NeSmith,	Sorrell,
Graham, of Talladega,	Norman,	Stoddard,
Haley,	Norwood,	Tayloe,
Handley,	Oates,	Thompson,
Harrison,	Pearce,	Vaughan,
Henderson,	Phillips,	Watts,
Hinson,	Pillans,	Weakley,
Jackson,	Pitts,	Weatherly,
Jones, of Hale,	Porter,	Whiteside,
King,	Reese,	Willet,
Kirk,	Renfro,	Wilson (Clarke),
Kirkland,	Reynolds (Chilton),	Wilson (Wash'gton),
Ledbetter,	Robinson,	Winn,
Leigh,	Rogers (Lowndes),	

So the ordinance was adopted.

MR. FOSTER—I rise to a question of inquiry. The ordinances that we have in hand have once been adopted by the Convention have they not?

THE PRESIDENT—Rule 53 seems to relate to the whole Constitution. It says, "The Committee on Order, Consistency and Harmony of the Constitution shall report the whole Constitution so reported shall be read and acted upon Article by Article, and submitted to the vote of the Convention; if the majority of the members present shall vote therefor the same shall be adopted, but if amendment in any particular it shall be referred with such amendments so adopted to be re-written, and report the same to the Convention for its action. When the Constitution shall have been finally adopted by the Convention it shall be enrolled, and when enrolled, it shall be again read and attested by the President and the Secretary."

That relates to the Constitution proper. Rule 6 seems to relate to ordinances independent of the Constitution. It says: "All ordinances which have been finally acted upon by the Convention shall be signed by the President, and all other acts of the Convention, except resolutions, which it may become necessary to reduce to writing, shall be evidenced by the signature of the President, attested by the Secretary."

MR. FOSTER—It is simply necessary to get them enrolled and signed by the President and Secretary.

THE PRESIDENT—Yes.

MR. SAMFORD (Pike)—As Chairman of the Engrossing Committee I desire to State to the Chair and the Convention that there are a few ordinances that have been engrossed, but have not been reported. As I understand, they only require the signature of the President and the Secretary, and I suppose they may be reported when we come back as well as now. They have been engrossed, but on account of the rush, the Committee has not had the opportunity to compare them and we could not report them right now.

THE PRESIDENT—They have not been finally passed?

MR. SAMFORD (Pike)—No sir. They have been passed and engrossed, but whether they ought not to be passed after engrossment, I do not know.

MR. deGRAFFENREID—The Chair has just ruled that they need not be.

THE PRESIDENT—If they have been finally passed, they do not have to be reported, but enrolled. The Chair does not understand how these ordinances are before your Committee.

MR. SAMFORD—They were referred to the Committee on Engrossment and have never been reported back.

THE PRESIDENT—The Chair was under the impression that all ordinances reported to this Convention had been referred to the Committee on Order, Consistency and Harmony.

MR. SAMFORD (Pike)—For instance, the ordinance that refers to the Court House in Shelby County has just been engrossed and the Engrossing Committee have never reported it back.

THE PRESIDENT—That ordinance was reported here from the Committee on Order, Consistency and Harmony. The present occupant of the Chair was not in the Chair at that time. It seems that that should have been referred to the Committee on Harmony, instead of Committee on Engrossment.

MR. WHITE—It has already been referred to Committee on Order, Consistency and Harmony and that Committee has reported it back with the recommendation that it be signed and enrolled, in accordance with the rule the President has just read.

MR. BLACKWELL—I move we adjourn to Monday at 12 o'clock.

MR. REESE—I rise to a question of inquiry. Has this Convention made any order yet when it adjourns as to what time it will adjourn to.

THE PRESIDENT—It has not.

MR. REESE—I move that when this Convention adjourn that it will adjourn to meet at 12 o'clock Tuesday.

MR. BLACKWELL—I move to amend that it adjourn at 12 o'clock Monday.

MR. WADDELL—I move to amend by making it Monday.

THE PRESIDENT—It is moved that when this Convention adjourn it adjourn to meet at 12 o'clock Tuesday, and the gentleman from Russell moves to amend by making it 12 o'clock Monday. The question will be upon the motion of the gentleman from Russell.

Upon a vote being taken the motion of the gentleman from Russell was carried.

THE PRESIDENT—The question is on the original motion as amended.

Upon a vote being taken the original motion as amended was carried.

MR. SAMFORD (Pike)—I move that we now adjourn.

Thereupon the Convention adjourned.

During the remarks of Mr. Freeman upon the amendment to Suffrage Article offered by him, the report should show that Mr. Pillans of Mobile, rose to the point of order that under the rules of the Convention all papers should be read from the Clerk's desk, which point of order was overruled.

EIGHTY-FIRST DAY

MONTGOMERY, ALA.,
Monday, Sept. 2, 1901.

The Convention met pursuant to adjuornment, was called to order by the President and opened with prayer by Rev. Mr. Bancroft of Wetumpka, as follows:

O, Lord, God, our Father in Heaven, we pray Thy blessings to rest upon us this morning as we enter upon the duties of this day. May Thy Spirit guide us, may Thy counsels direct us in all things that we do and say. We thank Thee, O, Lord, for the blessings of the past and for the good Providence that is over us now, and we pray Thee to so direct us in all that we do, that the very best things may result to Thy glory and to the upbuilding of Thy cause and kingdom among men. Bless us, we pray Thee, and grant, our Heavenly Father, that each of us may do the work that God has assigned to us to do, in his own way, and in his own station, fulfilling well the duties of his day and generation, and grant, our Lord, when life's pilgrimage is ended and its work is done, that we may all be received at Thy right hand, and to Thee shall be all the praise, through Christ Jesus, our Lord, Amen.

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

Leaves of absence were granted to Mr. Willet indefinitely on account of sickness, and to Mr. White (Jefferson) for today; Mr. Reynolds (Henry) for today; Mr. Thomas W. Coleman (Greene) today.

MR. CASE—I desire to rise to a question of personal privilege. I want to say that on Saturday I voted under a misapprehension. I voted to adopt the Constitution. There was considerable noise, and I was situated in a department remote from the President's chair and I was told that it was to expedite business and as an attestation of what we had done here. Under that instruction, I voted aye. I wish to say that had I known it was to adopt the Constitution, I would have voted no.

MR. HEFLIN (Chambers)—I make the point of order that it is entirely too late to explain a vote. I think it is a bad precedent

to allow gentlemen to come into the Convention a day or two after they have voted and change their vote. I object to it.

THE PRESIDENT—Has the gentleman concluded his statement?

MR. CASE—I just merely wanted to say that I am against several provisions in the Constitution honestly. That I love these delegates; that it is an ordeal to get up, when I know a majority is against me, and make this statement, but I wish to say that I have always tried to be conscientious in everything I do, and I do not want to be placed in the wrong attitude before my people, and I want my statement spread on the official report to set myself right. I do not suppose that it is necessary to tell the provisions that I am opposed to. If it were, I would give my reasons, and if ever called on in the future, I am ready to give my reasons. One reason is I do not like the property qualification for suffrage.

THE PRESIDENT—The Chair does not think that an argument on the question would be in order.

MR. CASE—Very well, I do not insist on that. I have said all that I desire to say.

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

MR. HARRISON (Lee)—I have been in session with you delegates for over three months, and I have never risen to a personal explanation. I am generally reported correctly, and everybody who knows me generally knows where to find me. In coming down from my home this morning, I saw a copy of The Atlanta Constitution with an article in it which I desire the clerk to read in order that I may rise to a question of personal privilege.

The clerk read the article as follows:

Birmingham, Ala., Sept. 1—(Special.)—There is no little concern felt as to the probable outcome of the vote on the ratification of the new constitution for Alabama as prepared by the Constitutional Convention, which has almost concluded its labors. There are many who opine that it will take hard work to have the constitution ratified, while no few say that the vote will show a big majority in favor of the Constitution which has been prepared. However, many things have happened which may throw doubt on the final action and there is no telling right now what is likely to happen. The refusal to vote for the Constitution on the part of ex-Governor W. C. Oates and General Harrison, two of the leading Democrats, created considerable surprise, and the negative votes of Delegates Beddow and Frank S. White of Jefferson County, was somewhat of a boomerang also. While there were only

ten negative votes cast on the adoption of the Constitution in Montgomery in the Convention yesterday afternoon, still it is figured that this is a basis for a good-sized storm.

MR. HARRISON—When the vote was taken on Saturday, I was on my way home, having been called there by my professional business. I did not know nor think that the final vote would take place on Saturday afternoon. I left the hall about 1 o'clock, and it therefore is amazing to me that anyone should record me as voting at all on the proposition, when I was absent, I desire, however, as it calls for it, to say that while there are several provisions in this Constitution which I have opposed to the best of my ability, there are many that I have advocated to the best of my ability. I came here as a Democrat, as I have always been. (Applause.) The Democratic party called this Convention and unsought I was sent here and advocated or opposed every measure, regardless of who it pleased or displeased, following my own convictions of what was right and what was wrong. I labored with the Committee on Suffrage and Elections for six weeks. In some particulars, they adopted provisions that I thought were unconstitutional and impolitic. I fought it there, and I have fought it here, but a majority of you gentlemen, Democrats, my people, citizens of Alabama, have seen proper to place provisions which I oppose in the Constitution. I hold you in my speech on the adoption of the suffrage plan that if calamity befell us, to shake not your gory locks at me and say that I did it, but for good or bad, it will make no difference to me, when you sound the call on the adoption, you can place Harrison in favor of it. (Loud and prolonged applause.) A comparison of the old with the new satisfies me that the latter is the better.

Had I been in my seat on the call of the roll, notwithstanding my objections, I should not have voted as I am reported to have voted. I find myself differing with many of my legal brethren, more distinguished and more learned, perhaps, than I am, and their opinion, if nothing else, has caused me to doubt, and I have never failed to give the benefit of my doubt to my people. I therefore simply desire to say that I regret being absent, and if I had been here, bowing in deference to the will of the majority of my own people, and believing that upon the adoption of this Constitution whether right or wrong, the very salvation and existence of the Democratic party in Alabama depends, I say, sink or swim, live or die, I am with you to the finish. (Loud applause.)

MR. ESPY—I was unavoidably absent last week from this Convention when the vote upon the adoption of the whole Constitution was taken. Had I been present, I should have voted for the adoption of the whole Constitution, and I desire the official journal of this Convention to show that fact.

MR. SPRAGINS—I desire to make a report from the Committee on Order, Consistency and Harmony.

The report was read as follows:

Mr. President:

The Committee on Order, Consistency and Harmony of the Whole Constitution beg leave to report that Ordinance No. 412 as to funding the bonded indebtedness of the State is in the hands of a sub-committee to be re-written, and that it will not be ready to be reported to the Convention at the morning session.

Your Committee beg leave further to say that the St. Clair and Shelby County Ordinance is in the hands of the Engrossing and Enrolling Clerk and your Committee is unable to report back that ordinance at this session.

Your Committee further reports, at the instance and request of the Enrolling Committee, that the original parchment draft of the whole Constitution will not be ready to be submitted to the Convention until 9 o'clock tomorrow morning.

Robt .E. Spragins,
Acting Chairman.

THE PRESIDENT—The report of the Committee on Order, Harmony and Consistency will lie upon the table.

MR. HEFLIN (Randolph)—I desire to call up report No. 34 of the Committee on Incidental Expenses for passage.

THE PRESIDENT — The gentleman from Randolph moves to take up Report No. 34 of the Committee on Incidental Expenses for passage.

Upon a vote being taken the motion was carried.

The report was read 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 use 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 charged by Jos. S. Wing of Montgomery, Ala. 44.70

We find said State charged by Tennille Furniture Co., of Montgomery, Ala. 12.00

We find said State charged by B. Wolff of Montgomery, Ala. 12.75

We find said State charged by Jno. L. Cobbs & Co., of Montgomery, Ala. 29.15

We find said State charged by Wolff & Loeb of Montgomery, Ala. 28.50

We find said State charged by Ellis & 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 & Co. 10.00

Wolff & Loeb 25.00

Ellis & Gay 10.00

Miss Mamie Offutt 8.00

All of which is respectfully submitted,

John T. Heflin, Chairman,

Committee on Schedule, Printing and Incidental Expenses.

MR. HEFLIN—On behalf of the Committee on Incidental Expenses I desire to amend report and make the amount to be paid John L. Cobbs & Co., $29.15. I will explain to the Convention that the Committee after considering this amount carefully, decided that the charges were excessive. A representative of the firm came before the Committee and made the explanation that he had bought all the articles charged to the State except two, and that there was no profit to him at all, and after having heard that

statement, the Committee decided to amend his account and make it $29.15.

As to the amount to be paid to Ellis & Gay, that was for a roller top desk to be used by the Secretary of this Convention, that was for the rent of it. The Committee decided that that was too much rent and cut his account down to 10.00, but after an explanation made to the Committee and having found out that the desk was needed at the State Capitol from a statement made by Mr. Owens, the Historian, we decided to buy the desk and pay $18 for it, and I move that the report be also amended in that particular.

MR. deGRAFFENREID—I want to ask if you will not withdraw that motion for a moment, in order to allow me to move an amendment to your amendment. I am requested to do so by the door-keeper.

MR. HEFLIN—I will withdraw it for a moment.

Mr. Burns sought recognition.

THE PRESIDENT—The question before the Convention at this time is the report of the Committee on Schedule and Printing.

MR. BURNS—There was a little lull in the proceedings and I thought I would get through while we were waiting. It is a question of privilege, Mr. President, and I ask unanimous consent to make a statement.

The consent was given.

MR. BURNS—I just simply wanted to correct the journal. If it is in order to refer back to the votes, etc., I want to state——

MR. REESE—I would like to ask the gentleman if it refers to this Convention or the one of 1875. (Laughter.)

MR. BURNS—I am recorded in the stenographic report as absent or not voting on Saturday on the adoption of the Constitution. My recollection is that I voted one degree louder than any man in the Convention, and then went to work to try to get an old friend of mine to vote like I did. I stood there and voted, I thought, as loud as any respectable man ought to vote, but I would have voted one hundred times more and one thousand times louder if it was necessary for the adoption of the Constitution.

MR. deGRAFFENREID — I offer this amendment to the amendment.

The amendment by Mr. deGraffenreid was read as follows:

"Amend report by striking from the report all of the report, after the figures $8 and inserting in lieu thereof: 'it is recommended that the above amounts be paid.' "

THE PRESIDENT—The question will be upon the amendment offered by the gentleman from Hale, which is an amendment to the amendment offered by the Chairman of the Committee on Schedule and Printing.

MR. deGRAFFENREID—I will state the object of the amendment. As I understand it, the items that are contained in the first part of the report are items of indebtedness which have been contracted by Mr. Hasson, the doorkeeper, under the orders of this Convention, and the report of the Committee recommends that something be paid to each party named in the report, but the amount has been cut down below the sum which was recommended by Mr. Hasson, and which Mr. Hasson, on behalf of the State, under authority conferred upon him by the Convention, contracted to pay. For instance, when the Convention first met it was ascertained that some delegates were not provided with desks and with seats. There were five or six members, who had no seats at all, and a resolution was introduced and passed through the Convention authorizing the doorkeeper to have seats provided at the expense of the State. From time to time, as I understand it, this Convention has ordered the doorkeeper to do certain things, to make certain contracts, to make certain purchases, and he has done so, and he has furnished to the Convention the accounts and the accounts that have been furnished to him, have gone to this Committee of which Mr. Heflin is Chairman, and the Committee has cut down the amounts. In other words, they do not intend to allow the full amount of account as presented by Mr. Hasson, although he has contracted, on behalf of the State, under authority conferred by the Convention, for these various items. As an illustration, I believe this man, D. F. Gorrie is a cabinet maker, and he made this desk, and furnished the members some tables or something of that sort. I do not know the details of it. That was done by Mr. Hasson under orders from this Convention and Mr. Hasson agreed to pay $22. Now the Committee recommends that the Convention pay $17.50, because they do not think the work done was worth $22.

MR. HEFLIN (Randolph)—May I ask the gentleman a question?

MR. deGRAFFENREID—Certainly.

MR. HEFLIN—Do you think that desk is worth $20.

MR. deGRAFFENREID—I would not give $20 for it, but if I had employed an agent and authorized him to go out and buy a desk and he had bought that desk for me, and I had kept the desk, I would pay the $20 without question.

MR. HEFLIN—Do you think the Convention authorized the Door-Keeper to pay three or four prices for things?

MR. deGRAFFENREID—I do not know anything about that but I know the gentleman went out and made the contract. He may have made contracts that you or I would not have made.

MR. HEFLIN—I hold in my hand a key. Are 100 keys like that worth $25?

MR. deGRAFFENREID—I don't know.

MR. HEFLIN—I can show you that we can buy them for 25 cents a dozen.

MR. deGRAFFENREID—As I am informed by the Door-Keeper, he made these contracts in good faith. The saving to the State amounts to $40 or $50. I do not know whether Mr. Hasson feels that if this allowance is not made he will have to pay it out of his own pocket or not. I do not know anything about it. I take it he is a gentleman who is worthy to be trusted. He has made the contracts in good faith. He has acted for us, under orders coming from this Convention, and I believe if anybody is to lose, the State should do so instead of the Door-Keeper. As I understand it, he has made the contract. He is liable. There is no doubt about that. If an agent goes out for his principal and makes a contract and his principal does not ratify that contract, that does not release the agent. The agent is responsible. Mr. Hasson is responsible to these various parties for the amount of these debts. Now if we do not pay it, whether he has made a disastrous contract or not we will have to pay it.

MR. FITTS—If these amounts are scaled down to what is equitable and right, won't those parties accept those amounts and release Mr. Hasson?

MR. deGRAFFENREID—He tells me not. He made an express contract with each one to pay the amount he asked.

MR. FITTS—I do not want to get into any trouble about it.

MR. deGRAFFENREID—I have no interest in the matter personally. He came to me a month ago and told me these facts, that he had made these contracts and had made them in good faith and he would pay the money if the State did not. That he felt he ought to do it.

MR. FITTS—Those prices are excessive.

MR. deGRAFFENREID—They may be excessive. I don't know anything about that. I know nothing about the facts.

MR. GRAHAM (Talladega)—Isn't it a fact that the Door-Keeper has had a number of years experience, and ought to have known what kind of a contract to have made?

MR. deGRAFFENREID—I don't know about that.

MR. GRAHAM—He has had a number of years experience?

MR. deGRAFFENREID—I don't know whether he has—whether he ever waited on a Constitutional Convention before or not, I don't know.

MR. BAREFIELD—I want to ask the gentleman from Hale, if you are correct, then the President of the Convention ought to have appointed a Committee on Expenses to look into the State's affairs—they go and made a contract, and the State is charged three times what it ought to be, ought the State to pay it because the agent bought it?

MR. deGRAFFENREID—I have nothing to do with what the Convention ought to have done. I know what they did do. I know they authorized Mr. Hasson to make these purchases, and I am informed that he made the agreement to pay these various amounts.

MR. ROGERS—What is the whole amount involved?

MR. deGRAFFENREID—About $50.

MR. ROGERS—It is too small a matter to fool away the time of this Convention; pay the money and let us go on.

MR. HEFLIN (Randolph)—Mr. President and gentlemen of the Convention, I want to state on behalf of the Committee that this report has been held up for about forty days. These gentlemen, numbers of them, have been before this Committee, they have been heard time and again, and we had a meeting again this morning, and it was unanimous that the Committee make this recommendation. Now, if the State of Alabama is to pay any price, and to pay three or four prices for articles furnished, you do not need a Committee on Incidental Expenses. If the Convention wants to take the responsibility and pay these amounts regardless of right or justice or equity, it is the responsibility of the Convention, but I want to say to you gentlemen that that item of $22 for the desk used by Mr. deGraffenreid—it is for you to say whether it is worth that amount or not. Now, there is Mr. Wing's account, 25 cents each for these keys, and Mr. Malone went down and investigated and found that they can be bought for 25 cents a dozen. If you go on at that rate, it will be a complete job. We want to pay these men all that we owe them, all that is right and just, and no more. Should the State of Alabama, because she has something in the Treasury, pay more for things than individuals? Is it right, is it common sense? I believe not, and I believe that the majority of this Convention will agree with me and pay what is right and nothing more. Now, Mr. President, I move to lay the amendment offered by the gentleman from Hale on the table.

MR. WATTS—Will the gentleman withdraw that motion for a moment?

THE PRESIDENT—The gentleman declines to withdraw.

Upon a vote being taken, the motion to table prevailed.

THE PRESIDENT—The question is on the amendment offered by the gentleman from Randolph representing the Committee on Schedules and Incidental Expenses.

A vote being taken, the amendment was adopted.

MR. LOMAX—I desire to offer an amendment to the report of the Committee, in reference to the item of Mr. Gorrie, to change the amount recommended by the Committee to $20.

MR. HEFLIN—I rise to a point of order, it is too late. The report of the Committee has been adopted.

THE PRESIDENT—The report of the Committee as amended has not been adopted, the amendment was adopted.

MR. HEFLIN—I move the adoption of the report as amended.

THE PRESIDENT — The gentleman from Montgomery moves to amend, and a motion to amend has precedence over a motion to adopt.

The Secretary read the amendment as follows: Change amount of Mr. Gorrie from seventeen fifty to twenty-two dollars.

THE PRESIDENT—Is that the same item referred to by the gentleman from Hale?

MR. deGRAFFENREID—There were twenty different items in mine. My amendment went to the whole.

MR. LOMAX—I desire to offer an amendment by changing the amount to be paid to Wing to $44. the amount of the bill rendered by him. Now the item for Gorrie is the item for this desk.

THE PRESIDENT—I would inquire if that is the same offered by the gentleman from Hale?

MR. LOMAX—It does not include all the items.

MR. HEFLIN—It was included in the amendment of the gentleman from Hale.

MR. deGRAFFENREID—The gentleman is mistaken. I will explain to the Chair, if I am permitted. The Committee's report included this in a number of items, some fifteen or twenty, and my motion was simply that we should adopt the whole bill of Mr. Hasson as he presented it to the Committee. The Convention

has laid that motion on the table. Two of the items in Mr. Hasson's report—one is this desk, and the other the Wing matter. They were included in my motion a number of others.

MR. LOMAX—I desire to say in support of that amendment that this desk has not been used alone by the gentleman from Hale, Mr. deGraffenreid, although his use of it and services to the State from behind it were worth a great deal more than $20, but this Convention authorized the doorkeeper of the Convention to have a desk made for three members of the Convention who were practically sitting upon the floor at the time the order was given, having no place to sit down, and no desk behind which to sit or keep their papers.

MR. HEFLIN—That same amendment was included in Mr. deGraffenreid's amendment and laid upon the table.

THE PRESIDENT—It seems to the Chair that the item was included. It ought to be taken from the table before another amendment on the same point.

MR. LOMAX—The amendment offered by the gentleman from Hale was an amendment to the amendment offered by the Chairman of the Committee. It was impossible for me to move to amend.

MR. HEFLIN—I insist upon the point of order.

THE PRESIDENT — The Chair is hearing the gentleman from Montgomery on the point of order.

MR. LOMAX—As soon as I could, I offered the amendment, because I do not believe that we ought to permit the doorkeeper to go out here and make contracts that he deems to be reasonable and right and refuse to pay. This Convention has the power to limit him in the amount he would pay, but it failed to do so. Mr. Hasson is bound to those gentlemen whether in law or not, and I do not believe the Convention ought to put that burden upon him. If we wanted to limit him, we ought to have done it in the beginning. Now, with reference to the keys, the question is asked if they are worth twenty-five cents each, and that they can be procured at so much a dozen, but you cannot buy those keys at so much a dozen and have them fitted to one hundred and fifty-five desks. You undertake to get keys fitted to a desk or a door of any place in this Convention, and you would have to pay twenty-five or fifty cents to have it fitted.

MR. HEFLIN—We can buy the locks and keys at fifty cents a dozen.

MR. LOMAX—We already had the locks and had to buy keys for them. They authorized the doorkeeper to buy them and he has

contracted for them, and the Convention ought not to put the burden upon him. I hope the Convention will adopt the amendment which I have offered to the report of the Committee.

THE PRESIDENT—The Chair would call the attention of the gentleman from Montgomery to the fact that the amendment which he now offers was similar and the point of order is made that it was laid on the table.

MR. LOMAX—The Convention had no opportunity to vote upon a separate amendment, I had no opportunity to offer a separate amendment, because the motion of the gentleman from Hale was a motion to amend the amendment. I did not offer the whole thing again, but to change two accounts here, and I submit it ought to go to the Convention.

THE PRESIDENT—It seems to the Chair that the point of order is well taken, the matter having been laid upon the table, it is not properly before the Convention unless taken from the table.

MR. HEFLIN—I move that the report of the Committee as amended be adopted, and upon that I call for the previous question.

MR. O'NEAL—I move to lay the report of the Committee on the table.

THE PRESIDENT—The question is shall the main question be now put. The gentleman from Lauderdale moves to lay the report as amended on the table, this motion has precedence to a motion for the previous question.

MR. O'NEAL—I do that for the purpose of amending it——

THE PRESIDENT — The question is not debatable. The question is upon laying the entire report as amended on the table. The question is shall the main question be now put?

The main question was ordered.

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

The roll call resulted as follows:

AYES

Messrs. President,	Brooks,	Carmichael, of Coffee,
Altman,	Bulger,	Carnathon,
Ashcraft,	Burnett,	Cofer,
Barefield,	Burns,	Coleman, of Walker,
Beavers,	Byars,	Davis, of DeKalb,
Beddow,	Cardon,	Davis, of Etowah,
Bethune,	Carmichael, of Colbert,	Dent,

Eley,
Eyster,
Fitts,
Fletcher,
Foshee,
Freeman,
Glover,
Graham, of Talladega,
Grant,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Wilcox,
Kirkland,
Knight,
Leigh,
Lomax,
Lowe (Lawrence),
McMillan (Baldwin),
Malone,
Merrill,
Miller (Wilcox),
Murphree,
Norwood,
Oates,
O'Neal (Lauderdale),
Opp,
O'Rear,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Phillips,
Pillans,
Pitts,
Porter,
Renfro,
Reynolds (Chilton),
Robinson,
Sanders,
Sloan,
Smith (Mobile),
Smith, Mac. A.,
Spears,
Spragins,
Stewart,
Studdard,
Tayloe,
Thompson,
Vaughan,
Walker,
Weakley,
Weatherly,
Whiteside,
Wilson (Clarke),

TOTAL—82

NOES

Banks,
Bartlett,
Blackwell,
Chapman,
Cobb,
deGraffenreid,
Gilmore,
Graham, of Montgomery,
Grayson,
Hood,
Ledbetter,
Long (Walker),
Macdonald,
McMillan (Wilcox),
Martin,
Miller (Marengo),
Mulkey,
NeSmith,
Rogers (Sumter),
Sollie,
Williams (Barbour),

TOTAL—21

ABSENT OR NOT VOTING

Almon,
Boone,
Browne,
Case,
Coleman, of Greene,
Cornwall,
Craig,
Cunningham,
Duke,
Espy,
Ferguson,
Foster,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Henderson,
Hodges,
Howell,
Howze,
Jones, of Hale,
Jones, of Montgomery,
King,
Kirk,
Lyle,
Locklin,
Long (Butler),
Lowe (Jefferson),
Maxwell,
Moody,
Morrisette,
Norman,
O'Neill (Jefferson),
Palmer,
Proctor,
Reese,
Reynolds (Henry),
Rogers (Lowndes,
Samford,
Sanford,

Searcy,	Waddell,	Williams (Elmore),
Selheimer,	Watts,	Wilson (Washington),
Sentell,	White,	Winn,
Smith, Morgan M.,	Willet,	
Sorrell,	Williams (Marengo).	

So the report of the Committee as amended was adopted.

Leaves of absence were granted as follows: To Mr. Reynolds of Henry, and to Mr. Coleman (Greene) for today.

MR. GRAHAM (Talladega)—I make the point of order that this Convention now stands adjourned.

THE PRESIDENT—Under the rules, it being past 1 o'clock the Convention stands adjourned.

AFTERNOON SESSION

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

MR. EYSTER—I ask unanimous consent to introduce a short resolution.

Consent was given.

The Secretary read the resolution as follows:

Whereas, The people are desirous of seeing both the old and the new Constitution for the purpose of comparison, and

Whereas, the principal cause of dissatisfaction in some parts of the State arises from lack of knowledge of the differences between the two instruments, and as to which the people desire means of enlightenment, and

Whereas, The cost of printing 100,000 copies would be only about 20 per cent. more than printing 50,000 copies, Therefore be it

Resolved, That all resolutions heretofore passed by this Convention in regard to printing the new Constitution be and the same are hereby repealed.

Resolved, further, That the President and Secretary be and they are hereby instructed to have printed for distribution 100,000 copies of the new and the old Constitution, in parallel columns in addition to the publication provided for in the act calling this Convention. A sufficient sum of money not otherwise appropriated, is hereby appropriated to cover the cost of said printing, etc.

THE PRESIDENT—The resolution will be referred to the Committee on Schedule, Printing and Incidental Expenses.

MR. SMITH (Mobile)—On behalf of the Committee on Rules, I desire to introduce a report.

The Secretary read the report as follows:

The Committee on Rules reports favorably.

Resolution 230, by Mr. Harrison:

Resolved, That the Secretary of this Convention be and he is hereby instructed to deposit report and index of the Convention in the libraries of the following institutions in this State, to-wit:

One at the University of Alabama, one at the Alabama Polytechnic Institute, one at the Southern University, one at Howard College, one at Spring Hill College, and one at the Normal College at Florence, and the Girls' Industrial School at Montevallo and also at the Normal College at Troy.

MR. HARRISON—The resolution just read explains itself. I think the Convention will see the propriety of furnishing the libraries of these institutions with a copy, and I therefore move its adoption.

MR. COBB—I would suggest that it would be well to include the index to the reports.

MR. HARRISON—I thank the gentleman for the suggestion.

THE PRESIDENT—Is there objection to adding the index? The Chair hears none and it is so ordered.

MR. GRAHAM (Talladega)—At the time this matter was up I endeavored to include the Alabama Girls' Industrial School, and I would be glad to amend by adding that school.

The amendment was adopted.

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

A vote being taken, the resolution as amended was adopted.

MR. OATES—I have a resolution I desire to offer.

The Secretary read the resolution as follows:

Resolution 333 by Mr. Oates:

Whereas, The prime object of calling this Convention was to elevate the electorate and secure honest elections.

And whereas, It is rumored and predicted that ballot box stuffing and dishonest counting will be resorted to in order to secure the ratification of the Constitution now completed, and about to be submitted to the people for ratification.

And whereas, A belief on the part of any considerable number of our citizens, though erroneous that its ratification by such means would cast a reflection upon the reform above referred, to; therefore,

Resolved, by the delegates of the people of the State in Convention assembled, That we recommend the election officers of the State to use every means to secure an honest and fair election, and honest returns of all votes cast for and against the ratification of this Constitution.

Resolved, That the county officers whose duty it is to appoint inspectors and clerks of the election, to appoint at each polling place wherever practicable, one of the inspectors and one of the clerks, who are opposed to the ratification, and who are white men and can read and write.

Referred to Committee on Rules.

MR. COBB—I have a resolution which I ask unanimous consent to offer.

The consent was given.

The resolution was read as follows:

"Resolved, That on tomorrow immediately after the reading of the Journal, the roll of the Convention of those who failed to answer to their names on the call of the roll for the adoption of the whole Constitution be called, that those absent delegates may have an opportunity to record their votes."

MR. COBB — I introduce that resolution at the request of some gentlemen who were not here the other day, but who would like to record their names for the ratification of the Constitution.

THE PRESIDENT—The question is not debatable without a suspension of the rules.

MR. COBB—I move a suspension of the rules, and that this resolution be put upon its passage.

Upon a vote being taken the rules were suspended.

Upon a further vote being taken the resolution was adopted.

MR. PETTUS—I move that the rules be suspended and that the privileges of the floor be extended to the Hon. W. B. Troupe of Morgan.

MR. BURNS—I move to amend by adding the name of the Hon. John W. Inzer of St. Clair, a distinguished gentleman of this State and an ex-member of the Constitutional Convention of 1875.

Upon a vote being taken the privileges of the floor were extended to the gentlemen named.

MR. CARMICHAEL (Colbert)—I ask unanimous consent to introduce two ordinances.

Ordinance No. 463 by Mr. Carmichael (Colbert), was read as follows:

An ordinance to provide for the payment of the Secretary of the Convention and his assistants for services to be rendered after the adjournment of the Convention.

Whereas, The Secretary will be unable to complete the clerical work of the Convention before adjournment,

Therefore, be it ordained by the people of Alabama in Convention assembled, That the sum of $200, or so much thereof as may be necessary, be and the same is hereby appropriated to be paid to F. N. Julian, Secretary of the Convention, for compensation for services necessary to be rendered by him and his assistants after the adjournment of the Convention in completing the clerical work of the Convention.

Be it further ordained, That the President of the Convention is hereby authorized after the adjournment of the Convention to certify the amount due to said Secretary to the State Auditor, who shall draw his warrant in favor of the said Secretary upon the State Treasurer for the amount to certify by the President.

Referred to Committee on Schedule, Printing and Incidental Expenses.

MR. CARMICHAEL—I move that the rules be suspended, that the ordinance may be put upon its passage. The Secretary will not have completed his labors at the time of the adjournment of the Convention, and this provides for the payment of the Secretary and his assistants for the work they will have to do after the Convention adjourns.

MR. HOWELL—Have we not already given him five hundred dollars extra for the work?

MR. CARMICHAEL—Yes. I will state in answer to that question that that work for which we have appropriated five hundred dollars does not include this work. It is customary for the legislature to take an adjournment for one day prior to its final adjournment in order that the Secretary may catch up with his work, but the last two or three days of this Convention have

brought a good deal of work upon the Secretary and his force, and he will not be able to complete the work. The appropriation already made, as I said before, is not for this work, but is for copying the journal and superintending the printing of the journal and making such corrections as were necessary and filing such papers as were required to be filed in the office of the Secretary of State.

Upon a vote being taken the motion to suspend the rules was lost and the ordinance was referred to the Committee on Scedules, Printing and Incidental Expenses.

Ordinance No. 464 by Mr. Carmichael of Colbert, was read as follows:

Ordinance No. 464 by Mr. Carmichael of Colbert:

To make an appropriation for the compensation of Robert Chapman for the enrollment of the proposed Constitution.

Be it ordained by the people of Alabama in Convention assembled, That the sum of one hundred dollars ($100) be and the same is hereby appropriated to pay Robert Chapman for his services in enrolling the proposed new Constitution.

Be it further ordained, That the President of this Convention be and he is hereby authorized to certify the amount due said Robert Chapman to the Auditor, who shall draw his warrant upon the Treasurer in favor of the said Robert Chapman.

MR. CARMICHAEL—I move that the rules be suspended and that this ordinance be adopted.

Upon a vote being taken the rules were suspended.

THE PRESIDENT—It will be necessary to have an aye and no vote on the adoption of this ordinance. As many as favor the adoption of the ordinance will say aye and those opposed no, as your names are called.

Upon a call of the roll the vote resulted as follows:

AYES

Messrs. President,	Bulger,	Craig,
Altman,	Burnett,	Davis, of DeKalb,
Ashcraft,	Burns,	Davis, of Etowah,
Banks,	Byars,	Dent,
Barefield,	Cardon,	deGraffenreid,
Beddow,	Carmichael, of Colbert,	Eley,
Bethune,	Carmichael, of Coffee,	Eyster,
Blackwell,	Carnathon,	Espy,
Boone,	Cobb,	Fletcher,
Brooks,	Coleman, of Walker,	Foshee,

Gilmore,
Glover,
Graham, of Talladega,
Grayson,
Haley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Hinson,
Hood,
Howell,
Inge,
Jenkins,
Jones, of Bibb,
Jones, of Wilcox,
Knight,
Kyle,
Ledbetter,
Leigh,
Long, of Walker,
Macdonald,
McMillan, of Wilcox,
Malone,
Martin,
Merrill,
Miller, of Marengo,
Miller, of Wilcox,
Moody,
Murphree,
Norman,
Norwood,
O'Neal, of Lauderdale,
Opp,
O'Rear,
Parker, of Cullman,
Pearce,
Pettus,
Phillips,
Pitts,
Reese,
Renfro,
Robinson,
Rogers, of Lowndes,
Sanders,
Sanford,
Searcy,
Sentell,
Smith, of Mobile,
Spears,
Spragins,
Thompson,
Waddell,
Walker,
Weatherly,
Whiteside,
Williams, of Barbour,
Williams, of Marengo,
Wilson, of Clarke,
Winn,

TOTAL—89

NOES

Bartlett,
Freeman,
Porter,
Reynolds, of Chilton,
Sloan,
Smith, Mac. A.,

TOTAL—6

ABSENT OR NOT VOTING

Almon,
Beavers,
Browne,
Case,
Chapman,
Cofer,
Coleman, of Greene,
Cornwall,
Cunningham,
Duke,
Ferguson,
Fitts,
Foster,
Graham, of Montgomery,
Grant,
Greer, of Calhoun,
Greer, of Perry,
Handley,
Henderson,
Hodges,
Howze,
Jackson,
Jones, of Hale,
Jones, of Montgomery,
King,
Kirk,
Kirkland,
Locklin,
Lomax,
Long, of Butler,
Lowe, of Jefferson,
Lowe, of Lawrence,
McMillan (Baldwin),
Maxwell,
Morrisette,
Mulkey,
NeSmith,
Oates,
O'Neill (Jefferson),
Palmer,
Parker, of Elmore,
Pillans,
Proctor,
Reynolds (Henry),
Rogers, of Sumter,
Samford,
Selheimer,
Smith, Morgan M.,
Sollie,
Sorrell,
Stewart,
Studdard,
Tayloe,
Vaughan,
Watts,
Weakley,
White,
Willet,
Williams, of Elmore,
Wilson, of Washington

So the ordinance was adopted.

MR. SMITH (Mobile)—I desire to ask unanimous consent to make a report from the Judiciary Committee.

The consent was given.

The report was read as follows: "The Committee on Judiciary reports adversely Ordinance No. 460."

MR. SMITH (Mobile)—Mr. President, I desire to say that the Judiciary Committee adversed the ordinance because it could find no field of operation for it. The ordinance itself is a proper one, if there is a field of operation, and our purpose was that the Convention might know if there was a field of operation that the Convention might call attention to it. I ask therefore, that the ordinance be read so that if there is a field of operation some action might be taken.

MR. deGRAFFENREID—I want to say that the ordinance came to this Convention, my recollection is, from the Committee on Order, Consistency and Harmony. We discussed it and also came to the conclusion that it had no field of operation.

The ordinance was read as follows:

Ordinance No. 460, by Mr. White:

An ordinance to empower and authorize the Legislature to amend or repeal all ordinances adopted by the Convention not contained in the proposed Constitution.

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

That the Legislature be and the same is authorized and empowered to revise, alter, amend or repeal all ordinances or parts of ordinances adopted by this Convention not incorporated in the proposed Constitution of the State by act passed and approved by the Governor as in other cases; provided, that the Legislature shall have no power or authority to repeal an ordinance relating to the bonded indebtedness of the State adopted by the Convention on the tenth day of August, 1901. Provided further, that the legislature shall have no power to repeal or annul ordinances establishing court houses except in accordance with Section 41 of Article II of this Constitution.

THE PRESIDENT—The question will be upon the ordinance reported by the Committee on Judiciary.

MR. deGRAFFENREID—I move that the ordinance be laid upon the table so that it can be called from the table at any time before the Convention adjourns.

MR. OATES—I would like to say that ordinances passed by the Convention are only laws and can be repealed or amended by the Legislature. They have no higher force of operation than the acts of the Legislature. They are not a part of the Constitution.

MR. ASHCRAFT—I ask unanimous consent to introduce a petition to have it read and referred to the proper committee.

MR. O'NEAL—I object unless the gentleman will refer without reading to the proper committee.

THE PRESIDENT—The petition will be referred without reading to the Committee on Suffrage and Elections.

MR. ASHCRAFT—I move that the rules be suspended and that the petition be read. It is not long.

Upon a vote being taken the Convention refused to suspend the rules.

MR. SPRAGINS—I desire to make a report of the Harmony Committee. We ask unanimous consent to make it.

The Committee on Order, Consistency, and Harmony of the Constitution recommend that Ordinance 390, heretofore adopted by this Convention, be amended as follows:

Strike from the last line on page 1 and the first line on page 2 of said ordinance the following words:

The portion of St. Clair county which lies south and southeast of "Backbone Mountain" and insert where said words occur the following:

"The above mentioned precincts of St. Clair county."

Also strike from the fourth and fifth lines from the bottom of the third page of said ordinance the following words:

"Court house or."

Also strike from said ordinance the following figures, 8, 9, and 13 wherever they occur in said ordinance relating to Shelby county.

Also strike from the seventh, eighth and ninth lines north and northwest of said "Backbone Mountain," and insert in lieu thereof the following: "Said St. Clair county outside of the above named beats."

Robert E. Spragins,
Chairman.

THE PRESIDENT—Unanimous consent is asked to make the proposed amendment. Is there objection? The Chair hears none; it is so ordered.

The Clerk read a further report of the Committee on Order, Consistency and Harmony as follows:

Mr. President, the Committee on Order, Consistency and Harmony herewith returns ordinance 412 to which the same as engrossed was referred, with the recommendation that the same be amended as indicated by this committee. The ordinance as recommended to be amended is hereto attached and made a part of this report. Robert E. Spragins,
Acting Chairman,

Ordinance 412. An ordinance relating to the bonded indebtedness of the State.

Be it ordained by the people of the State of Alabama, in convention assembled:

Section 1.—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 Feb. 18th, 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 Feb. 18, 1895, 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 to carry out the provisions thereof provided, that the bonds mentioned in said act and issued thereunder may be made payable at any time, not exceeding fifty years from the date thereof and shall not be redeemable until their maturity.

Sec. 2.—Be it further ordained, that this ordinance shall take effect from and after its passage.

MR. SPRAGINS—We ask unanimous consent to make the amendment.

Consent was given, and the amendment ordered.

MR. SPRAGINS—I move that both of these be referred to the Committee on Enrollment.

THE PRESIDENT—It will be so referred.

MR. SPRAGINS—It is suggested that they had better be adopted as amended.

THE PRESIDENT—It seems to the Chair that it was done by unanimous consent, and it is not necessary to take a second vote.

MR. MERRILL—The ordinance provides for the amendment of the body of the Constitution and perhaps it will be better to call for the ayes and noes on it.

THE PRESIDENT—We will have an aye and no vote when it comes back from the Committee on Enrollment, if the gentleman thinks best.

MR. GILMORE—I move that the vote by which the report of the Committee on Schedule, Printing and Incidental Expenses was adopted this morning be reconsidered.

THE PRESIDENT—The motion will lie over until tomorrow morning.

MR. HEFLIN (Chambers) — The Committee on Schedule asks unanimous consent to make a report.

THE PRESIDENT — The gentleman has not yielded the floor.

MR. GILMORE—This Convention has spent thousands and thousands of dollars in making speeches in behalf and for the benefit of old Confederate soldiers of this State——

THE PRESIDENT—The Chair would suggest to the gentleman from Clarke that unless there is a suspension of the rules his motion will go over and come up for consideration in the morning.

MR. GILMORE—I move that the rules be suspended, and that the motion to reconsider be now taken up and passed upon.

Mr. Heflin (Randolph) sought recognition to discuss the motion to suspend the rules.

THE PRESIDENT—It is not debatable. If the rules are suspended then it is debatable.

MR. GILMORE—I withdraw the motion to suspend the rules.

MR. O'NEAL—The gentleman has not imposed upon this Convention, and I ask a suspension of the rules, and that he be allowed to make a statement of the purposes of his motion.

(There was objection.)

MR. deGRAFFENREID—I move that the rules be suspended in order that the gentleman may be allowed to make a speech on the subject if he wants to.

Upon a vote being taken a division was called for, and by a vote of 44 ayes and 38 noes, the Convention refused to suspend the rules.

THE PRESIDENT—The motion to reconsider will go over until tomorrow morning.

MR. OATES—I never have in all my legislative experience arisen to a question of personal privilege, and I have none now.

A question of privilege is for the purpose of redressing a grievance or causing some correction to be made that has done gross injustice to a person. I have no such complaint, but, sir, I do wish the attention of this Convention for a few minutes, and its indulgence in order to explain my position with regard to the work which is now about completed in the framing of this Constitution.

THE PRESIDENT—The gentleman asks unanimous consent to make a statement. Is there objection? The Chair hears none.

MR. OATES—Mr. President, I heard this morning a statement read from a newspaper when the delegate from Lee arose to a question of privilege for the purpose of correction. I heard also that remarks were made by delegates of why it was that I was absent on Saturday when an aye and no vote was taken on the Constitution as a whole. I was here in the afternoon until near two o'clock. I had a professional engagement at my office that day for half past one, supposing that the Convention would adjourn at the usual hour, I remained here until after the schedule had been read, and came back to the door and saw it was being considered, and thought there was nothing more to be done at that session. I never ran away from it. I do not know that it it wise, but I am not afraid of anything in God Almighty's world except one, and that is doing wrong. Nothing else do I fear. Now, sir, I wish to say that I have gone over and made a comparison with the present Constitution of the new one just framed, as rapidly as I could, when article after article was reported by the Committee on Harmony and passed upon. I never did pride myself on delivering a written speech or address and I have reduced that comparison, incomplete, however, but as to most points, to writing, and I desire that it be printed in the stenographic report along with the brief discourse that I shall deliver. It might fatigue you, it is rather long, and I cannot afford to consume so much of the time of the Convention as reading it would require, but I do propose to make in conclusion a statement I have reduced to writing, that I might not be misunderstood.

COMPARISON BETWEEN THE OLD AND NEW CONSTITUTION

1. The declaration of rights in the new Constitution is a decided improvement upon that in the present Constitution.

2. The article on State and county boundaries, I do not think, upon the whole, is an improvement upon the provision thereof in the present Constitution.

3. The distribution of powers of government is substantially the same as in the old or present Constitution.

LEGISLATIVE DEPARTMENT

4. Several changes have been made in this article nearly all of which are a decided improvement upon the provisions of the

same article in the present or old Constitution. The provision for quadrennial sessions of the Legislature is experimental, for no other State has a Legislature to assemble but once in four years. It may work well, or it may not. No one knows. The understanding when this was adopted was, that all of our elections for State officers would occur but once in four years, but when the Convention adopted the Judicial Department, they made provision for the election of some of the Judges every two years. It is problematical whether the change to quadrennial sessions is wise or unwise.

5. Changing the name from General Assembly to that of the Legislature and simplifying the style of the laws are good changes, but they are matters of minor importance.

6. The Legislative Department is a great improvement over that of the old or present Constitution in many respects. Provisions against lobbying, bribery and corrupt interference with legislation is a decided improvement. A lax construction or disregard practically of Sections 23, 24, 25 of the old Constitution by legislators, opened the door very wide to all kinds of local legislation, which became a great abuse and consumed time of the Legislators, which should have been devoted to the graver and more important matters of legislation. The restrictions in this department upon the powers of the Legislature, are wise and very useful. The stringent provisions against local legislation are rendered necessary by the abuses above referred to. These restrictions may go a little too far, but they are indeed a most salutary improvement over the provisions of the present Constitution. There are many changes made in the matter of enacting laws, revenue provisions and against extravagant appropriations, and after careful consideration, I pronounce the Legislative Department of the new Constitution far superior to that of the present one.

I make one exception, Section 102 against miscegenation originally was carefully written by myself following substantially the language of our penal statute, but the Convention amended it so as to prohibit intermarriage between a white person and any negro or the descendant of a negro, even in the 50th degree. I offered an amendment on final review of the Constitution, so as to make this provision definitely specifying a distant degree to prevent the confusion in the courts which certainly this indefinite and sweeping section will give rise to, but like other good measures advocated by me, it was laid upon the table, on the motion of a delegate who was deficient in understanding its importance. A Constitution should be adapted to future conditions which may arise as well as the present. Some people have the misfortune of being construed on the radical plan. I am naturally a conservative and never radical in anything.

In the review of the new Constitution, the Convention after repeated efforts to give sheriffs the right to succeed themselves in office, which would have been a complete innovation, they practically re-elected those now in office, by extending the term to which they were elected for two years. This, I thought, should have been left to the people.

EXECUTIVE DEPARTMENT

Several important changes have been made in this branch of the new Constitution. The office of Lieutenant Governor has been created, for which there was a necessity in case of the death or disability of the Governor. The Governor and all the State officers, are to be elected for a term of four years instead of two, and are made ineligible to a second term. This is a wise change for several reasons. Succession to the office of Governor has been provided for in case of the death or disability of that official. The pardoning power of the Governor still remains but is modified by a board of pardons to approve bills passed by the Legislature after its adjournment, which gives him full time for consideration. His veto of bills and other powers are somewhat extended, but better defined than in the present Constitution. This department in the new Constitution is a decided improvement and taken as a whole, much better than in the present or old Constitution.

JUDICIAL DEPARTMENT

All of the courts and salaried court officials under the old or present Constitution, are retained in the new, and ample provision made for the creation of additional ones. The five chancellors and sixty-six registers, are retained as a separate chancery system, but the Legislature is vested with power to blend and mix jurisdictions. The same person is authorized to hold both the office of Clerk of the Circuit Court and Register in Chancery which makes a better job for some favorites, but is contrary to the spirit of the times and another provision of the new Constitution that no person shall hold two offices under the State at one and the same time with some small exceptions therein named. There are not offices enough to provide one for every worthy man, much less the horde of hungry aspirants.

The new Constitution like the old, declares that no judicial circuit shall contain less than three counties, but provides that every county of over 20,000 population and three and one-half million dollars worth of taxable property, may be constituted a circuit, and have a judge at the expense of the State.

I think that the Chancery Courts should have been abolished at the expiration of the terms of the incumbents, for the reason that it is the most expensive court and wholly unnecessary. There are but four States in the Union which maintain this separate

chancery system; and in Great Britain where it originated, it was abolished by act of parliament more than thirty years ago. The judges of the law courts can decide equity causes just as well as chancellors, although our chancellors, as a rule, are able and capable. The burdens of the people should have been lightened by the Convention in every way practicable, consistent with efficient transaction of the public business. A judge should so deport himself as to impress the people with his uprightness and freedom from prejudice. Years ago no judge participated actively in partisan politics. It has, I regret to say, become a practice with many. The Convention refused to adopt the amendment declaring that no judge should take an active part in partisan politics, and did itself no credit by this action.

I made a persistent effort to have reformed the grand jury system and provide for the trial of felonies, which, on conviction, are by law, punishable capitally, whether committed by individuals or by mobs, so as to suppress the evil practice of allowing murderers to go unpunished; yet the amendment was laid upon the table. No one denied the existence of such outrages, and yet no one offered a substitute, or made the slightest effort to correct the savagery which is most usually ignored by the grand jury, if the slain was only a negro, notwithstanding the fact that the white people alone make and execute the laws. The responsibility for this bad state of things is upon the white people. Such lawlessness is chargeable to us because it is our duty to devise the means of stopping it and of affording protection to human life.

The Convention at first, resolved to adopt the system of County Solicitors to be elected by popular vote. They changed it back and forth four or five times and finally adopted a provision retaining Circuit Solicitors and providing also for County Solicitors, to be elected by the people or appointed by the Governor. This provides for too many prosecuting officers, and will take more money out of the treasury of the State to pay the salaries, than will be replaced as the result of their prosecutions. A good provision in this department is an authorization of the Legislature to abolish a court in its discretion when the same ceases to be of utility, but the Convention refused to adopt an amendment relieving the State from further payment of the salary of a judge when his court is abolished. He would, therefore, unless a mere statutory judge draw his salary out of the treasury for his full term, though his court had been abolished. This practically annuls the authority to abolish a court until the expiration of the term of the judge thereof.

Upon the whole, after a careful examination of the provisions of the Judicial Department of the new Constitution, while there are some good provisions, I do not think it much improvement, and doubt whether it be an improvement at all on the present Con-

stitution. In point of economy it certainly is not, but provides a much more expensive system. It will become such at an early date.

IMPEACHMENTS.

This Article ha not been much changed, but the changes made in it make it more definite in its provisions, and is thereby an improvement over the similar provision in the present Constitution. In cases of impeachments before the Senate it very properly requires the Chief Justice of the Supreme Court to preside.

REPRESENTATION.

This is unchanged from the old, in the new Constitution, except an increase of two Senators and five Representatives, which was wholly unnecessary and might easily have been avoided. It was gratifying to some of the delegates, and hence without additional reason, so far as I could see, it was adopted as reported by the Committee. It incurs some additional expense to the administration of the State Government which might have been avoided.

TAXATION.

A good many changes have been made in this Article from the similar Article of the present Constitution. I doubt very much the wisdom of all of them. Some are good. The general provision reducing the rate of taxation from 75 cents to 65 cents on each $100 of taxable property is of doubtful expediency, though the people always hail with delight any measure which seems to lighten their burdens of taxation. If it produces enough revenue to meet the necessities of the State, it will be well.

I presented and urged the adoption of a well constructed ordinance looking to the refunding of our bonded debt, which will mature five years hence, in long-time bonds at 3 1-2 per cent. interest, but it was tabled. A similar ordinance was subsequently adopted. I offered a carefully prepared provision for selling fifty-year bonds, bearing 3 1-2 per cent. interest to raise $96,000 with which to buy the remainder of the square upon which the Capitol Building is situated and to enlarge and repair the building which would make it a commodious Capitol for thirty years, but the Convention voted it down, upon the plea that the State would have a surplus of revenue, and would appropriate the money for the purpose. The permanent appropriation for the public schools is three of the six and a half mills, together with the interest on the Sixteenth Section trust funds and upon the United States surplus revenue funds which altogether will aggregate $1,100,000, and then the interest on the bonded debt, near $500,000 more, so that when in addition the current expenses of the State Government are met, there will not be any surplus revenue left, and the old historic Capitol will go without enlargement or permanent repair, the south

end of the square will not be bought, and in less than five years there will be agitated the project of erecting a new Capitol building to cost the people of the State $1,000,000.

I introduced an ordinance to increase the salary of the Governor. It was debated and remitted to the Legislature, which will not be likely to do it.

The Article on Taxation contains an inheritance tax provision, which is a novelty in this State, but I think it a good one.

SUFFRAGE AND ELECTIONS.

My position on this subject was substantially defined in a letter published in The Age-Herald before I was nominated as a delegate to this Convention. In that letter I said:

"I am in favor of honest elections, which are the basis of our governments—State and Federal—which cannot be uniformly had in Alabama except by a revision and purification of the elective franchise, by extirpating therefrom dense ignorance and corruption. This is a delicate and difficult question to deal with successfully, and nothing short of the aggregate wisdom of a Convention of our best and ablest men can accomplish it in a just and satisfactory manner.

"The suffrage clause in a State Constitution should not, in terms, exclude anyone from the elective franchise on account of race nor require an educational or property qualification; but intelligence and good character should be made the test. No felon, no man of notoriously bad character, no man who has not paid his poll tax, no man who has ever sold his own or bought the vote of another, nor anyone who cannot read intelligently, or understand when read to him, any Section of the Constitution, should be allowed to register as a voter. And in order that no injustice be done by registration to anyone legally entitled, an appeal should be given from such decision to the courts. Those who are disfranchised for crime committed should be restored to their rights of franchise, if at all, only by the vote of two thirds of the members of the General Assembly.

DISFRANCHISEMENT.

"The disfranchisement of the whole negro race would be unwise and unjust. They constitute a large minority of our State population—over 800,000. Among them are many honest, industrious and good citizens, capable of fairly understanding the issues of a campaign and for what they would be called upon to vote. Such men are patriotic. When volunteers are wanted to fight our battles they furnish their quota. Some have acquired property and pay their taxes, but the great mass of them are propertyless and utterly ignorant of the fundamental principles of government,

and the ballot is a weapon which they know not how to use for their own good or the good of anyone else. The ballot is an injury to such men. But if you make intelligence and good character the test of the right to vote, you present an incentive to every man, without regard to color, who aspires to full-fledged citizenship to acquire intelligence whether he has any book learning or not, and to establish a good character among his neighbors; and no man possessed of these should be denied the right to vote in all elections.

"Such qualifications as I have briefly stated above are practicable and would elevate and tend to purify the suffrage by eliminating the corrupt, the densely ignorant and purchaseable, who, under the present Constitution, have the right to vote. Who will say that Booker Washington, Councill, Grant, Calhoun and hundreds of other citizens of Alabama shall not vote if they choose? No one can deny their intelligence and qualification. Shall they be excluded merely because they belong to the colored race? I say no. It would be both unwise and unjust. Make some such provision for suffrage as I have indicated and there will be no reduction of Alabama's representation in Congress because there will be no legal reason for it. With such a provision enforced there never would be any sort of justification for ballot-box stuffing or for counting votes otherwise than as they were cast. This is a consummation devoutly to be wished.

NOT DESIRABLE.

"The Convention cannot legally disfranchise the negroes as a race if it were desirable. The enabling act prescribes the oath each delegate must take at the organization of the Convention, to support the Constitution of the United States. The platform of the State Nominating Convention also declares that the Convention shall not make a Constitution which conflicts with that of the United States. The Fifteenth Article of the latter says that no State shall not make any law which denies to any man the right to vote on account of race, color or previous condition. If the Suffrage Clause of the new Constitution denies the right of all of the negro men in the State to vote, it will be because they are negroes. Such a Constitution would subject the State to the loss of four out of nine Representatives in Congress, and reduce the right of the State in like manner in the Electoral College for President, and could not be sustained in the courts. Neither of the new constitutions of Mississippi and South Carolina anywhere mention the negro or undertakes to prescribe his race or deny his right to vote. The latter State has an educational and property qualification which may cause a reduction in that State's representation.

The difference in views which developed in this Convention between other delegates and myself on this question was substan-

tially as follows: They contended that the Convention was called to disfranchise the negro. I contended that this view of the purpose was too narrow; that the Convention was called to so reform and elevate the suffrage as to secure honest elections, which could be done only by disfranchising some of those who are now legal voters. All admitted that proposition. The next qualification which presented itself for consideration was, whom will we disfranchise? The majority of the Committee on Suffrage, backed by President Knox and a majority of the Convention, said that the Democratic platform declared that no white man should be disfranchised, except when convicted of infamous crime. Then outside of convicted criminals (and who are disfranchised under the present Constitution), there is no one to be disfranchised in this new Constitution but negroes. We all took an oath before taking our seats as delegates to this Convention to support the Constitution of the United States, which declares that the right of franchise shall not be denied to any one because he is a negro. Whether we would have it otherwise, or not, we swore to support it, and another plank in our platform pledged we Democrats, not to violate the Constitution of the United States in any part of the Constitution we were to make. Then in order not to disfranchise any white man however worthless or dishonest he might be, resort was had to the subterfuge of allowing all soldiers on any side in any of our wars to register and become voters for life, whether they were faithful to their flag for the entire period of enlistment or deserted. If the soldier served honorably any part of that period, and he is a white man, the purpose is subverted. The records of the War Department show that in the Civil War of 1861-65 there were but 2,410 negroes from Alabama enlisted in the Union army. No negroes were soldiers in any of our prior wars. Alabama furnished to the Confederate cause 100,000 soldiers, but a considerable per cent. of these were conscripts, never got any further to the front than the conscript camp or if they did deserted their colors the first opportunity; but this makes no difference under the new Constitution. All will claim that they honorably served, will register and become voters for life. It is anything else than complimentary to the heroes who followed Lee, Johnston and Jackson, though barefooted, ragged and hungry, into the very jaws of death, in the midst of carnage, the groans of the wounded and dying, and shed tears of sorrow when they stacked arms at Appomattox and Bentonville. If benefaction be conferred on Southern soldiers let them be distinguished from the faint-hearted dodger, the moss-back and the deserter. The Convention voted down my amendment to this end. The suffrage clause 1 of Sec. 180 of this new Constitution says: "All who have honorably served in the land or naval forces" shall have the right to register and vote without regard to character or other qualification. It is contended that the words "honorably served" would exclude a

deserter. If a soldier served faithfully for a year he honorably served for that period, although he may have deserted afterwards. The language of the Constitution is not that the soldier honorably served the period of his enlistment or until legally discharged. No, sir. Why, sir, Benedict Arnold "honorably served" the cause of the Revolution when fighting, and winning victories, but that honorable service ceased when he deserted. I personally know several instances where men in the Confederate army—yes, in my own company, and regiment—who served "honorably" and fought for years and then deserted and some of them donned the blue and fought on the other side. I will never by my vote equally honor them with the faithful. That is just what this Constitution has done. The "Grandfather" clause is still worse. It is violative of the Fifteenth article of the Constitution of the United States because a discrimination is made against the negro in the ratio of a thousand to one and even greater, without any test as to fitness to exercise the franchise, except that of race, which if right is too much for the oath I took to support the Constitution of the United States. Another fundamental objection to this clause is its un-American anti-Democratic character of the inheritance of a political right. That belongs to the regal, or kingly form of government and should never find a place in the Constitution of any one of these United States of America whether it belongs to Judge Coleman's temporary or permanent plan of enfranchising all white men rascals, and unfit included.

My contention has been and is that substantially the same test, or standard of qualification and fitness should be applied to white and black alike, and that is the only way, in my judgment, to keep the oath we have taken and accomplish the desired end by lawful and proper means. The same tests, or standards of fitness to exercise the right of suffrage, making an exception, as to lack of book education, would be fair in favor of the old soldiers. This would constitute an honest basis and probably disqualify as many negroes as would the plan adopted by this Convention, and do it honestly, conscientiously and farily. It would of course, disfranchise some unfit white men who are less worthy of being trusted with the ballot than a negro of intelligence and good character. I maintain that the test should be of individual worth and trustworthiness to use the ballot for the common good of the State. Elevate the electorate and secure honest elections. The negro is not a favorite with me in politics. His enfranchisement should have been left to the States. Mr. Blaine, Garfield and other Northern statesmen claimed that the negro's enfranchisement was necessary to protect him from the unfriendly legislation of the Southern States. I have cause for a greater grievance against the race, politically, than any delegate in this Convention. In 1870 when I was elected to the Legislature a negro ran against me. In

1872 when I ran as the Democratic nominee for Congress in this district, I was defeated by a negro, Rapier the only time I ever was defeated in a race before the people but those occurrences do not warp my judgment nor bias my sense of justice.

My position has been misunderstood by some members of this Convention, and misrepresented by others. The President of this Convention, Mr. Knox, is, I presume, from his appearance before the Suffrage Committee and his able advocacy of the measure, the chief originator of the plan of suffrage adopted by the Convention. I have no doubt but that he and a majority of this Convention believe the plans of suffrage set forth in this new Constitution to be wise. I cannot fully approve it. I would be glad to know that I am mistaken, but a close study of it has not enabled me to see it in a favorable light. The whole of the temporary plan except the Third subdivision of Section 180 is tainted with unconstitutionality and wrong principle. The provision for three registrars for each county of the same political party, in the face of numerous precedents for minority representation, does not indicate fairness nor honest non-partisan work. An amendment was offered for one of the registrars to be of the minority party, but it was tabled. Why should it not have been adopted if the boards are to be composed of fair-minded men and you desire an honest registration?

After making a rule that no delegate should speak but one time, he waited until the four of us who made the minority report against the "grandfather" clause and ex-Governor Jones had spoken, and under the rules had no chance to reply, the President of this Convention made an elaborately prepared speech in reply to us. He claimed that I had made an eloquent protest "against the disfranchisement of the negro." The gentleman knew when he made that statement that it was not true, and that I was as much in favor of disfranchising, or as he said of "eliminating from the electorate, ignorant, incompetent and vicious negroes" as he was, but the difference between us was, and is now, that I desired also to eliminate from the electorate "the ignorant, incompetent and vicious" white men as well as such negroes, and contended that such a course was necessary to elevate the electorate. He expressed his surprise that in a "review which the gentleman gave 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," he said, "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."

I did not engage in giving a dramatic account of my military experience, which was more varied and extensive than the gentleman can well conceive, although his imagination showed aptitude when he undertook to ridicule me for having the good sense not to undertake, on that occasion, to recount all the stirring events in my miltary experience, but to give but one as an apt illustration of the question I was then discussing. He critised me for mentioning one instance of high courage in a negro, and who was not a soldier, and an act of cowardice in one white man. I could have recounted the high courage and heroic deaths of Captains Brainard, Ellison, Gory, Weems, Parks, Hill and Hill, and my dearly beloved brother who fell upon the heights of Gettysburg, pierced through by eight bullets and died in the hands of the enemy, and the brace O'Connor, Cody, Frank Cain, Holloway, Sam Gardner, 16-year-old Tommie Wright and Jack Caricker, Sergeant White and hundreds of other brave souls, but this would have consumed my time and have been a departure from the subject of discussion. The artful dialectician exhibited his own unfamiliarity with such incidents by relating the story of Poke Miller's performance of one brace act in ordering the regiment to move up to the colors and as a consequence "the ramparts were taken and the enemy completely routed," for which relation the speaker received loud applause by this Convention. I wonder where was the Colonel, or commanding officer of that regiment, when that illiterate youth, a private in the ranks, usurped the function of the Colonel and made that regiment charge and carry the ramparts of a fort, putting the enemy behind and with "the ramparts to fight? Mr. Knox doubtless read that story in De Bree's book, or a dime novel. Any man who has had experience in battle knows that it never occurred as he related it.

His dramatic account of another fearless boy-soldier's death in Virginia, is more probably correct, as he may have expired after the battle. The gentleman admitted when interrupted that I did not intend to assert the equality of the races. Then why did he have recourse to such a lawyer-like argument, when there could be no reply to him, rather than the lofty view of a statesman? It was special pleading, sharp practice of the lawyer. His speech aside from the criticisms I have made was, it must be confessed, an able presentation of his side of the question then under discussion. But why did the Convention order thousands of his and other speeches made on that side published in pamphlet at the State's expense for circulation among our constituents and refuse to have published in like manner my speech and those of other delegates who spoke on the same side as myself of this great question if they desired to be fair? The people—our constituents —are the ultimate judges of what is right. I know that Cardinal Richelieu was right when he said that "Nothing succeeds like

success." Yet the people have a keen sense of the right and nothing should be withheld from them. They are our masters and we are their servants.

EXEMPTIONS.

No change whatever is made in the new Constitution. The article stands just as in the old. This is in consequence of a restriction attached to the enabling act by the Legislature at the instance of one man, who by way of amendment, stuck on the proposition that no change should be made in the exemption law, believing that this would be popular and gain votes in favor of the Convention. In my judgment there is no one article in the old Constitution more in need of revision than this and when properly explained to the people, all conceded it. It is utterly unequal in its provisions and unjust in many respects. It could have been vastly improved, but in consequence of that foolish provision in the platform of the Democratic party not a single change was made.

EDUCATION.

Liberal and permanent appropriations are made in this article of the new Constitution. Its provisions generally are good. I doubt the wisdom of the permanent annual appropriation of $30,000 to the State University, out of the taxes when that institution has the means if property utilized, independently of the State treasury, to become as it should a great university, and be the pride of the State.

MUNICIPAL AND PRIVATE CORPORATIONS.

This article of the new Constitution is much better and defines the rights and duties of such corporations more closely than does the present Constitution, and a great part of its provisions are entirely free from objection and some of them decidedly commendable. The authority of cities and towns to issue bonds and provide for the payment thereof is much better guarded and defined than in the present Constitution.

FREE PASSES ON RAILROADS.

I was greatly impressed at the outcome of the controversy over this question. After all the protests and great noise made against the free pass evil by the newspapers and others and the stacks of petitions sent to the Convention against it, the provision in the new Constitution is worse than that in the present Constitution. The great newspapers seem satisfied and the petitions ceased to circulate. The old or present Constitution, Section 23 of Article XIV, denies the right to any railroad or other transportation company to grant free passes, or to sell tickets or passes at a discount other than as sold to other people, to any member of

the Legislature, or to any person holding office under this State, etc. The defect with that always has been that the Legislature never would provide any penalty for its violation. The new Constitution limits the prohibition to members of the Legislature and all officers exercising judicial functions. That applies from the Chief Justice all the way down to and including Justices of the Peace and Notaries Public exercising judicial jurisdiction.

The Judges of Probate, Registers in Chancery, County Commissioners and the intendent, or Mayor, of a town or city, Recorders and Police Judges. None of these can accept and use a free pass, or a pass or ticket bought at a reduced price without incurring the risk of being fined not over five dollars, and of being sent to jail not exceeding six months; while the Sheriff, County Treasurer, Tax Assessor and Collector can lawfully receive and use such passes. So, too, can the railroads all give passes to the Governor, Secretary of State, Auditor, Treasurer and Attorney General. These officers are ex-officio, the Tax Assessors of all the railroad's properties, of their rolling stock, and of the telegraph and telephone lines throughout the State, amounting to many millions of dollars in value; and all the counties through which any of these lines run, have to assess them for county taxes at the figures given by the Governor's board. Under the present Constitution it is illegal for the Governor, or any of these officials to use passes, but the new Constitution makes it legal for them to take and use all the free passes they can get and they can and will get them from every railroad in the State. The new Constitution affixes no penalty to giving out this so-called legislative and judicial poison. The penalty is on the fool who takes the poison. If the free pass business be an evil and it can only be such on the principle of the Lord's prayer, "Lead us not into temptation," then it should apply to all State officials or to none. It would have been much better to have stricken it out of the Constitution altogether than to have made it as it is. With the number of railroad lawyers who were delegates and the position they held in the Convention I know that nothing could be done on the subject looking to the eradication of the so-called free pass evil. It is certainly more objectionable as it stands in the new Constitution than in the old.

Mr. President, I deem it my duty to my constituents and to my friends in this Convention to make known my position on the question of the ratification of this Constitution.

After the consideration with which the measures I have proposed and advocated before this body and the disposition thereof, were I selfish enough to desire to make political capital out of it, my way would have been clear, but, sir a proper regard for the pledges I made to the people, controls my action. I have for years favored a Constitutional Convention, and when canvassing

and speaking to the people this year, I found many in doubt whether to vote for or against the call. To induce them to vote for it, I pledged them in every one of the addresses I delivered, that if they would vote to call a Convention, and if it did not, when called, make a better Constitution than that of 1875, that I would vote and speak against its ratification. This made it a matter of conscience with me to make a close comparison of the two Constitutions. With me there is no politics in it. I became a delegate not to make any political capital for myself nor for any friend. I have not introduced a measure, uttered a sentence nor cast a vote in this Convention for a political purpose. I came to the Convention, not to gratify any ambition or to win new honors, but solely because I was vain enough to believe that through my long and varied experience as a public man I could contribute largely to the difficult task of making a good Constitution for the people of my beloved native State, which had honored me. I was moved by a sense of gratitude. I found when too late to retrace my steps, that I was mistaken and that my services and experience were not needed or desired, and hence I have been able to accomplish very little in the framing of the new Constitution. But, sir, I have no grievance to gratify and have not performed my duty. I have none but the kindest feeling toward every delegate in this Convention. I have made the comparison between Constitutions and submit the same in writing for publication. I have tried to do no injustice in the comparison. It is not so full as I would like to have made it but time and space forbid a greater extension. I look above unfriendly criticism and traduction, to the higher question, as to which is the better course for the people and their interest.

The new Constitution contains many excellent provisions and several objectionable ones. Among these is the suffrage scheme. It was framed with one object in view and is complicated containing many experimental and doubtful provisions. A less complicated article looking to a broader purpose—the elevation and purification of the electorate, so as to secure perfectly honest elections could have been framed, but sticklers in favor of a literal construction of an unwise provision in the Democratic platform, which was so ably criticised by the Rev. Dr. Murphy, caused the construction of the narrow and complicated Article on Suffrage which the people are now called upon to ratify.

This new Constitution is not such an instrument as the people of Alabama are entitled to, and had a right to expect at the hands of this Convention. Its consideration has taken much time and incurred much expense to the State.

With all of the objectionable provisions contained in the new Constitution, I feel it but just to say that, taken as a whole, it is a better Constitution than that of 1875, and hence I believe that

its ratification will be better for the interests of the people of the State than its rejection. (Loud and prolonged applause.)

I have indulged freely in the criticism of various provisions, but I trust have done no injustice to any of the provisions, nor to any person. In fact my references are not at all personal, for my feelings are of the kindest character towards every delegate on this floor, and I believe that all are honest in their purposes and have done whatever they thought was best. I thank you, gentlemen, for your attention. (Loud and prolonged applause.)

MR. FERGUSON—I ask unanimous consent to recall my Cuban resolution introduced early in the session.

THE PRESIDENT—The gentleman from Jefferson asks unanimous consent to recall his Cuban resolution. The Chair hears no objection. Will the gentleman from Jefferson suspend a moment until the Committee on Harmony submits a report?

MR. SPRAGINS—The Committee on Harmony, after a conference among themselves and with members of the Judiciary Committee have concluded that it was wise in addition to the independent and separate ordinance which has been passed by this Convention relative to the funding of the bonded indebtedness of the State, that a general provision of the same nature and character be passed, and by unanimous consent, of this Convention as Section 282 of the Article on Miscellaneous Provisions in this Constitution, we ask now to amend the Article on Miscellaneous Provisions by adding this Section:

Section 283. The act of the General Assembly of Alabama entitled "An act to consolidate and adjust the bonded debt of the State of Alabama," approved Feb. 18, 1895, an act amendatory thereof entitled, "An act to amend Section 6 of an act to consolidate and adjust the bonded debt of the State of Alabama approved Feb. 18, 1895," which said last named act was approved Feb. 16, 1899, are hereby made valid, and both of said acts shall have the full force and effect of law, except insofar as they authorize the redemption before maturity of the bonds authorized by said acts to be issued. The Governor is authorized and empowered to act under the same and to carry out all of the provisions thereof; provided, that the bonds authorized to be issued by said acts and issued thereunder may be made payable at any time, not exceeding fifty years from the date thereof and shall not be redeemable until their maturity.

There being no objection the amendment was allowed.

THE PRESIDENT—The question will be upon the consideration of a certain resolution relating to Cuba introduced by the gentleman from Jefferson.

MR. FERGUSON—I am not in good voice, and I will ask permission to have the Clerk read it.

The Clerk read as follows:

Mr. President:

Sometime in the beginning of the present century, in the early days of this Convention, before the acceptance by Cuba of the Platt amendment, I introduced a resolution extending congratulations to the people of Cuba on the cessation of all their woes, welcoming her to the family of nations and expressing the hope that, some day, free and untrammelled, she might become our younger sister in the mighty union of States (Laughter.) Since that far off time, Cuba has accepted the terms of the Platt amendment, and is now a sovereign State among the nations of the earth.

Keeping in mind, Mr. President, the supreme purpose for which this Convention was assembled, I have introduced no ordinance or resolution that had for its purpose any advantage to self, or that would seem to advance any political fortunes. I had no ulterior purpose in view in presenting this Cuban resolution. We had sent greetings to old Virginia, and it occurred to me it would be courteous to extend our congratulations to the young republic, whose people had suffered so much. I make no prophesy, but I believe that Cuba some day, will become a part of this mighty empire, on whose possessions, "the sun in his golden journey around the earth," never sets.

By the terms of the Teller resolution and the Platt amendment, we cannot force her to become a part of us. We are in honor bound not to coerce her. So, if she join us, it must be of her own free will, as a sovereign state of the Union.

I am up, Mr. President, for the purpose of inquiring where my resolution "is at" if this tender little thing is dead and buried, I would like to know it. (Laughter.)

There are many hopes and aspirations and high reaching thoughts and vaulting ambitions sepulchered in that expression, "it died in Committee." (Laughter.)

If it be that this little creature has died in committee, I desire to resurrect it and put it on its passage, and while the Clerk reads it, I will request my friend from Chambers, who sits opposite, to play something soothing, soft and tender while its little form is being raised from the table.

If it does not pass, I will, like my resolute and ever resoluting friend from Walker, console myself with the thought that it is better, "to have resolved and lost than never to have resolved at all." (Long applause.)

MR. deGRAFFENREID—I move to lay the resolution on the table.

MR. FERGUSON—A point of order—the resolution has not been read.

THE PRESIDENT—The resolution was recalled by unanimous consent and is before the Convention.

MR. WILLIAMS (Marengo)—I ask for a reading of the resolution.

THE PRESIDENT—The reading of the resolution is not essential to its passage. The Chair will direct the Secretary to read the resolution if desired. The attention of the Chair is called to the fact that there is a motion to table the resolution.

A vote being taken, the motion to table prevailed.

THE PRESIDENT—The resolution is laid upon the table. The gentleman from Jefferson can recall the resolution from the table at any time he sees fit.

MR. REYNOLDS (Chilton)—I ask unanimous consent to offer a resolution.

THE PRESIDENT—Unanimous consent is asked by the gentleman from Chilton to introduce a resolution. Is there objection?

Objection was made.

THE PRESIDENT—Objection is made, and it will not be in order at this time.

MR. LONG (Walker)—I move to suspend the rules and that the resolution be allowed to be introduced.

MR. PARKER (Cullman)—If there is no business before the Convention for its consideration this evening, I move that we do now adjourn.

THE PRESIDENT—The gentleman from Cullman moves that the Convention do now adjourn.

MR. OATES—Will not the gentleman from Cullman withdraw that motion? I want to say just one word. I do not know anything about what the resolution is, but we have nothing to lose and sometimes much to gain by a little liberality. Let the delegate (Mr. Reynolds of Chilton) send up his resolution and have it read.

THE PRESIDENT—The gentleman from Chilton will send up his resolution.

MR. REYNOLDS—I want to say that I will move to suspend the rules so that the resolution be put upon its passage.

THE PRESIDENT — The gentleman from Chilton asks unanimous consent to introduce a resolution at this time. Is there objection?

MR. SPRAGINS—I object.

MR. O'NEAL—I move that the rules be suspended, and that he be allowed to have the resolution read.

THE PRESIDENT—The Chair understands the gentleman from Lauderdale moved to suspend the rules.

MR. O'NEAL—I withdraw it.

MR. REYNOLDS (Chilton)—I am an elected delegate to this Convention, this is a courtesy which has been extended to every delegate here——

THE PRESIDENT—The question is not debatable.

MR. REYNOLDS (Chilton)—I move to suspend the rules to put this resolution upon its passage.

MR. WILLIAMS (Marengo)—I move we adjourn.

THE PRESIDENT—The gentleman from Chilton moves to suspend the rules to introduce a resolution.

A vote being taken a division was called for, and upon a further vote there were 57 ayes and 39 noes, and the motion to suspend the rules was lost.

MR. HEFLIN (Randolph)—I ask unanimous consent to make a report from the Committee on Schedules and Printing.

THE PRESIDENT—Unanimous consent is asked to offer a report from the Committee on Schedule and Printing? Is there objection?

MR. REYNOLDS (Chilton)—I object.

MR. HEFLIN—I move that the rules be suspended.

MR. HARRISON—I desire to ask the consent of the delegate from Randolph to allow me to make an inquiry before he introduces his report. I desire to inquire, Mr. President, from the Committee on Harmony, whether or not we could not pass upon a portion of the enrolled bill this afternoon, if it is ready?

MR. deGRAFFENREID—It has not come to us from the Committee on Engrossment yet.

MR. HARRISON—For the benefit of the delegates, I desire to suggest that if we could read a portion this afternoon, it would enable us to complete our labors tomorrow.

MR. SPRAGINS—The Committee on Enrollment directed me this morning to say in the report I made that it would be impossible to report the original draft until tomorrow at 9 o'clock. They have verified once and they are going to verify twice.

THE PRESIDENT—The Secretary will read the report of the Committee on Schedule and Printing.

The Secretary read the report as follows:

Mr. President:

The Committee on Schedule, Printing and Incidental Expenses has instructed me to make this our final report, viz:

The Committee has carefully considered all ordinances, resolutions, accounts and petitions which were referred to said Committee, most of said accounts were allowed, some were scaled and few were not allowed. We herewith return to the Convention all ordinances, resolutions, petitions, etc., that were referred to said Committee.

The Committee has audited the accounts hereto attached and finds that the State of Alabama is indebted to Marshall & Bruce of Nashville, Tenn., in the sum of $7.

We find that said State is indebted to the Brown Printing Company of Montgomery, Ala., in the sum of $207.50.

We find that said State is indebted to the Ed C. Fowler Co., of Montgomery, Ala., in the sum of $64.40.

We find that said State is indebted to The Montgomery Advertiser of Montgomery, Ala., in the sum of 75 cents.

We find that said State is indebted to Robert Hasson, Doorkeeper, in the sum of $6.10.

We find that said State is indebted to Jos. R. Wing of Montgomery, Ala., in the sum of $6.70.

All of the above amounts are for printing done, and for articles furnished the State of Alabama for use of the Constitutional Convention, and all of the above accounts are itemized as shown by bills hereto attached. Total amount, $292.45, and we recommend the payment of the same, all of which is respectfully submitted.

JOHN T. HEFLIN, Chairman.

MR. HEFLIN—I ask that the report take the usual course and lie upon the table.

THE PRESIDENT—The report will lie upon the table.

MR. HEFLIN (Randolph)—I desire to report Ordinance No. 301 with a substitute favorably reported.

The Secretary read Resolution 301 as follows:

Resolution 301, by Mr. Rogers (Lowndes) reported favorably with a substitute:

Resolved, That after this Convention has adopted this Constitution that 5,000 copies of it be printed in pamphlet form for distribution throughout the State, and that six copies be send to each member by the Secretary of the Convention.

That the Committee on Printing be instructed to contract for the printing and distribution of the same and report to the Convention the cost of the same.

Amend by striking out in line 2, 5,000, and insert in lieu thereof 50,000, and by striking out six in line 4, and insert in lieu thereof 200.

MR. HEFLIN—I move that the rules be suspended and the resolution be put upon its passage.

MR. O'NEAL—I ask that the resolution be read again—we do not understand it.

THE PRESIDENT—The question will be upon the adoption of the resolution which has just been read. The Secretary will read the resolution again.

The Secretary again read the resolution.

MR. EYSTER—I offer as a substitute for that, the resolution introduced by me this morning, providing for the printing of the present Constitution and of the old Constitution in parallel columns in order that the people may see the changes made.

MR. COBB—I desire to offer an amendment to that.

THE PRESIDENT—The gentleman will have to wait until the Chair can recognize him.

MR. HINSON—I have a substitute for the substitute.

THE PRESIDENT—The Chair will state to the gentleman from Lowndes that the committee itself reports a substitute to the original resolution. Thereupon the gentleman from Morgan offers a substitute for the substitute reported by the committee, and further amendments are not in order.

MR. REESE—I make the point of order, that the amendment offered by the gentleman from Morgan is not in order, because it should be in writing and handed to the clerk, and therefore the amendment of the gentleman from Lowndes is in order.

THE PRESIDENT—It has been usual when gentlemen desire a moment to present their views to the Convention not to

hasten on in such a way as to cut them off, and the gentleman has sent for the resolution.

MR. GRANT—I rise to make an observation in regard to this amendment—

THE PRESIDENT—The Chair will recognize the gentleman in a minute, after the substitute is offered for the substitute reported by the committee.

MR. GRANT—I want to say for the information of members that it is my understanding that the Governor is going to have this Constitution printed by the American Association at Birmingham, and it will be in every newspaper in the State, and I think 50,000 copies will be ample.

The resolution offered by Mr. Eyster as a substitute for the substitute reported by the committee was read as follows:

Whereas, the people are desirous of seeing both the old and new Constitution for the purpose of comparison, and

Whereas, the principal cause of dissatisfaction in some parts of the State arises from a lack of knowledge of the differences between the two instruments, and as to which the people desire means of enlightenment; and

Whereas, the cost of printing 100,000 copies would be only about 20 per cent. more than printing 50,000 copies.

Therefore, be it resolved, that all resolutions heretofore passed by the Convention in regard to printing the new Constitution be, and the same are hereby repealed.

Resolved, further, that the President and Secretary be and they are hereby instructed to have printed for distribution 100,000 copies of the new and old Constitution in parallel columns in addition to the publication provided for the act calling this Convention. A sufficient sum of money, not otherwise appropriated, is hereby appropriated to cover the cost of said printing etc.

MR. EYSTER—I move the adoption of the substitute for the report of the committee.

THE PRESIDENT—The question will be upon the adoption of the substitute offered by the gentleman from Morgan, for the substitute reported by the committee to the original resolution.

MR. COBB—I desire to make an amendment if it can be done, to have this printed in sheet form. There is no use going to the expense of having pamphlets printed.

MR. O'NEAL—If they are printed in sheet form you will lose them.

MR. COBB—Let them be lost. They are for general distribution.

MR. WEAKLEY—It seems to me that this Convention has slightly overdone the printing business. When the ordinance upon Suffrage and Elections was adopted 5,000 copies were ordered printed, and there is today in the Senate chamber a wagon load of printed matter which has never been undone from the package, when it was sent up here by the printer. The ordinance on Suffrage and Elections was materially amended and changed as finally passed by this Convention, and there is a wagon load of printed matter that was hauled up the hill, the State will pay for it and then it will be hauled down again. It will never be distributed.

The Convention, in its wisdom, passed Section 5 of the schedule as follows:

That instead of the publication as required by Sections 5 and 24 of an act to provide for holding a Convention to revise and amend the Constitution, the Governor of the State is hereby authorized to take such steps as will give general publicity and circulation to this Constitution in a manner as economical as practicable.

I apprehend that when this State Constitution is reported back to this Convention and adopted it will be printed in the stenographic report of our proceedings. It seems to me that the thousand copies which will be furnished to the members will answer their purposes for immediate distribution, and that the steps indicated by the gentleman from Calhoun (Mr. Grant), which the Governor intends to take, to print this in every paper in the State, ought to be sufficient. It seems to me that the Constitution itself directing the Governor to do this, ought to be the measure of our work in the premises. It strikes me that we should have adopted the resolution offered by the gentleman from Walker and bought a printing establishment when this Convention first commenced.

MR. GRANT—That was what I was trying to call the attention of the Convention to, when I appeared to be somewhat out of order. If we print 100,000 copies of this Constitution in pamphlet form and rely upon the members of this Convention to distribute them throughout the State, it will never be done. I had a conversation with the Governor (I probably should not speak of it here, but he is a printer and a publisher, and understands these things, and so am I), and I suggested to him that about the most economical plan we could adopt to get this Constitution before the general public of the State would be to contract with a firm at Birmingham, or elsewhere, to print this patent outside for newspapers and also with a firm who makes these plates for printing without typesetting, which can be done very cheaply and there is not a paper in the State of Alabama that will not be glad to

take these sheets, fold them in their papers as supplements, and you can get a circulation of two hundred thousand copies through the daily and weekly newspapers of the State without a cent of cost for postage, as would be the case if we had it printed in pamphlet form. Now I think there ought to be a limited number of copies of the new Constitution printed in pamphlet form, something like twenty-five thousand copies, as suggested by the Committee, and I like the suggestion that the two Constitutions be printed in parallel columns, that the people may compare them. Twenty-five thousand copies are as many as the members of this Convention will ever mail, and it is ample. Twenty-five thousand copies will cost from fourteen to fifteen hundred dollars, and you can see from that how much one hundred thousand copies will cost, and we are liable to incur an expense here that will be utterly useless. The great mass of the people and readers of newspapers throughout the State will see it in the newspapers if the Governor does what he now contemplates doing. Twenty-five thousand copies in pamphlet form, for the members of the Convention to use, to send to the best informed men throughout the State, will be sufficient.

MR. BURNS—We are not after putting it into the hands of the best informed men. They are all right.

MR. GRANT—I say the mass of the people will get it through the newspapers and public speakers, and the men who will interest themselves in the ratification of this Constitution will have these copies in pamphlet form. I think twenty-five thousand copies will be ample in pamphlet form, and that there will be at least two or three hundred thousand copies circulated by this plan by the weekly and daily newspapers of the State.

MR. HEFLIN (Randolph)—As you all know the matter of printing has been very expensive during this session. We had bids submitted to us by the Brown Printing Company and a good many other printing concerns to do this work. They say they will print twenty-five thousand copies of the Constitution on paper equal to that used for the Supreme Court reports, bound in pamphlet form, for seven hundred and eighty dollars; fifty thousand copies for fourteen hundred and sixty-five dollars and one hundred thousand copies for twenty-eight hundred and fifty dollars. It seems to me we have spent enough money along this line and that we should spend only enough to scatter this Constitution over this State, and I believe fifty thousand copies will be a sufficient number. If distributed by the delegates to this Convention, each delegate will get two hundred copies. That will leave nineteen thousand copies with the Secretary of this Convention for general distribution. I hope the Convention will adopt the substitute offered by the Committee. I move to lay the substitute offered by the gentleman from Morgan on the table.

MR. ROGERS (Sumter)—I move to amend by moving to lay the substitute of the gentleman from Morgan and the substitute reported by the Committee on the table.

THE PRESIDENT—A motion to table is not amendable. The question is on the motion of the gentleman from Randolph to table the substitute offered by the gentleman from Morgan for the substitute offered by the Committee.

Upon a vote being taken, the motion to table the substitute offered by the gentleman from Morgan prevailed.

MR. ROGERS (Sumter)—I move to lay the report of the Committee on the table.

MR. HEFLIN (Randolph)—I thought I had the floor.

THE PRESIDENT—The gentleman submitted his motion and it was put and carried, he cannot retain the floor to submit another one. The question is on the motion of the gentleman from Sumter to lay the report of the Committee on the table.

Upon a vote being taken a division was called for and by a vote of 49 ayes and 35 noes, the motion to table the report of the Committee prevailed.

MR. O'NEAL (Lauderdale)—I move that the matter of printing the Constitution be referred to a special committee to be appointed by the President.

THE PRESIDENT—The gentleman from Morgan has the floor.

MR. EYSTER—I ask unanimous consent to introduce a short resolution relating to the subject under consideration.

Objection was made.

MR. O'NEAL (Lauderdale)—I move that the matter of printing the Constitution be referred to a special committee, to be appointed by the President, to report tomorrow morning.

THE PRESIDENT—The motion will not be in order at this time.

MR. O'NEAL—I ask unanimous consent.

Objection was made.

MR. CARMICHAEL (Coffee)—As I understand the situation, the substitute by the Committee was tabled, but the original ordinance offered by the gentleman from Marengo was not tabled, and is now before this Convention.

THE PRESIDENT—The Chair will state for the information of the gentleman from Coffee that the entire report of the

Committee on Schedule and Printing was laid upon the table and it cannot be brought before the Convention except by a motion to take from the table.

MR. O'NEAL (Lauderdale)—I move that the rules be suspended for the purpose of allowing the chair to appoint a committee to report on this whole matter tomorrow morning.

Upon a vote being taken the motion to suspend the rules was lost.

MR. BAREFIELD—I move that we adjourn until 9 o'clock tomorrow morning.

Upon a vote being taken the motion was carried.

Thereupon the Convention adjourned.

CORRECTION

In proceedings of first day, second column, the delegate from Marengo appears as Gasnard Williams, whereas it should be Gesner Williams.

EIGHTY-SECOND DAY

MONTGOMERY, ALA.,
Tuesday, Sept. 3, 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, our Heavenly Father, we thank Thee for Thy fatherly care over us during the night. We thank Thee that Thou hast ushered us into another day with all its duties and its privileges, and we come before Thee this morning because we realize the need of Thee and because we are utterly helpless without Thee. We pray Thy blessings upon today's deliberations. May we have Thee as our guide, our stay and our help. Forgive us our sins and may we have clean records before Thee this day. Bless, we pray Thee, the commonwealth of Alabama and may this Constitution that is here made be such as will be the beginning of a new era of development in our country. Bless every member of this Constitutional Convention. May we all put our trust in Thee, the true and the living God. May we look to Thee for that strength and help which can come only from Thee. Guide us through this day and through all life and at last in Heaven save us, we ask for Christ's sake. Amen.

Upon a call of the roll, 103 delegates responded to their names.

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

MR. FITTS—I desire to introduce an ordinance, and as I shall move the suspension of the rules for its immediate passage, I ask the delegates to give attention to the reading of it.

"Be it ordained by the people of Alabama in Convention assembled, that there is hereby set aside and appropriated out of the money in the State Treasury, not otherwise appropriated, the sum of one thousand dollars to be used and expended by the Governor, or under his direction, in giving publicity to the Constitution, in order that the people may intelligently pass upon the ratification of the same."

MR. FITTS—Since the various expensive propositions looking to the question of giving publicity to this new Constitution were laid upon the table yesterday evening, I have discussed this matter with the Governor of the State, and I am authorized to say this much: That as the Enabling Act makes it the duty of the Governor to give such publicity to this new Constitution as he shall see fit, either by the newspapers or by printing in sheets, that he thinks the sum of one thousand dollars will be ample, viewed from his practical standpoint——

THE PRESIDENT—The Chair will call the attention of the gentlemen from Tuscaloosa to the fact that without a suspension of the rules, his resolution will be referred to the appropriate committee.

MR. FITTS—I move that the rules be suspended, in order that it may be put upon its immediate passage.

Upon a vote being taken, the motion to suspend the rules was carried.

THE PRESIDENT—The question will be upon the adoption of the resolution.

MR. FITTS—Without further discussion, all of the propositions that were laid upon the table yesterday were more expensive than this, and as the Enabling Act itself makes it the duty of the Chief Executive——

MR. BOONE—Doesn't the Constitution do the same?

MR. FITTS—And as the Constitution, I believe, does the same thing, and as this is by odds the cheapest proposition that has come before us, and as the Governor thinks that the one thousand dollars will be ample to give it all the publicity required,

in all the shapes and ways required, I move the adoption of this ordinance, as the simplest way out of the entire difficulty, leaving the whole duty where the law puts it, upon him, and giving him the means of doing it. Some one may ask why he could not do it without this special appropriation. That has been inquired into and investigated. The funds at his disposal will not bear this additional burden. The contingent fund of late years has been going down very considerably, and it will not bear this additional sum of one thousand dollars, and this is the cheapest way of giving publicity to the Constitution. I move the adoption of the ordinance.

THE PRESIDENT—The question is upon the adoption of the ordinance. As many as favor the adoption of the ordinance will say aye, and those who oppose, no, as your names are called.

Upon a call of the roll the vote resulted as follows:

AYES.

Messrs. President,
Altman,
Ashcraft,
Banks,
Barefield,
Bethune,
Blackwell,
Boone,
Brooks,
Bulger,
Burnett,
Cardon,
Carmcihael, of Colbert,
Carnathon,
Case,
Chapman,
Cobb,
Coleman, of Greene,
Coleman, of Walker,
Craig,
Davis, of DeKalb,
Davis, of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Espy,
Fitts,
Fletcher,
Foster,
Gilmore,
Glover,
Graham, of Talladega,
Grayson,
Greer, of Calhoun,
Haley,
Handley,
Harrison,
Heflin, of Randolph,
Henderson,
Hood,
Howell,
Howze,
Jackson,
Jones, of Bibb,
Jones, of Montgomery,
Jones, of Wilcox,
Kirk,
Kirkland,
Knight,
Kyle,
Leigh,
Lomax,
Lowe (Lawrence),
Macdonald,
McMillan (Baldwin),
McMillan (Wilcox),
Malone,
Maxwell,
Merrill,
Miller (Marengo),
Moody,
Murphree,
NeSmith,
Norman,
Norwood,
Oates,
O'Neal (Lauderdale),
O'Rear,
Palmer,
Parker (Cullman),
Parker (Elmore),
Rogers (Sumter),
Pearce,
Pettus,
Pillans,
Pitts,
Renfro,
Reynolds (Henry),
Rogers (Lowndes),
Sanders,
Sanford,
Searcy,
Selheimer,
Sentell,
Smith (Mobile),
Smith, Mac. A.,
Smith, Morgan M.,
Sorrell,
Spears,
Spragins,
Tayloe,

Thompson,	Weakley,	Wilson (Clarke),
Vaughan,	Whiteside,	Winn.
Waddell,	Williams (Barbour),	
Walker,	Williams (Elmore),	

Total—103.

NOES.

Phillips,	Studdard.	Byars,
Reynolds (Chilton),	Bartlett,	Foshee,

Total—6.

ABSENT OR NOT VOTING.

Almon,	Hodges,	Porter,
Beavers,	Inge,	Proctor,
Beddow,	Jenkins,	Reese,
Browne,	Jones, of Hale,	Robinson,
Burns,	King,	Samford,
Carmichael, of Coffee,	Ledbetter,	Sloan,
Cofer,	Locklin,	Sollie,
Cornwall,	Long (Butler),	Stewart,
Cunningham,	Long (Walker),	Watts,
Ferguson,	Lowe (Jefferson),	Weatherly,
Freeman,	Martin,	White,
Graham, of Montgomery,	Miller (Wilcox),	Willet,
Grant,	Morrisette,	Williams (Marengo),
Greer, of Perry,	Mulkey,	Wilson (Wash'gton).
Heflin, of Chambers,	O'Neill (Jefferson),	
Hinson,	Opp,	

So the ordinance was adopted.

MR. SANFORD (Montgomery)—I have a resolution which I offer, and I ask that the rules be suspended and that it be passed immediately.

Resolution No. 335 by Mr. Sanford, was read as follows:

"Resolved, That when the enrolled copy of the Constitution is ready for signature, the clerk shall call the roll of the members, who shall sign the Constitution in alphabetical order."

MR. SANFORD (Montgomery)—I offer that resolution in order to prevent confusion, and that all may have an opportunity easily to sign. I hope that the rules will be suspended and that the ordinance will be passed.

MR. HEFLIN (Chambers)—I would like to amend the resolution.

THE PRESIDENT—The question is on the suspension of the rules which is neither amendable nor debatable.

Upon a vote being taken, the rules were suspended.

MR. HEFLIN (Chambers)—I would like to amend the resolution by adding that the clerk call the roll, and that the delegates shall rise and go to the Clerk's desk and sign it.

THE PRESIDENT—That seems to be the resolution.

MR. BROOKS—I rise to a question of parliamentary inquiry. I understand that the resolution proposed by the gentleman from Macon, which was adopted yesterday, provided that immediately after the reading of the journal, the roll should be called to give opportunity to those who were not present, when the Constitution was adopted to vote upon the final adoption of the same, and it was made the special order immediately after the reading of the journal this morning.

THE PRESIDENT—The question will be upon the passage of the resolution offered by the gentleman from Montgomery.

Upon a vote being taken the resolution was passed.

MR. ASHCRAFT—I desire to call attention to the fact that the petitions which I introduced yesterday from the citizens of Florence, were not included in the stenographic report, and I ask that the Chair make an order directing that they be included tomorrow morning in the stenographic report.

THE PRESIDENT—The Chair will request the stenographer to include the petitions.

MR. GILMORE—I wish to move to reconsider the vote by which the report of the Committee on Schedule and Incidental Expenses was passed on yesterday.

THE PRESIDENT—The question will be on the motion to reconsider.

MR. GILMORE—As I tried to say yesterday evening, there has been thousands and thousands of dollars spent by this Convention in making speeches, and a great deal has been said in behalf of the interests of the old Confederate soldiers. Now, the very first opportunity they get to show appreciation of the services of these old men is to instruct one of them to make a contract for the Convention and compel him to pay the debt. By doing that, this Convention lays the principle of repudiation, that as far as I know, has never been tried before in the State of Alabama. It is a disgrace to the State, and a shame on every man who voted to make that old man pay this debt. The State of Alabama will be ashamed of it. I had rather be Mr. Hasson and limp on down to the grave on a crutch and one leg than to go on record as having voted for the report of that committee. I therefore renew my motion to reconsider.

MR. LOMAX—I rise, Mr. President, for the purpose of seconding the motion made by the gentleman from Clarke, to reconsider the vote by which this ordinance or report of the Committee on Schedules and Incidental Expenses was adopted. I believe that the net saving to the State by reason of the adoption of the report of this Committee, and the scaling down of these bills, amounts to something between sixty and seventy dollars.

MR. deGRAFFENREID—To about fifty dollars now.

MR. LOMAX—To about fifty dollars, I understand. After having gone on for months here, and as the gentleman from Clarke has said, expended hundreds and thousands of dollars of the State's money, we propose at the end of this session to stop up the spigot, when we have left the bung open for about three months. Such copper-cent economy will not commend itself to the people of Alabama. In addition to that, suppose that we do meet opposition upon the stump in this State as to the ratification of this Constitution, and a man that has some ability on the stump gets up and makes our record of spending thousands of dollars for printing, because as was said on yesterday, we had five thousand copies of the report of the Committee on Suffrage and Elections printed, and they lie now in the Senate Chamber, absolutely worthless to the Convention and to the people. We have printed five thousand copies of speeches that any man wanted printed upon the floor of this Convention. It is right for us here on this last day to scale down expenses to save fifty dollars? It will make us the laughing-stock of the people of the State upon the stump, if any man would present the record against us. Not only do we do that, but we say that we will put upon a one-legged Confederate soldier the necessity of paying that fifty dollars, because he went ahead under the orders of this Convention and contracted for these articles at what he believed was a reasonable price, with no limit fixed upon him by the Convention, which had the power to limit him. In addition to that, it is a reflection upon the door-keeper of this Convention, on an old man who has lived until his hair is gray in the State of Alabama, and it is reserved for this Convention after that long life of poverty and honor, to say to him by voting for the report of this committee, you have failed to perform a duty that was imposed upon you by resolution of this Convention. I say, it is unworthy of a great Convention representative of Alabama to put such a stigma as that upon that gray-haired, one-legged man. Now, some references has been made to this desk. Perhaps it did cost a few dollars too much, but there is a vast deal of labor in the making of this desk, the lumber does not amount to anything, and it might be sold for junk, but the labor amounted to something, he was ordered to make it and did have it made for what he believed was a proper price. I say that he ought to be paid. That an appropriation should be made, not only for this desk, but

the other articles that he purchased. I say those bills ought to be paid as presented. I say, we ought not to put the burden on that old man of paying out one-half or one-fourth of his salary he has made as door-keeper in this Convention in order to pay moral obligations that he has incurred for this Convention. It will not reflect any credit upon us, it will not save the State enough money to stop up the key-hole of the treasury. It is a penny economy that is unworthy of this Convention, and I hope and trust that a motion to reconsider this vote will be carried, and that this Convention in its closing hours will record itself, as it has done in the past, as a brave, a magnanimous and a noble body, willing to do right and willing to do more than right, rather than to do wrong to any man.

MR. deGRAFFENREID—Will the gentleman pardon an interruption? As Mr. Hasson's conduct is before the Convention, would it not be fair to allow him to address the Convention?

MR. LOMAX—I think so, and I will move that he be allowed to make a statement before this Convention with reference to these expenses.

THE PRESIDENT—The gentleman from Randolph has the floor.

MR. HEFLIN (Randolph)—Mr. Chairman and gentlemen of the Convention, this matter was all gone over yesterday, and I think fairly understood by the members who were present, but a good many members have come in since that report has been adopted, and I desire to say a few words in behalf of the committee in regard to this report. The distinguished gentleman from Montgomery has made an eloquent speech, appealed to your sympathy not to put this upon an old Confederate soldier. Gentlemen of the Convention, there is no man upon the floor that has a higher regard, and a greater love for the Confederate soldier than your humble servant, but, gentlemen of the Convention, it is not a question of love and respect for the Confederate soldier, or anybody else, but it is a question of doing right, right by individuals and right by the people of Alabama, right is right as God is God. Gentlemen of the Convention, I want to say to you that your committee labored earnestly and honestly, and we did what we believed to be right by the people of Alabama. It is the unanimous report of this committee—not a dissenting voice—that this report be adopted and brought in here. The charges, gentlemen of the Convention, were excessive, and we believe as honest men it was our duty to scale these accounts and not make the State of Alabama pay something that was wrong. I want to say to you in reference to the speech of the gentleman from Montgomery—he said something about stopping the bung. It is true that the bung has not been stopped on every occasion, but I want to say to you, gentlemen,

that this committee has endeavored to stop the bung every time a resolution or ordinance came before the body. I want to say that there was a good deal of printing done without instruction from our committee, but gentlemen would have the rules suspended and that was not our fault. But even if we have done wrong in the past, shall we continue in the future? There is one item in regard to this bill—and we have the evidence here before us—Mr. Hasson appeared before the committee, and a good many gentlemen came before the committee four or five times. Mr. Hasson came before us and admitted—as I can prove by every member of the committee, by the statement of Mr. Murphree, Mr. Barefield and the others on the committee that Mr. Hasson said himself that it was too much, too high. We asked him, do you think it right to pay this? Well, he said, they have to wait so long, they always make the State pay more than anybody else. He was asked, is that right? He said, no, but they have to wait so long. He was asked if the credit of the State was not as good as that of an individual, and he said, yes, but they have to wait so long—

MR. BAREFIELD—In that statement, didn't he say the reason was they expected the committee to cut down their bills?

MR. HEFLIN—He did.

MR. FLETCHER—Did the committee think there was any fraud in the transaction so far as Mr. Hasson was concerned?

MR. HEFLIN—Not at all, not at all, none whatever. I want to say further to this Convention that Mr. Hasson is not responsible for the debt. It is charged to Alabama and not to Mr. Hasson. You gentleman who were not here yesterday should know, and I call attention to one item for keys charged to the State of Alabama, twenty-five cents for each key, and a delegate to this Convention, Mr. Malone, went down town and got prices, and he was offered the same key at twenty-five cents per dozen, while the State of Alabama is charged three dollars a dozen—the lock, key and all could be purchased for twenty-five cents. Gentlemen of the Convention, it is not so much the amount, but the principle involved —because you have the money in the treasury. You might as well open the doors and say, walk in and help yourselves.

MR. deGRAFFENREID—Was not a part of the twenty-five cents for fitting the keys to the various locks?

MR. HEFLIN—You will find eighty-nine fitted on one day.

A DELEGATE—Will each key fit the same lock?

MR. HEFLIN—No sir, not exactly, but most of them will unlock any desk. I say to you, gentlemen, that if each one of you would not pay twenty-five cents for that key, if you would

not do that, you ought not to make the State of Alabama pay it. We allowed ten cents for each key.

MR. PILLANS—I would like to ask the gentleman a question. Will it not be well to move the previous question, and save the State perhaps eight hundred and fifty dollars for perhaps another day's session and close this debate?

MR. HEFLIN (Randolph)—Yes. Just a word more. One gentleman said something about spending so much money. The Committee on Schedules and Incidental Expenses had nothing to do with that. If we had, we would have cut that short and saved the State of Alabama some money, but gentlemen that was beyond our jurisdiction. (Laughter.) Now I want to ask you to take this matter up. Have no man in view; have nothing in view but the facts and right and justice. This committee does not know these parties. We presume that all of them are good men, and we want nothing but what is right, and it is for us to deal with the facts. You heard Mr. Lomax speak. He pictured this and that and the other thing, but it is the policy of the law to deal with facts, and not with fiction. Fiction entices and deceives and scattered o'er its fragrant leaves, lies poisoned dew. We ask you to be honest. Now, Mr. President, believing that every man understands the question and is ready to vote, I move to lay the motion to reconsider, on the table.

Mr. Graham (Talladega) took the Chair.

MR. deGRAFFENREID—Before that motion is put, I move to suspend the rules in order that Mr. Hasson may be allowed to——

THE PRESIDENT PRO TEM—That is not in order at this time.

MR. GILMORE—I call for the ayes and noes on the motion.

The call was not sustained.

Upon a vote being taken, a division was called for, and by a further vote of 60 ayes and 45 noes, the motion to reconsider was tabled.

MR. deGRAFFENREID—I move that we proceed with the regular order.

PRESIDENT PRO TEM—The special order for this hour is the calling of the roll of the Convention.

MR. WADDELL—I ask the gentleman to withdraw a moment. I will renew the motion.

PRESIDENT PRO TEM—The Chair will state to the gentleman from Russell there is no necessity for the motion, because

the special order for this hour is the calling of the roll in order to allow those to vote who were not present the other day, and the Convention will proceed unless there is a motion to the contrary.

MR. WADDELL—I ask unanimous consent to introduce a short resolution.

Objection was made.

PRESIDENT PRO TEM—Nothing is in order but the regular order at this hour.

MR. GRAYSON—I move that the call of the roll—

PRESIDENT PRO TEM—The gentleman is not in order.

MR. GRAYSON—I move to postpone the calling of the roll until 12 o'clock.

PRESIDENT PRO TEM—The motion is not in order.

The Secretary will call the roll.

MR. WADDELL—The objection has been withdrawn.

PRESIDENT PRO TEM—The gentleman is not in order.

PRESIDENT PRO TEM—The Clerk will call the roll for the purpose of enabling those delegates to vote aye or no, on the question of adopting the whole Constitution.

The Clerk proceeded with the roll call as follows:

AYES.

Almon,
Banks,
Beddow,
Brooks,
Browne,
Bulger,
Burnett,
Carmichael, of Colbert,
Carmichael, of Coffee,
Espy,
Fitts,
Gilmore,
Glover,
Handley,
Harrison,
Jones, of Hale,
Kirkland,
Leigh,
Lowe, of Lawrence,
Maxwell,
Merrill,
NeSmith,
Norwood,
Oates,
Parker (Elmore),
Pitts,
Renfro,
Robinson,
Sanford,
Searcy,
Smith, Morgan M.,
Sollie,
Sorrell,
Thompson,
Vaughan,
Weatherly,
Wilson (Clarke),
Wilson (Wash'gton).

NOES.

Reynolds (Chilton).

MR. BANKS—I would like to make a short explanation of my vote.

MR. PILLANS—I object.

MR. deGRAFFENREID—I move a suspension of the rules in order that the gentleman may be allowed to make a statement.

MR. PILLANS—I move to lay that upon the table.

PRESIDENT PRO TEM—That motion is out of order. A motion to suspend the rules is not subject to a motion to table.

Upon a vote being taken, the rules were suspended.

MR. BANKS—Mr. President and gentlemen of the Convention, I shall not detain you but a minute or two. As a delegate to this Convention I have been called on to pass upon many difficult questions, and in many instances I have felt my incapacity to arrive at conclusions entirely satisfactory to my own mind. I can say this much, however, that I have met these questions in a spirit of honesty, to reach right conclusions. I am not sure that every vote I have cast has been wisely cast, but I am sure that I have acted in all good conscience, in every effort I have made, and in every conclusion that I have reached. Some measures have been adopted here that I opposed, because I thought them unwise, impolitic and inadequate. In some respects the new Constitution has been a disappointment to me.

I feel that with the distinguished gentleman from Montgomery, it is not as good as the people of Alabama are entitled to. I feel that it cannot last in many respects, because it is too narrow, but the instrument is before me, and as a whole, I am called upon to decide upon it as a whole. What shall I do with it? There is much in it that I approve. Many changes that will be beneficial to the State. In many respects it is an improvement on the old Constitution, and I hope and trust it will be a stepping stone towards the highest and best for the State. With these feelings and with these sentiments, I have to approve it. (Applause).

MR. BROOKS—I was one of those unfortunately absent Saturday. I left here before adjournment not expecting that the vote would be cast and I avail myself now of recording my vote. Of course I vote aye.

When the name of Mr. Merrill was reached he stated he had voted aye on Saturday.

MR. MAXWELL—I can explain the mistake. I was not present on Saturday when the vote was taken. I note that I am recorded as voting aye, and I have just been congratulating myself that my record has been such in the Convention that though absent at the bedside of my sick wife when the roll was being called, the Clerk knew where to place me. (Applause).

PRESIDENT PRO TEM—I will state in behalf of the Secretary, the Journal shows that the gentleman was absent. That is a mistake in the stenographic report.

MR. OATES—I desire to say a few words in explanation of my vote.

Leave was granted.

MR. OATES—The greatest trouble with me is to reconcile the vote with the oath of office as I honestly believe that a part of the Suffrage plan is violative of the Constitution of the United States. I am anxious to vote for the Constitution, so as to concur with my fellow delegates, and to sign the same. I have asked for a separate vote on the grandfather clause, which has not been granted. I have also asked that the signature to be made to the Constitution be made a certification, and not commit a signer to an indorsement of the entire instrument. The language used by the delegate from Jefferson, Mr. Cunningham, in his resolution, is entirely satisfactory to me, but that has not been adopted, and in the opinion of some it is a mere certification and not an absolute endorsement of everything contained in it. It is not a slavish fear of punishment which makes me strictly obey that oath. I do it because I honor my God and am true to myself. A solemn oath with me is never to be violated, nor evaded. I am anxious to vote with my fellow delegates to sign the Constitution, and after my explanation made yesterday, and recommended to the people that this Constitution be ratified, having made a record during the proceedings of my votes, against the objectionable feature, I feel relieved from that obligation in casting a vote now. I do not feel that I am violating my oath, although I still believe one clause in the Constitution is unconstitutional, but to concur with my fellow delegates who differ with me in opinion, in being as unanimous as possible, I vote aye. (Loud applause).

MR. KIRKLAND—I ask unanimous consent to explain my vote.

The consent was given.

MR. KIRKLAND—Not because of the fact that I give my hearty approval to all in the Constitution that this Convention has written, because, like the distinguished gentleman from Montgomery (Mr. Oates), I have seen fit to oppose, honestly, certain phases which are included in this Constitution, but because of the fact that I believe that it is materially better in many respects, and that the people of the State of Alabama will be benefited by its adoption, and in order that I may concur with the balance of the delegates, or very nearly all of them, on this floor, I take pleasure in casting my vote in the affirmative for the adoption of this Constitution. (Loud applause.)

MR. SANFORD (Montgomery)—Mr. President and gentlemen of the Convention—

MR. PILLANS—I object. I think we ought to finish our business here.

PRESIDENT PRO TEM—The gentleman from Montgomery is out of order unless he gets unanimous consent to explain his vote.

MR. BURNETT—I move that the rules be suspended in order that the gentleman from Montgomery may explain his vote.

Upon a vote being taken the rules were suspended.

MR. SANFORD (Montgomery)—I thank you gentlemen for the courtesy of allowing me to explain a vote which I decline to give.

MR. BEDDOW—I desire to make a few remarks to the Convention and ask consent to do so.

The consent was given.

MR. BEDDOW—When the roll was called upon the final adoption of the Constitution the other day, it came at a time that I felt aggrieved and disappointed because of the fact that many reforms that I had expected to be placed in the new Constitution, and that had been offered by me, had failed. In fact, I felt sore, but, upon considering the question, and upon considering in parallel columns the two Constitutions, as an honest man, I am forced to say that the new Constitution is an improvement upon the old. (Applause.) While it is true, that in my opinion, we could have made it much better, yet the main body of the people that I have represented throughout the State of Alabama, while they have not been materially benefited by the new instrument, still they have not been injured in one iota, and since I cast that vote, there has been ringing in my ears a little couplet from Burns:

"John Anderson my Jo, John,
We clamb the hill togither;
And moine a canty day, John,
We've had wi' ane anither;
Now we maun totter down, John,
But hand in hand we'll go,
And sleep togither at the foot,
John Anderson my Jo."

I feel safe in saying that the battles that I have fought were right, and although I am covered with scars, you can testify to the fact that none of them are upon my back. (Laughter).

The Constitution as framed, as I said before, is a better instrument than the other, and while I have not gotten into it what I desired, yet my people have not been wronged, and they have no less liberties under the new instrument than they have under the

old, and I desire permission at your hands to at this time change my vote, and go with the people with whom I have always lived and labored, and whom I love and vote aye. (Loud applause.)

THE PRESIDENT PRO TEM—The gentleman from Jefferson asks unanimous consent to change his vote from no to aye.

By a vote of 132 ayes and 12 noes, the Constitution was adopted.

MR. BAREFIELD—I move that the rules be suspended and that the privileges of the floor be extended to the members of the Democratic State Executive Committee.

Upon a vote being taken, the rules were suspended and the privileges of the floor were extended to the members of the Democratic State Executive Committee.

MR. WINN—My attention has been called to the fact that the stenographic report of Saturday reports me as not voting. I was here and voted aye.

THE PRESIDENT—The journal bears out the affirmative vote of the gentleman from Barbour.

MR. CARMICHAEL (Colbert)—The Committee on Enrollment of the Constitution desires to report.

MR. OATES—Before that is done, I desire at this time to call attention to some corrections that I desire made. I will make a note of the other changes I desire made and hand it to the stenographer.

There is one change, however, of which I wish to speak. I invite particular attention to this. In some of the remarks which were not delivered, but printed, it is stated, in speaking of the speech of the President of this Convention, that he claims that I had made an eloquent protest against the disfranchisement of the negro. Then follows: "The gentleman knew when he made that statement that it was not true," etc. That is a mistake. It should read: "The gentleman ought to have known, upon reflection, that that was not true, and that I was as much in favor of disfranchisement," etc., as he was. As it reads, it makes me appear to have charged Mr. Knox, the President of the Convention, with knowingly uttering an untruth. No one is further from that than I am, for I esteem him as an honorable gentleman. I will make a note of this along with the other corrections and hand it to the stenographer that it may be corrected. I would not do him or any other gentleman an injustice, and that is unjust.

PRESIDENT PRO TEM—The stenographer will make the correction requested.

The report of the Committee was read as follows:

"The Committee on the Enrollment of the Constitution beg leave to report that the proposed Constitution of the State of Alabama has been correctly and properly enrolled, and the same is submitted herewith for action of the Convention.

MR. HOWZE—I have no doubt but what this Committee has carefully read over this Constitution and compared it and their report sustains that proposition. This Convention has heard the Constitution read several times, and we have not a copy with which we would compare the reading of the Clerk, and it will require a long while to read it, and we cannot follow it. I therefore move that the rules be suspended, and that the reading of the Constitution as enrolled, be dispensed with.

THE PRESIDENT PRO TEM—The gentleman from Jefferson moves that the rules be suspended, in order that his motion to dispense with the reading of the enrolled Constitution may be put.

Upon a vote being taken, a division was called for, and the motion to suspend the rules was lost.

THE PRESIDENT PRO TEM—The Clerk will proceed with the reading of the new Constitution.

The Constitution was read as follows:

CONSTITUTION OF THE STATE OF ALABAMA

We, the people of the State of Alabama, in order to establish justice, insure domestic tranquility and secure the blessings of liberty to ourselves and our posterity, invoking the favor and guidance of Almighty God, do ordain and establish the following Constitution and form of government for tne State of Alabama:

ARTICLE I.

Declaration of Rights.

That the great, general and essential principles of liberty and free government may be recognized and established, we declare:

1. That all men are equally free and independent; that they are endowed by their Creator with certain inalienable rights; that among them are life, liberty and the pursuit of happiness.

2. That all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and that, therefore, they have at all times an inalienable and indefeasible right to change their form of government in such manner as they may deem expedient.

3. That no religion shall be established by law; that no preference shall be given by law to any religious sect or society, denomination or mode of worship; that no one shall be compelled by law to attend any place of worship; nor to pay tithes, taxes or

other rates for building or repairing and place of worship or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this State; and that the civil rights, privileges and capacities of any citizen shall not be, in any manner, affected by his religious principles.

4. That no law shall ever be passed to curtail or restrain the liberty of speech or of the press; and any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

5. That the people shall be secure in their persons, houses, papers and possessions from unreasonable seizures or searches; and that no warrant shall issue to search any place or to seize any person or thing without probable cause, supported by oath or affirmation.

6. That in all criminal prosecutions the accused has the right to be heard by himself and counsel, or either; to demand the nature and cause of the accusation and to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to testify in all cases in his own behalf, if he elects so to do; and in all prosecutions by indictment, a speedy public trial by an impartial jury of the county or district in which the offense was committed; and he shall not be compelled to give evidence against himself, nor be deprived of life, liberty or property, except by due process of law; but the Legislature may, by a general law, provide for a change of venue at the instance of the defendant in all prosecutions by indictment, and such change of venue, on application of the defendant, may be heard and determined without the personal appearance of the defendant so applying therefor; provided, that at the time of the application for the change of venue, the defendant is imprisoned in jail or some other place of confinement.

7. That no person shall be accused, or arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed, and no person shall be punished but by virtue of a law established and promulgated prior to the offense and legally applied.

8. That no person shall for an indictable offense be proceeded against criminally by information, except in cases arising in the militia and volunteer forces when in actual service, or when assembled under arms as a military organization, or by leave of the court, for misfeasance, misdemeanor, extortion and oppression in office; otherwise than is provided in this Constitution; provided, that in cases of misdemeanor, the Legislature may by law dispense with a Grand Jury and authorize such prosecutions and proceedings before justices of the peace or such other inferior courts as may be by law established.

9. That no person shall, for the same offense, be twice put in jeopardy of his life or limb; but courts may, for reasons fixed by law, discharge juries from the consideration of any case, and no person shall gain any advantage by reason of such discharge of the jury.

10. That no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cases to which he is a party.

11. That the right of trial by jury shall remain inviolate.

12. That in all prosecutions for libel or 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.

13. That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial or delay.

14. That the State of Alabama shall never be made a defendant in any court of law or equity.

15. That excessive fines shall not be imposed, nor cruel or unusual punishment inflicted.

16. That all person shall, before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great, and that excessive bail shall not in any case be required.

17. That the privilege of the writ of habeas corpus shall not be suspended by the authorities of this State.

18. That treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and that no person shall be convicted of treason, except on the testimony of two witnesses to the overt act, or his own confession in open court.

19. That no person shall be attained of treason by the Legislature; and no conviction shall work corruption of blood or forfeiture of estate.

20. No person shall be imprisoned for debt.

21. That no power of suspending law shall be exercised except by the Legislature.

22. That no ex post facto law, nor any law impairing the obligation of contracts, or making any irrevocable or exclusive grants of special privileges or immunities, shall be passed by the

legislature; and every grant of a franchise, privilege or immunity shall forever remain subject to revocation, alteration or amendment.

23. That the exercise of the right of eminent domain shall never be abridged nor so construed as to prevent the legislature from taking the property and franchises of incorporated companies, and subjecting them to public use in the same manner in which the property and franchises of individuals are taken and subjected; but private property shall not be taken for, or applied to, public use, unless just compensation be first made therefor; nor shall private property be taken for private use, or for the use of corporations, other than municipal, without the consent of the owner; provided, however, the legislature may by law secure to persons or corporations the right of way over the lands of other persons or corporations, and by general laws provide for and regulate the exercise by persons and corporations of the right herein reserved; but just compensation shall in all cases be first made to the owner; and, provided, that the right of eminent domain shall not be so construed as to allow taxation or forced subscription for the benefit of railroads or any other kind of corporations, other than municipal, or for the benefit of any individual or association.

24. That all navigable waters shall remain forever public highways, free to the citizens of the State and the United States, without tax, impost or toll; and that no tax, toll, import or wharfage shall be demanded or received from the owner of any merchandise or commodity for the use of the shores or any wharf erected on the shores, or in stream, unless the same be expressly authorized by law.

25. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress of grievances or other purposes, by petition, address or remonstrance.

26. That every citizen has a right to bear arms in defense of himself and the State.

27. That no standing army shall be kept up without the consent of the legislature, and, in that case, no appropriation for its support shall be made for a longer term than one year; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

28. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor, in time of war, but in manner to be prescribed by law.

29. That no title of nobility or hereditary distinction, privilege, honor or emolument, shall ever be granted or conferred in

this State; and that no office shall be created, the appointment to which shall be for a longer time than during good behavior.

30. That immigration shall be encouraged; emigration shall not be prohibited, and no citizen shall be exiled.

31. That temporary absence from the State shall not cause a forfeiture of residence once obtained.

32. That no form of slavery shall exist in this State; and there shall not be any involuntary servitude, otherwise than for the punishment of crime, of which the party shall have been duly convicted.

33. The privilege of suffrage shall be protected by laws regulating elections and prohibiting, under adequate penalties, all undue influence from power, bribery, tumult or other improper conduct.

34. Foreigners who are, or who may hereafter become, bona fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens.

35. That the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty and property, and when the government assumes other functions it is usurpation and oppression.

36. That this enumeration of certain rights shall not impair or deny others retained by the people; and, to guard against and encroachments on the rights herein retained, we declare that everything in this declaration of rights is excepted out of the general powers of government, and shall forever remain inviolate.

ARTICLE II.

State and County Boundaries

37. The boundaries of this State are established and declared to be as follows, that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido River; thence east to the western boundary line of the State of Georgia; thence along said line to the southern boundary line of the State of Tennessee; thence west along the southern boundary line of the State of Tennessee, crossing the Tennessee river, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear Creek; thence by direct line to the northwest corner of Washington County, in this State, as originally formed; thence southwardly along the line of the State of Mississippi, to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore to the Perdido river; thence up the said river to the beginning; provided, that the limits and jurisdiction of this State shall extend to and include any other

land and territory hereafter acquired by purchase or agreement with other States, or otherwise; although such land and territory are not included within the boundaries hereinbefore designated.

38. The boundaries of the several counties of this State, as they now exist, are hereby ratified and confirmed.

39. The Legislature may by a vote of two-thirds of each house arrange and designate boundaries for the several counties of this State, which boundaries shall not be altered except by a like vote; but no new county shall be formed hereafter of less extent than 600 square miles; and no existing county shall be reduced to less than 600 square miles; and no new county shall be formed unless it shall contain a sufficient number of inhabitants to entitle it to one representative under the ratio of representation existing at the time of its formation, and leave the county, or counties, from which it is taken with the required number of inhabitants to entitle such county or counties each to separate representation; provided, that out of the counties of Henry, Dale and Geneva a new County of less than 600 square miles may be formed under the provisions of this article, so as to leave said counties of Henry, Dale and Geneva with not less than 500 square miles each.

40. No county line shall be altered or changed, or in the event of the creation of new counties shall be established so as to run within seven miles of the county court house of any old county.

41. No court house or county site shall be removed except by a majority vote of the qualified electors of said county, voting at an election held for such purpose, and when an election has once been held no other election shall be held for such purpose until the expiration of four years; provided, that the county site of Shelby county shall remain at Columbiana unless removed by a vote of the people, as provided for in an act entitled "An act to provide for the permanent location of the county site of Shelby county, Alabama, by a vote of the qualified electors of said county," approved the 9th day of February, 1899, and the act amendatory thereof, approved the 20th day of February, 1899, or by an election held under the provisions of this article.

ARTICLE III.

Distribution of Powers of Government.

42. The powers of the government of the State of Alabama shall be divided into three distinct departments, each of which shall be confined to a separate body of magistracy, to-wit: Those which are legislative, to one; those which are executive to another; and those which are judicial to another.

43. In the government of this State, except in the instances in this Constitution hereinafter expressly directed or permitted, the Legislative Department shall never exercise the executive

and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end that it may be a government of laws and not of men.

MR. SPRAGGINS—I ask unanimous consent to make a correction. In the 6th line of Section 43, at the end of the line to strike out "or" and substitute "and."

By unanimous consent the amendment was ordered.

THE PRESIDENT PRO TEM—The question is upon the adoption of the article as read.

ARTICLE IV.

Legislative Department.

44. The legislative power of the State shall be vested in a Legislature, which shall consist of a Senate and a House of Representatives.

45. 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 revisions 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.

46. Senators and Representatives shall be elected by the qualified electors on the first Tuesday after the first Monday in November, unless the Legislature shall change the time of holding elections, and in every fourth year thereafter. The terms of office of the Senators and Representatives shall commence on the day after the general election at which they are elected, and expire on the day after the general election held in the fourth year after their election, except as otherwise provided in this Constitution. At the general election in the year nineteen hundred and two all the Representatives, together with the Senators for the even numbered districts and for the thirty-fifth district, shall be elected. The terms of those Senators who represent the odd numbered districts under the law in force prior to the ratification of this Constitution, are hereby extended until the day after the general election in the year nineteen hundred and six; and until the expiration of his term as hereinbefore extended, each such Senator shall represent the district established by this Constitution, bearing the number corresponding with that for which he was elected. In the year nineteen hundred and six and in every fourth year there-

after, all the Senators and Representatives shall be elected. 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.

47. Senators shall be at least 25 years of age, and Representatives 21 years of age at the time of their election. They shall have been citizens and residents of this State for three years, and residents of their respective counties or districts for one year next before their election, if such county or district shall have been so long established; but if not, then of the county or district from which the same shall have been taken, and they shall reside in their respective counties or districts during their terms of office.

48. The Legislature shall meet quadrennially at the Capitol, in the Senate chamber, and in the hall of the House of Representatives on the second Tuesday in January next succeeding their election, or on such other day as may be prescribed by law; and shall not remain in session longer than 60 days at the first session held under this Constitution, nor longer than 50 days at any subsequent session. If at any time it should from any cause become impossible or dangerous for the Legislature to meet or remain at the Capitol, or for the Senate to meet or remain in the Senate chamber, or for the Representatives to meet or remain in the hall of the House 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.

49. The pay of the members of the Legislature shall be four dollars per day, and ten cents per mile in going to and returning from the seat of government, to be computed by the nearest usual route traveled.

50. The Legislature shall consist of not more than thirty-five Senators, and not more than one hundred and five members of the House of Representatives; to be apportioned among the several districts and counties as prescribed in the Constitution; provided that in addition to the above number of Representatives, each new county hereafter created shall be entitled to one Representative.

51. 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 pro tem. 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 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 the temporary disability 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 office during the continuance of his disability; and such temporary officer, while performing duty as such, shall receive the same compensation to which the permanent officer is entitled by law, and no other. Each house shall choose its own officers, and shall judge of the election, returns and qualifications of its members.

52. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner, and under such penalties, as each house may provide.

53. Each house shall have power to determine the rules of its proceedings, and to punish its members and other persons for contempt or disorderly behavior in its presence; to enforce obedience to its processes, to protect its members against violence, or offers of bribes or corrupt solicitation; and, with the concurrence of two-thirds of the house, to expel a member, but not a second time for the same offense; and the two houses shall have all the powers necessary for the Legislature of a free State.

54. A member of Legislature 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.

55. Each house shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house on any question shall, at the request of one-tenth of the members present, be entered on the journal. Any members of either house shall have liberty to dissent from, or protest against any action or resolution which he may think injurious to the public or to an individual, and have the reason for his dissent entered on the journal.

56. 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 sessions of the 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.

57. 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 other persons to whom either house, by unanimous vote, may extend the privileges of its floor.

58. 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, except as otherwise provided in this Constitution.

59. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people.

60. 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.

61. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

62. 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.

63. Every bill shall be read on three different days in each house, and no bill shall become a law unless on its final passage it be read at length, and the vote be taken by yeas and nays, the names of the members voting for and against the same be entered upon the journal, and a majority of each house be recorded thereon as voting in its favor, except as otherwise provided in this Constitution.

64. 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 a vote be taken by yeas and nays and the names of the members voting for and against the same be recorded at length on the journal; and no report of a committee of 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.

65. The legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of lottery; and all acts or parts of acts heretofore passed by the legislature of ths State authorizing a lottery or lotteries, and all acts amendatory thereof, or supplemental thereto, are hereby avoided.

66. 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 be also entered on the journal.

67. 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.

68. The legislature shall have no power to grant, or to authorize or require any county or municipal authority to grant, nor shall any county or municipal authority have power to grant, any extra compensation, fee or allowance to any public officer, servant, or employe, agent or contractor, after service shall have been rendered or contract made; nor 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; "Nor prevent the Legislature from increasing or diminishing at any time the allowance to the sheriff or other officers for feeding, transferring or guarding prisoners."

69. 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, binding and repairing, and furnishing the halls and rooms used for the meeting of the legislature and its committees, shall be performed, under contract, to be given to the lowest responsible bidder below a maximum price, and under such regulations as shall be prescribed by law; no member or officer of 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.

70. 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 bills shall be passed during the last five days of the session.

71. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the Executive, Legislative and Judicial Departments of the State, for interest on the public debt, and for the public schools. The salary of no officer or employee shall be increased in such bill, nor shall any appropriation be made therein for any officer or employe, unless his employment and the amount of his salary have already been provided by law. All other appropriations shall be made by separate bills, each embracing but one subject.

72. 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.

73. 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.

74. No act of the legislature shall authorize the investment of any trust fund by executors, administrators, guardians or other trustees in the bonds or stock of any private corporation; and any such acts now existing are avoided, saving investments heretofore made.

75. 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.

76. 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. Special sessions shall be limited to thirty days.

77. 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.

78. 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.

79. A member of the Legislature who shall solicit, demand or receive, directly or indirectly, for himself or for another from any company, corporation, association 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 for 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 and penalties provided thereby for such offense, and such additional punishment as is or shall be provided by law.

80. Any person who shall, directly or indirectly, offer, give or promise any money or thing of value, testimonial, privilege, or personal advantage to any executive or judicial officer, or member of the Legislature, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as may be provided by law.

81. 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 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.

82. 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.

83. In all elections by the Legislature the members shall vote viva voce, and the votes shall be entered on the journal.

84. 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 shall choose that mode of adjustment.

85. 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 revising, digesting and promulgating the public statutes of this State of a general nature, both civil and criminal.

86. The Legislature shall pass such penal laws as it may deem expedient to suppress the evil practice of dueling.

87. It shall be the duty of the Legislature to regulate by law the cases in which deduction shall be made from the salaries or compensation of public officers for neglect of duty in their official capacities, and the amount of such deduction.

88. 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.

89. The Legislature shall not have power to authorize any municipal corporation to pass any laws inconsistent with the general laws of this State.

90. In the event of the 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 acquisition not inconsistent with this Constitution. Should the State purchase such foreign territory, 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.

91. The Legislature shall not tax the property, real or personal, of the State, counties, or other municipal corporations, or cemeteries; nor lots in incorporated cities or towns, or within one mile of any city or town to the extent of one acre, nor lots one mile or more distant from such cities or towns to the extent of five acres, with the buildings thereon, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable.

92. The Legislature shall by law prescribe such rules and regulations as may be necessary to ascertain the value of real and personal property exempted from sale under legal process by this Constitution, and to secure the same to the claimant thereof as selected.

93. The State shall not engage in works of internal improvement, or 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.

94. The Legislature shall not have 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.

95. There can be no law of this State impairing the obligation of contracts by destroying or impairing the remedy for 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. 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 existing defense to such suit.

96. 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 allowance of public officers.

97. The Legislature shall not authorize payment to any person of the salary of a deceased officer beyond the date of his death.

98. The Legislature shall not retire any officer on pay, or part pay, or make any grant to such retiring officer.

99. Lands belonging to or under the control of the State shall never be donated directly or indirectly to private corporations, associations, or individuals or railroad companies; nor shall such lands be sold to corporations or associations for a less price than that for which they are subject to sale to individuals; provided, that nothing contained in this section shall prevent the Legislature from granting a right of way, not exceeding one hundred and twenty-five feet in width, as a mere easement, to railroads or telegraph or telephone lines across State land, and the Legislature shall never dispose of the land covered by such right of way except subject to such easement.

100. No obligation of liability of any person, association, or corporation held or owned by this State, or by any county or municipality thereof, shall ever be remitted, released or postponed, or in any way diminished, by the legislature; nor shall such liability or obligation be extinguished 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.

101. 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.

102. The Legislature shall never pass any law to authorize or legalize any marriage between any white person and a negro or descendant of a negro.

103. 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 any of them from making scarce articles of necessity, trade or commerce, or from increasing unreasonably the cost thereof to the consumer, or preventing reasonable competition in any calling, trade or business.

LOCAL LEGISLATION.

104. The legislature shall not pass a special, private or local law in any of the following cases:

(1.) Granting a divorce.

(2.) Relieving any minor of the disabilities of non-age.

(3.) Changing the name of any corporation, association or individual.

(4.) Providing for the adopting or legitimizing of any child.

(5.) Incorporating a city, town or village.

(6.) Granting a charter to any corporation, association or individual.

(7.) Establishing rules of descent or distribution.

(8.) Regulating the time within which a civil or criminal action may be begun.

(9.) Exempting any individual, private corporation or association from the operation of any general law.

(10.) Providing for the sale of the property of any individual or estate.

(11.) Changing or locating a county seat.

(12.) Providing for a change of venue in any case.

(13.) Regulating the rate of interest.

(14.) Fixing the punishment of crime.

(15.) Regulating either the assessment or collection of taxes, except in connection with the re-adjustment, renewal or existence of existing municipal indebtedness created prior to the ratification of the Constitution of eighteen hundred and seventy-five.

(16.) Giving effect to an invalid will, deed or other instrument.

(17.) Authorizing any county, city, town, village, district or other political sub-division of a county, to issue bonds or other securities unless the issuance of said bonds or other securities shall

have been authorized before the enactment of such local or special law, by a vote of the duly qualified electors of such county, township, city, town, village, district or other political sub-division of a county, at an election held for such purpose, in the manner that may be prescribed by law; provided, the legislature may without such election, pass special laws to refund bonds issued before the date of the ratification of this Constitution.

(18.) Amending, confirming or extending the charter of any private or municipal corporation, or remitting the forfeiture thereof; provided, this shall not prohibit the legislature from altering or re-arranging the boundaries of any city, town or village.

(19.) Creating, extending or impairing any lien.

(20.) Chartering or licensing any ferry, road or bridge.

(21.) Increasing the jurisdiction and fees of justices of the peace or the fees of constables.

(22.) Establishing separate school districts.

(23.) Establishing separate stock districts.

(24.) Creating, increasing or decreasing fees, per centages or allowances of public officers.

(25.) Exempting property from taxation or from levy or sale.

(26.) Donating any lands owned by or under the control of the State to any person or corporation.

(28.) Remitting fines, penalties or forfeitures.

(29.) Providing for the conduct of elections or designating places of voting, or changing the boundaries of wards, precincts or districts, except in the event of the organization of new counties, or the changing of the lines of old counties.

(30.) Restoring the right to vote to persons convicted of infamous crimes, or crimes involving moral turpitude.

(31.) Declaring who shall be liners between precincts or between counties. The legislature shall pass general laws for the cases enumerated in this section; provided, that nothing in this section or article shall affect the right of the legislature to enact local laws regulating or prohibiting the liquor traffic; but no such local law shall be enacted unless notice shall have been given as required in Section 106 of this Constitution.

105. No special, private or local law, except a law fixing the time of holding courts, shall be enacted in any case which is provided for by a general law, or when the relief sought can be given by any court of this State; and the courts, and not the legislature, shall judge as to whether the matter of said law is provided for by a general law, and as to whether the relief sought can be given by

any court; nor shall the legislature indirectly enact any such special, private or local law by the partial repeal of a general law.

106. No special, private or local law shall be passed on any subject not enumerated in Section 104 of this Constitution, except in reference to fixing the time of holding courts, unless notice of the intention to apply therefor shall have been published, without cost to the State, in the county or counties where the matter or thing to be affected may be situated, which notice shall state the substance of the proposed law, and be published at least once a week for four consecutive weeks in some newspaper published in such county or counties, or if there is no newspaper published therein, then by posting the said notice for four consecutive weeks at five different places in the county or counties prior to the introduction of the bill; and proof by affidavit that said notice has been given shall be exhibited to each house of the Legislature, and said proof spread upon the Journal. The courts shall pronounce void every special, private or local law which the Journals do not affirmatively show was passed in accordance with the provisions of this section.

107. The Legislature shall not, by a special, private or local law, repeal or modify any special, private or local law except upon notice being given and shown, as provided in the last preceding section.

108. The operation of a general law shall not be suspended for the benefit of any individual, private corporation or association; nor shall any individual, private corporation or association be exempted from the operation of any general law except as in this article otherwise provided.

109. The Legislature shall pass general laws under which local and private interests shall be provided for and protected.

110. A general law within the meaning of this article is a law which applies to the whole State; a local law is a law which applies to any political subdivision or subdivisions of the State, less than the whole; a special or private law within the meaning of this article is one which applies to an individual, association or corporation.

111. No bill introduced as a general law in either house of the Legislature shall be so amended on its passage as to become a special, private or local law.

ARTICLE V.

Executive Department.

112. The Executive Department shall consist of a Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, Commissioner of Agriculture and Industries and a sheriff for each county.

113. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled "The Governor of the State of Alabama."

114. The Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and the Commissioner of Agriculture and Industries, shall be elected by the qualified electors of the State at the same time and places appointed for the election of members of the legislature in the year nineteen hundred and two, and in every fourth year thereafter.

115. The returns of every election for Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries shall be sealed up and transmitted by the returning officers to the seat of government, directed to the Speaker of the House of Representatives, who shall, during the first week of the session to which such returns shall be made, open and publish them in the presence of both Houses of the legislature in joint convention; but the Speaker's duty and the duty of the joint convention shall be purely ministerial. The result of the election shall be ascertained and declared by the Speaker from the face of the returns without delay. The person having the highest number of votes for any one of said offices shall be declared duly elected; but if two or more persons shall have an equal and the highest number of votes for the same office, the legislature by joint vote, without delay, shall choose one of said persons for said office. Contested elections for Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries shall be determined by both houses of the legislature in such manner as may be prescribed by law.

116. The Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries elected after the ratification of this Constitution, shall hold their respective offices for the term of four years from the first Monday after the second Tuesday in January next, succeeding their election, and until their successors shall be elected and qualified. After the first election under this Constitution no one of said officers shall be eligible as his own successor; and the Governor shall not be eligible to election or appointment to any office under this State or to the Senate of the United States, during his term and within one year after the expiration thereof.

117. The Governor and Lieutenant Governor shall each be at least thirty years of age when elected, and shall have been citizens of the United States ten years and resident citizens of this State at least seven years next before the date of their election.

The Lieutenant Governor shall be ex-officio President of the Senate, but shall have no right to vote except in the event of a tie.

118. The Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries shall receive compensation to be fixed by law, which shall not be increased or diminished during the term for which they shall have been elected, and shall, except the Lieutenant Governor, reside at the State capital during the time they continue in office, except during epidemics. The compensation of the Lieutenant Governor shall be the same as that received by the Speaker of the House, except while serving as Governor, during which time his compensation shall be the same as that allowed the Governor.

119. If the legislature, at the session next after the ratification of this Constitution, shall enact a law increasing the salary of the Governor, such increase shall become effective and apply to the first Governor elected after the ratification of this Constitution, if the legislature shall so determine.

120. The Governor shall take care that the laws be faithfully executed.

121. The Governor may require information in writing, under oath, from the officers of the Executive Department, named in this article, or created by statute, on any subject relating to the duties of their respective offices, and he may at any time require information in writing, under oath, from all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions. Any such officer or manager who makes a wilfully false report or fails without sufficient excuse to make the required report on demand, is guilty of an impeachable offense.

122. The Governor may, by proclamation, on extraordinary occasions, convene the Legislature at the seat of government or at a different place if, since their last adjournment, that shall have become dangerous from an enemy, insurrection, or other lawless outbreak, or from any infectious or contagious disease; and he shall state specifically in such proclamation each matter concerning which the action of that body is deemed necessary.

123. The Governor shall, from time to time, give to the Legislature information of the state of the government, and recommend for its consideration such measures as he may deem expedient; and at the commencement of each regular session of the Legislature, and at the close of his term of office, he shall give information by written message of the condition of the State; and he shall account to the Legislature as may be prescribed by law, for all moneys received and paid out by him or by his order; and at the commencement of each regular session he shall present to the

Legislature estimates of the amount of money required to be raised by taxation for all purposes.

124. The Governor shall have power to remit fines and forfeitures under such rules and regulations as may be prescribed by law; and, after conviction, to grant reprieves, paroles, commutations of sentences and pardons, except in cases of impeachment. The Attorney General, Secretary of State, and State Auditor shall constitute a Board of Pardons, who shall meet on the call of the Governor, and before whom shall be laid all recommendations or petitions for pardon, commutation or parole, in cases of felony; and the board shall hear them in open session and give their opinion thereon in writing to the Governor, after which, or on the failure of the board to advise for more than sixty days, the Governor may grant or refuse the commutation, parole or pardon, as to him seems best for the public interest. He shall communicate to the Legislature at each session every remission of fines and forfeitures, and every reprieve, commutation, parole or pardon, with his reasons therefor, and the opinion of the Board of Pardons in each case required to be referred, stating the name and crime of the convict, the sentence, its date, and the date of reprieve, commutation, parole or pardon. Pardons in cases of felony and other offenses involving moral turpitude shall not relieve from civil and political disabilities, unless approved by the Board of Pardons and specifically expressed in the pardon.

125. Every bill which shall have passed both houses of the Legislature, except as otherwise provided in this Constitution, shall be presented to the Governor; if he approve, he shall sign it; if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon the journal and proceed to reconsider it. If the Governor's message proposes no amendment which would remove his objections to the bill, the house in which the bill originated may proceed to reconsider, and if a majority of the whole number elected to that house vote for the passage of the bill, it shall be sent to the other house, which shall in like manner reconsider, and if a majority of the whole number elected to that house vote for the passage of the bill, the same shall become a law, notwithstanding the Governor's veto. If the Governor's message proposes amendment which would remove his objections, the house to which it is sent may so amend the bill, and send it with the Governor's message to the other house, which may adopt, but cannot amend, said amendment: and both houses concurring in the amendment, the bill shall again be sent to the Governor and acted on by him as other bills. If the house to which the bill is returned refuses to make such amendment, it shall proceed to reconsider; and if a majority of the whole number elected to that house shall vote for the passage of the bill, it shall be sent with the objections to the other house, by which it shall likewise be reconsidered, and if approved by a majority of the whole number elected to that house, it shall become a

law. If the house to which the bill is returned makes the amendment and the other house declines to pass the same, the house shall proceed to reconsider, as though the bill had originated therein, and such proceedings shall be taken thereon as above provided. In every such case, the vote of both houses shall be determined by yeas and nays and the names of the members voting for or against the bill shall be entered upon the journals of each house respectively. If any bill shall not be returned by the Governor, within six days, Sunday excepted, after it shall have been presented, the same shall become a law in like manner as if he had signed it, unless the Legislature, by its adjournment, prevent the return, in which case it shall not be a law, but when return is prevented by recess, such bill must be returned to the house in which it originated within two days after reassembling, otherwise it shall become a law; but bills presented to the Governor within five days before the final adjournment of the Legislature may be approved by the Governor at any time within ten days after such adjournment, and if approved and deposited with the Secretary of State within that time shall become law. Every vote, order, or resolution to which concurrence of both houses may be necessary, except on questions of adjournment and the bringing on of elections by the two houses, and amending this Constitution, shall be presented to the Governor; and, before the same shall take effect, be approved by him; or being disapproved, shall be repassed by both houses according to the rules and limitations prescribed in the case of a bill.

126. The Governor shall have power to approve or disapprove any item or items of any appropriation bill embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of bills over the executive veto; and he shall in writing state specifically the item or items he disapproves, setting the same out in full in his message, but in such case the enrolled bill shall not be returned with the Governor's objection.

127. In case of the Governor's removal from office, death or resignation, the Lieutenant-Governor shall become Governor. If both the Governor and Lieutenant Governor be removed from office, die, or resign, more than sixty days prior to the next general election at which any State officers are to be elected, a Governor and Lieutenant Governor shall be elected at such election for the unexpired term; and in the event of a vacancy in the office, caused by the removal from office, death or resignation of the Governor and the Lieutenant Governor, pending such vacancy and until their successors shall be elected and qualified, the office of Governor shall be held and administered by either the President pro tem. of the Senate, Speaker of the House of Representatives, Attorney General, State Auditor, Secretary of State, or State Treasurer, in the order herein named. In case of the impeachment of

the Governor, his absence from the State for more than twenty days, unsoundness of mind, or other disability, the power and authority of the office shall, until the Governor is acquitted, returns to the State, or is restored to his mind, or relieved from other disability, devolve in the order herein named upon the Lieutenant Governor, President pro tem. of the Senate, Speaker of the House of Representatives, Attorney General, State Auditor, Secretary of State and State Treasurer. If any of these officers be under any of the disabilities herein specified, the office of Governor shall be administered in the order named by such of these officers as may be free from such disability. If the Governor shall be absent from the State over twenty days, the Secretary of State shall notify the Lieutenant Governor, who shall enter upon the duties of Governor; if both the Governor and Lieutenant Governor shall be absent from the State over twenty days, the Secretary of State shall notify the President pro tem. of the Senate, who shall enter upon the duties of Governor, and so on, in case of such absence, he shall notify each of the other officers named in their order, who shall discharge the duties of the office until the Governor or other officer entitled to administer the office in succession to the Governor returns. If the Governor-elect fails or refuses from any cause to qualify, the Lieutenant Governor-elect shall qualify and exercise the duties of Governor until the Governor-elect qualifies; and, in the event both the Governor-elect and the Lieutenant Governor-elect from any cause faily to qualify, the President pro tem. of the Senate, Speaker of the House of Representatives, the Attorney General, State Auditor, Secretary of State and State Treasurer shall in like manner, in the order named, administer the office, until the Governor-elect or Lieutenant Governor-elect qualifies.

128. If the Governor or other officer administering the office shall appear to be of unsound mind, it shall be the duty of the Supreme Court of Alabama, at any regular term, or at any special term, which it is hereby authorized to call for that purpose, upon request in writing verified by their affidavits, of any two of the officers named in Section 127 of this Constitution, not next in succession to the office of Governor, to ascertain the mental condition of the Governor or other officer administering the office, and if he is adjudged to be of unsound mind, to so decree, a copy of which decree, duly certified, shall be filed in the office of the Secretary of State; and in the event of such adjudication, it shall be the duty of the officer next in succession to perform the duties of the office until the Governor or other officer administering the office is restored to his mind. If the incumbent denies that the Governor or other person entitled to administer the office has been restored to his mind, the Supreme Court, at the instance of any officer named in Section 127 of this Constitution, shall ascertain the truth concerning the same, and if the officer has been restored to his mind, shall so adjudge and file a duly certified copy of its decree with the Secretary of State; and in the event of such adjudication, the

office shall be restored to him. The Supreme Court shall prescribe the method of taking testimony and the rules of practice in such proceedings, which shall include a provision for the service of such proceedings on the Governor or person acting as Governor.

129. The Lieutenant Governor, President pro tem. of the Senate, Speaker of the House, Attorney General, State Auditor, Secretary of State or State Treasurer, while administering the office of Governor, shall receive like compensation as that prescribed by law for the Governor, and no other.

130. No person shall at the same time hold the office of Governor and any other office, civil or military, under this State or the United tates or any other State or government, except as otherwise provided in this Constitution.

131. The Governor shall be commander-in-chief of the militia and volunteer forces of this State, except when they shall be called into the service of the United States, and he may call out the same to execute the laws, suppress insurrection and repel invasion, but need not command in person unless directed to do so by resolution of the legislature; and when acting in the service of the United States, he shall appoint his staff, and the legislature shall fix his rank.

132. No person shall be eligible to the office of Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education or Commissioner of Agriculture and Industries unless he shall have been a citizen of the United States at least seven years, and shall have resided in this State at least five years next preceding his election, and shall be at least twenty-five years old when elected.

133. There shall be a seal of state which shall be used officially by the Governor, and the seal now in use shall continue to be used until another shall have been adopted by the legislature. The seal shall be called "The Great Seal of the State of Alabama."

134. The Secretary of State shall be the custodian of the Great Seal of the State, and shall authenticate therewith all official acts of the Governor, except his approval of laws, resolutions, appointments to office and administrative orders. He shall keep a register of the official acts of the Governor, and when necessary shall attest them and lay copies of the same, together with copies of all papers relative thereto, before either house of the legislature when required to do so, and shall perform such other duties as may be prescribed by law.

135. All grants and commissions shall be issued in the name and by the authority of the State of Alabama, sealed with the Great Seal of the State, signed by the Governor and countersigned by the Secretary of State.

136. Should the office of Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, or Commissioner of Agriculture and Industries become vacant from any cause, the Governor shall fill such vacancy until the disability is removed or a successor elected and qualified. In case any of said officers shall become of unsound mind, such unsoundness shall be ascertained by the Supreme Court upon the suggestion of the Governor.

137. The Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, and Commissioner of Agriculture and Industries shall perform such duties as may be prescribed by law. The State Treasurer and State Auditor shall every year, at a time fixed by the legislature, make a full and complete report to the Governor, showing the receipts and disbursements of every character, all claims audited and paid out, by items, and all taxes and revenues collected and paid into the treasury, and the sources thereof. They shall make reports oftener upon any matters pertaining to their offices if required by the Governor or the legislature. The Attorney General, State Auditor, Secretary of State, State Treasurer and Commissioner of Agriculture and Industries shall not receive to their use any fees, costs, perquisites of office or other compensation than the salaries prescribed by law, and all fees that may be payable for any services performed by such officers shall be at once paid into the State Treasury.

138. A sheriff shall be elected in each County by the qualified electors thereof who shall hold office for a term of four years unless sooner removed, and he shall be ineligible to such office as his own successor; and provided, that the terms of all sheriffs expiring in the year 1904 are hereby extended until the time of the expiration of the terms of the other executive officers of this State in the year 1907, unless sooner removed. Whenever any prisoner is taken from jail or from the custody of the sheriff or his deputy, and put to death, or suffers grievous bodily harm, owing to the neglect, connivance, cowardice or other grave fault of the sheriff, such sheriff may be impeached under Section 174 of this Constitution. If the sheriff be impeached and thereupon convicted, he shall not be eligible to hold any office in this State during the time for which he had been elected to serve as sheriff.

ARTICLE VI.

Judicial Department.

139. The judicial power 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 twenty thousand, according to the next preceding Federal census, and property assessed for valuation at a less valuation than three millions five hundred thousand dollars.

140. 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, except where judisdiction 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 to such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions.

141. The Supreme Court shall be held at the seat of government, but, if that shall become dangerous from any cause, it may convene at or adjourn to another place.

142. 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.

143. 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 no original jurisdiction except where the matter or sum in controversy exceeds fifty dollars.

144. 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 the 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 to the Courts of Chancery, or courts having the jurisdiction of Courts of Chancery.

145. 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 in the division for which he shall be elected or appointed for one year next preceding his election or appointment, and shall reside therein during his continuance in office.

146. 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, and shall do so when directed by law.

147. Any county having a population of twenty thousand or more, according to the next preceding Federal census, and also taxable property of three million five hundred thousand dollars or more 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 its population shall be reduced below that number, the Legislature 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 of twenty thousand or more and taxable property of three million five hundred thousand dollars or more in value.

148. The Legislature 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 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 a sufficient number of Judges for the transaction of the business of such consolidated court.

149. The Legislature shall have power to establish in each county a Court or Probate, with general jurisdiction of orphans' business and to grant letters testamentary and of administration; provided, that, wherever 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.

150. 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 government, during the term for which they have been elected or appointed.

151. The Supreme Court shall consist of one Chief Justice and such number of Associate Justices as may be prescribed by law.

152. The Chief Justice and Associate Justices of the Supreme Courts, Judges of the 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.

153. 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 Legislature may prescribe.

154. 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 twenty-five years of age, and, except Judges of Probate Courts, shall be learned in the law.

155. 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 office for the full term hereby prescribed shall not be affected by any change hereafter made by law in any circuit, division or county, or in the mode or time of election.

156. The Chief Justice and Associate Justices of the Supreme Court shall be chosen at an election to be 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 nineteen hundred and four shall be as provided in the last preceding section. The successors of two of the Associate Justices elected in the year nineteen hundred and four shall be elected in the year nineteen hundred and six, and the successors of the other two Associate Justices elected in the year nineteen hundred and four shall be elected in the year nineteen hundred and eight. The Associate Justices of said court elected in the year nineteen hundred and four shall draw or cast lots among themselves to determine which of them shall hold office for the terms ending, respectively, in the years nineteen hundred and six and nineteen hundred and eight, 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, nineteen hundred and five, 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, one-third of the members of said court.

157. All judicial officers within their respective jurisdiction shall, by virtue of their offices, be conservators of the peace.

158. Vacancies in the office of any of the Justices of the Supreme Court or Judges who hold office by election, or chancellors of this State shall be filled by appointment by the Governor. The appointee shall hold his office until the next general election for any State officer 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.

159. Whenever any new circuit or chancery division is created, the judge or chancellor therefor shall be elected at the next general election for any State officer for a term to expire at the next general election for circuit judges and chancellors; provided, that if said new circuit or chancery division is created more than six months before such general election for any State officer, the Governor shall appoint some one as judge or chancellor, as the case may be, to hold the office until such election.

160. If in any case, civil or criminal, pending in any circuit court, chancery court, or in any court of general jurisdiction having any part of the jurisdiction of a circuit and a 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 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 such incompetent chancellor could have rendered, but for such incompetency. 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 othes court in which said case 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.

161. 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.

162. 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.

163. 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.

164. 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.

165. 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 court for the unexpired term.

166. 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.

167. A solicitor for each judicial circuit or other territorial subdivision prescribed by the legislature, shall be elected by the qualified electors of those counties in such circuit or other territorial subdivision in which such solicitor prosecutes criminal cases, and such solicitor shall be learned in the law, and shall at the time of his election and during his continuance in office, reside in a county (in the circuit) in which he prosecutes criminal cases, or other territorial subdivision for which he is elected, and his term of office shall be four years, and he shall receive no other compensation than a salary, to be prescribed by law, which shall not be increased during the term for which he was elected; 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 nineteen hundred and four shall hold office for six years, and until their successors are elected and qualified; and provided further, that the legislature may provide by law for the appointment by the Governor or the election by the qualified electors of a county of a solicitor for any county.

168. 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, or party 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 the inferior courts in this section 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 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.

169. In all prosecutions for rape and assault with intent to ravish the court may, in its discretion, exclude from the court room all persons, except such as may be necessary in the conduct of the trial.

170. 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."

171. 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.

172. Nothing in this article shall be so construed as to abridge the term of any officer now in office.

ARTICLE VII.

Impeachments.

173. The Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education, Commissioner of Agriculture and Industries and Justices 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 officer 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 of impeachment, under oath or affirmation on articles or charges preferred by the House of Representatives.

When the Governor or Lieutenant Governor is impeached, the Chief Justice, or if he be absent or disqualified, then one of the Associate Justices of the Supreme Court, to be selected by it, shall preside over the Senate when sitting as a court of impeachment.

If at any time when the Legislature is not in session, a majority of all the members elected to the House of Representatives shall certify in writing to the Secretary of State their desire to meet, to consider the impeachment of the Governor, Lieutenant Governor or other officer administering the office of Governor, it shall be the duty of the Secretary of State immediately to notify the Speaker of the House, who shall, within ten days after receipt of such notice, summon the members of the House by publication in some newspaper, published at the capital, to assemble at the Capitol on a day to be fixed by the Speaker, not later than fifteen days after the receipt of the notice to him from the Secretary of State, to consider the impeachment of the Governor, Lieutenant Governor, or other officer administering the office of Governor. If the House of Representatives prefer articles of impeachment, the Speaker of the House shall forthwith notify the Lieutenant Governor, unless he be the officer impeached, in which event he shall notify the Secretary of State, who shall summon, in the manner hereinabove provided for, the members of the Senate to assemble at the Capitol on a day to be named in said summon, not later than ten days after receipt of the notice from the Speaker of the House for the purpose of organizing as a court of impeachment the Senate when then organized, shall hear and try such articles of impeachment against the Governor, Lieutenant Governor or other officer administering the powers of the office of Governor, as may be preferred by the House of Representatives.

174. The Chancellors, Judges of the Circuit Courts, Judges of the Probate Courts and Judges of any other Courts, from which an appeal may be taken directly to the Supreme Court and Solicitors and Sheriffs, may be removed from office for any of the causes specified in the preceding section, or elsewhere in this Constitution by the Supreme Court under such regulations as may be prescribed by law. The Legislature may provide for the impeachment or removal of other officers than those named in this Article.

175. The Clerks of the Circuits or Courts of like jurisdiction, of Criminal Courts, Tax Collectors, Tax Assessors, County Trea-

surers, County Superintendents of Education, Judges of Inferior Courts created under authority of Section 168 of this Constitution, Coroners, Justices of the Peace, Notaries Public, Constables and all other County officers, Mayors, intendants 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 173 of this Constitution by the Circuit or other Courts of like jurisdiction, or a 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 shall be secured.

176. The penalties in cases arising under the three preceding sections shall not extend beyond removal from office and disqualification from holding office, under the authority of this State for the term for which the officer was elected or appointed, but the accused shall be liable to indictment and punishment as prescribed by law.

ARTICLE VIII.

Suffrage and Elections.

177. Every male citizen of this State who is a citizen of the United States, and every male resident of foreign birth, who, before the ratification of this Constitution, shall have legally declared his intention 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 foreigners who have legally declared their intention to become citizens of the United States, shall, if they fail to become citizens thereof at the time they are entitled to become such, cease to have the right to vote until they become such citizens.

178. 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 nineteen hundred and one, 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 in the same county, incorporated town or city, shall have the right to vote in the precinct or ward from which he was removed, if he would have been entitled to vote in such precinct or ward but for such removal.

179. All elections by the people shall be by ballot, and all elections by persons in a representative capacity shall be viva voce.

180. The following male citizens of the State, who are citizens of the United States, and every male resident of foreign birth who, before the ratification of this Constitution, shall have legally declared his intention to become a citizen of the United States, except those who shall not have had an opportunity to perfect his citizenship prior to the twentieth day of December, nineteen hundred and two, 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 the qualification as to residence prescribed in Section 178 of this Constitution, and who are not disqualified under Section 182 of this Constituion, shall upon application, be entitled to register as electors prior to the twentieth day of December, nineteen hundred and two, 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 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,

Third—All persons who are of good character and who understand the duties and obligations of citizenship under a republican form of government.

181. After the first day of January, nineteen hundred and three, the following persons, and no others, who in 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 178 of this Constitution, shall be qualified to register as electors, provided, they shall not be disqualified under Section 182 of this Constitution.

First—Those who can read and write any Article of the Constitution of the United States in the English language and who are physically unable to work; those who can read and write any Article of the Constitution of the United States in the English language, and 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, and those who are unable to read and write if such inability is due solely to physical disability 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 situated in this State, upon which they reside; 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 real estate, situated in this State assessed for taxation at the value of three hundred dollars 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 assessed for taxation at three hundred dollars 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.

182. The following persons shall be disqualified both from registering and from voting, namely:

All idiots and insane persons; those who shall by reason of disqualified conviction of crime be disqualified from voting at the time of the ratification of this Constitution; 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 of buying or offering to buy the vote of another, or of making or offering to make a false return in any election by the people or in any primary election 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.

183. 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 from voting under the provisions of this Article.

184. 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 the year 1902.

185. 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, and upon conviction thereof, shall be imprisoned in the penitentiary for not less than one nor more than five years.

186. The Legislature 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 sixty days after the ratification of this Constitution by the Governor, Auditor, and Commissioner of Agriculture and Industries, or by 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 if 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 two dollars per day to be paid by the State and disbursed by the several Judges of Probate, 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 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 Judge of Probate of the county.

Second, prior to the first day of August, 1902, the Board of Registrars in each county shall visit each precinct at least once, and oftener, if necessary, to make a complete registration of all persons entitled to register, and shall 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 once a week for three successive weeks in a newspaper, if there be one published in the county. 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 nine hundred square miles in area, such board may consume seventy-five

working days in completing the registration, and except that in counties in which there is any city of eight thousand or more inhabitants, the board may remain in session, in addition to the time hereinbefore prescribed, for not more than three successive weeks in each of such 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 an additional session of not exceeding five consecutive days' duration for each session, in each town or city of not more than one thousand 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 not register any person between the first day of August, nineteen hundred and two, and the Friday next preceding the day of election in November, nineteen hundred and two. On Friday and Saturday next preceding the day of the election in November, nineteen hundred and two, they shall sit in the court house of each county during such days, and shall register all applicants having the qualifications described by Section 180 of this Constitution and not disqualified under Section 182, who shall have reached the age of twenty-one years after the first day of August, nineteen hundred and two, 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, nineteen hundred and two; and they shall not on such days register any other persons. When there are two or more court houses in a county, the registrars may sit during such two days at the court house they may select, but shall give ten days notice, by bills posted at each of the court houses, designating the court house at which they will sit.

Fourth—The Board of Registrars shall hold sessions at the court house of their respective counties during the entire third week in November, nineteen hundred and two, and for six working days next prior to the twentieth day of December, nineteen hundred and two, during which sessions they shall register all persons applying who possess the qualifications described in Section 180 of this Constitution, and who shall not be disqualified under Section 182. 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 posted and such publications to be commenced as early as practicable in the first week of November, nineteen hundred and two. Failure on the part of the registrars

to conform to the provisions of this article as to the giving of the required notices shall not invalidate any registration made by them.

Fifth—The Board of Registrars shall have power to examine under oath or affirmation all applicants for registration, and to take testimony touching the qualifications of such applicants. Each member of such board is authorized to administer the oath to be taken by the applicants and witnesses, which shall be in the following form, and subscribed by the person making it, and

"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, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one year nor more than five years.

Sixth—The action of the majority of the Board of Registrars shall be the action of the board, and a majority of the board shall constitute a quorum for the transaction of all business. Any person to whom registration is denied shall have the right of appeal, without giving security for costs 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 register, to have his qualifications as an elector determined. Upon the filing of 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 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 shall furnish to the registrars and judges of probate of the several counties a sufficient number of registration books and of blank forms of the oaths, certificates of registration and 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 person who registers for another, or who registers more than once and any registrar who enters the name of any

person on the list of registered voters, without such person 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, and upon conviction thereof shall be imprisoned in the penitentiary for not less than one year nor more than five years.

187. The Board of Registrars in each county shall, on or before the first day of February, nineteen hundred and three, or as soon thereafter as practicable, file in the office of the judge of probate of their county a complete list, sworn to by them, of all persons registered in their county, 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, nineteen hundred and three, or as soon thereafter as practicable, cause to be made from such list in duplicate, in the books furnished by the Secretary of State, an alphabetical list by precincts of the persons shown by the list of the registrars to have been registered in the county, and shall file one of such alphabetical lists in the office of the Secretary of State; for which services by the Judges of Probate compensation shall be provided by the Legislature. The Judges of Probate shall keep both the original list filed by the registrars and the alphabetical list made therefrom as records in the office of the Judge of Probate 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 not be required to register again unless he changes his residence, in which event he may register again on production of his certificate. The certificate of the registrars or of the Judge of Probate 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 Legislature shall provide by law for the renewal of such certificate when lost, mutilated or destroyed.

188. From and after the first day of January, 1903, any applicant for registration may be required to state under oath, to be administered by a 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 by which he was known during that period, and the name of his employer or employes, 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, and

upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

189. In the trial of any contested election, and in proceedings to investigate any election and in criminal prosecution for violation of election laws no person other than a defendant in such criminal prosecution 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.

190. The Legislature 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 any qualified electors from and after the first day of January, 1903. The Legislature shall also make provision by law, not inconsistent with this Article, for the regulation of primary elections, and for punishing frauds at the same, but shall not make primary elections compulsory. The Legislature shall by law provide for purging the registration list of the names of those who die, become insane, are convicted of crime or otherwise disqualified as electors under the provisions of this Constitution and of any names which may have been fraudulently entered on such lists by the registrars; 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.

191. It shall be the duty of the Legislature to pass adequate laws giving protection against the evils arising from the use of intoxicating liquors at all elections.

192. 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.

193. Returns of elections for members of the Legislature and for all civil officers who are to be commissioned by the Governor, except the Attorney General, State Auditor, Secretary of State, State Treasurer, Superintendent of Education and Commissioner of Agriculture and Industries, shall be made to the Secretary of State.

194. 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; but the Legislature is authorized to increase the maximum age fixed in this section to not more than sixty years. Such poll tax shall become due and payable on the first day of October in each year, and become delin-

quent 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.

195. 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 upon conviction thereof shall be imprisoned in the penitentiary for not less than one nor more than five years.

196. If any section or sub-division 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 this Article shall not be thereby invalidated or affected.

ARTICLE IX.

Representation.

197. The whole number of Senators shall be not less than one-fourth, or more than one-third of the whole number of Representatives.

198. The House of Representatives shall consist of not more than one hundred and five members unless new counties shall be created, in which event each new county shall be entitled to one Representative. The members of the House of Representatives shall be apportioned by the Legislature 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 Legislature after the next decennial census of the United States shall have been taken.

199. It shall be the duty of the Legislature at its first session after the taking of the decennial census of the United States in the year nineteen hundred and ten, 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.

200. It shall be the duty of the Legislature at its first session after the taking of the decennial census of the United States in the year nineteen hundred and ten, 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 such districts when formed shall not be changed until the next apportioning session of the Legis-

lature, 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 Legislature may be attached to Senatorial districts. No county shall be divided between two districts, and no district shall be made up of two or more counties not contiguous to each other.

201. Should any decennial census of the United States not be taken, or if when taken, the same, as to this State, be not full and satisfactory, the Legislature shall have the 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, upon which it shall be the duty of the Legislature to make the apportionment of Representatives and Senators as provided in this article.

202. Until the Legislature shall make an apportionment of Representatives among the several counties, as provided in the preceding section, the counties of Autauga, Baldwin, Bibb, Blount, Cherokee, Chilton, Choctaw, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, DeKalb, Escambia, Fayette, Franklin, Geneva, Greene, Lamar, Lawrence, Limestone, Macon, Marion, Marshall, Monroe, Pickens, Randolph, St. Clair, Shelby, Washington and Winston shall each have one Representative; the counties of Barbour, Bullock, Butler, Calhoun, Chambers, Clarke, Elmore, Etowah, Hale, Henry, Jackson, Lauderdale, Lee, Lowndes, Madison, Marengo, Morgan, Perry, Pike, Russell, Sumter, Talladega, Tallapoosa, Tuscaloosa Walker and Wilcox shall each have two Representatives; the counties of Dallas and Mobile shall each have three Representatives; the county of Montgomery shall have four representatives; and the county of Jefferson shall have seven Representatives.

203. Until the Legislature 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, 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, Baldwin, Escambia and Monroe; Twenty-Second District, Wilcox; Twenty-Third District, Dale and Geneva; 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, Green and Hale; Thirty-Third District, Mobile; Thirty-Fourth District, Cleburne, Clay and Coosa; Thirty-Fifth District, Henry.

ARTICLE X.

Exemptions.

204. The personal property of any resident of this State, to the value of $1,000, to be selected by such resident, shall be exempt from sale on execution, or other process of any court, issued for collection of any debt contracted since the 13th day of July, 1868, or after the ratification of this Constitution.

205. 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 $2,000, shall be exempt from sale on execution, or any other process, from a court for any debt contracted since the 13th day of July, 1868, or after the ratification of this Constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of said homestead by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife of the same.

206. The homestead of the family, after the death of the owner thereof, shall be exempt from the payment of any debts contracted since the 13th day of July, 1868, or after the ratification of this Constitution, in all cases, during the minority of the children.

207. The provisions of Sections 204 and 205 of this Constitution 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.

208. 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 enure to her benefit.

209. The real and personal property of any female in this State, acquired before marriage, and all property, real and personal, to which she may afterwards be entitled by gift, inheritance or devise, shall be and remain the separate estate and property of such female, and shall not be liable for any debts, obligations or engagements of her husband, and may be devised or bequeathed by her, the same as if she were a feme sole.

210. 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 wife, and attested by one witness.

ARTICLE XI.

Taxation.

211. All taxes levied on property in this State shall be assessed in exact proportion to the value of such property, but no tax shall be assessed upon any debt for rent or hire of real or personal property while owned by the landlord or hirer during the current year of such rental or hire, if such real or personal property be assessed at its full value.

212. The power to levy taxes shall not be delegated to individuals, private corporations or associations.

213. After the ratification of this Constitution, no new debt shall be created against or incurred by this State, or its authority, except to repel invasion or suppress insurrection, and then only by a concurrence of two-thirds of the members of each house of the Legislature, 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 so construed as to prevent the issuance of bonds for the purpose of refunding the existing bonded indebtedness of the State.

214. The Legislature shall not have the power to levy, in any one year, a greater rate of taxation than sixty-five one-hundredths of one per centum on the value of taxable property within this State.

215. No county in this State shall be authorized to levy a greater rate of taxation, in any one year, on the value of the taxable property therein, than one-half of one per centum; provided, that to pay debts existing on the sixth day of December, 1875, an additional rate of one-fourth of one per centum may be levied and collected, which shall be appropriated exclusively to the payment of such debts and the interest thereon; provided further, that to pay any debt or liability now existing against any county, incurred for the erection, construction or maintenance of the necessary public buildings or bridges, or that may hereafter be created for the erection of necessary public buildings, bridges or roads, any county may levy and collect such special taxes, not to exceed 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 were so levied and collected.

216. No city, town, village, or other municipal corporation, other than as provided 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 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 sixth day of December, 1875, with interest thereon, or any renewal of such debt; and provided further, that this section shall not apply to the cities of Birmingham, Huntsville and Bessemer and the town of Andalusia, which cities and 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 special tax to be applied exclusively to the payment of interest on bonds of said cities of Birmingham, Huntsville and Bessemer and the town of Andalusia respectively, 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 maturity thereof; 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 one per centum per annum 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 one per centum per annum 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; and provided further, that this section shall not apply to Troy, Attalla, Gadsden, Woodlawn, Brewton, Pratt City, Ensley, Wylam and Avondale, which cities and towns may from and after the ratification of this Constitution, levy and collect an additional tax of not exceeding one-half of one per centum; and, provided further, that 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 of not exceeding three-tenths of one per centum per annum, such special tax of said city of Decatur, to be applied exclusively for the public schools, public school buildings, and such special tax of said cities of New De-

catur and Cullman to be applied exclusively to educational purposes and to be expended under their respective boards of public school trustees; and public improvements; but this additional tax shall not be levied by Troy, Attalla, Gadsden, Bessemer, Woodlawn, Brewton, Pratt City, Ensley, Wylam, Avondale, Decatur, New Decatur or Cullman, 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 special 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, when so levied and collected, shall 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 the additional tax authorized to be levied and collected by the city of Attalla shall, when so levied and collected, be used exclusively in the payment of bonds to the amount of not exceeding twenty-five thousand dollars and the interest coupons thereon, hereafter to be issued in the adjustment of the present indebtedness of said city; provided further, that the governing boards of the said cities, which are authorized to levy an additional tax, after the holding of an election as aforesaid, are hereby authorized to provide by ordinance the necessary machinery for the holding of said election and declaring the results thereof.

217. 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.

218. The Legislature shall not have the power to require counties or other municipal corporations to pay any charges which are now payable out of the State Treasury.

219. The legislature may levy a tax of not more than two and one-half per centum of the value of all estate, real and personal, money, public and private securities of every kind in this State, passing from any person who may die seized and possessed thereof, or of 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 death of the grantor, devisor or donor, to any person or persons, bodies politics 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.

ARTICLE XII.

Corporations—Municipal Corporations.

220. No person, firm, association or corporation shall be authorized or permitted to use the streets, avenues, alleys or public places of any city, town or village for the construction or operation of any public utility or private enterprise, without first obtaining the consent of the proper authorities of such city, town or village.

221. The Legislature shall not enact any law which will permit any person, firm, corporation or association to pay a privilege license or other tax to the State of Alabama, and relieve him or it from the payment of all other privilege and license taxes in the State.

222. The Legislature, after the ratification of this Constitution, shall have authority to pass general laws authorizing the counties, cities, towns, villages, district or other political subdivisions of counties to issue bonds, but no bonds shall be issued under authority of a general law unless such issue of bonds be first authorized by a 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. The ballot used at such election shall contain the words "For..... bond issue," and "Against..... bond issue," (the character of the bond to be shown in the blank space), and the voter shall indicate his choice by placing a cross mark before or after the one or the other. This section shall not apply to the renewal, refunding, or reissue of bonds lawfully issued, nor to 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 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.

223. No city, town or other municipality shall make any assessments for the cost of sidewalk or street paving, or for the construction of any sewers against 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 improvements.

224. No county shall become indebted in an amount, including present indebtedness, greater than three and one-half per centum of the assessed value of the property therein; provided, this limitation shall not affect any existing indebtedness in excess of such 3½ per centum, which has already been created or authorized by existing law to be created; provided, that any county which has already incurred a debt exceeding 3½ per centum of the as-

sessed value of the property therein, shall be authorized to incur an indebtedness of 1½ per centum of the assessed value of such property in addition to the debt already existing Nothing herein contained shall prevent any county from issuing bonds, or other obligations, to fund or refund any indebtedness now existing or authorized by existing laws to be created.

225. No city, town or other municipal corporation having a population of less than 6,000, except as hereinafter provided, shall become indebted in an amount, including present indebtedness, exceeding 5 per centum of the assessed value of the property therein, except for the construction or purchase of water works, gas or electric lighting plants or sewerage, or for the improvements of streets, for which purposes an additional indebtedness not exceeding 3 per centum may be created; provided, the limitation shall not affect any debt now authorized by law to be created nor any temporary loans to be paid within one year, made in anticipation of the collection of taxes not exceeding one-fourth of the annual revenues and such city or town. All towns and cities having a population of 6,000 or more, also, Gadsden, Ensley, Decatur and New Decatur, are hereby authorized to become indebted in an amount, including present indebtedness, not exceeding 7 per centum of the assessed valuation of the property therein, provided that there shall not be included in the limitation of the indebtedness of such last described cities and towns, the following described classes of indebtedness, to-wit: temporary loans, to be paid within one year, made in anticipation of the collection of taxes, and not exceeding one-fourth of the general revenues, bonds or other obligations already issued, or which may hereafter be issued for the purpose of acquiring, providing or constructing school houses, waterworks 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 improvements; providing, that the proceeds of all obligations issued as herein provided, in excess of said 7 per centum, shall not be used for any purpose other than that for which said obligations were issued. Nothing contained in this Article shall prevent the funding or refunding of existing indebtedness. This Section shall not apply to the cities of Sheffield and Tuscumbia.

226. No city, town or village, whose present indebtedness exceeds the limitation 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 herein contained shall prevent any municipality except the city of Gadsden from issuing bonds already authorized by law; provided further, this Section shall not apply to the cities of Sheffield and Tuscumbia.

227. Any person, firm, or corporation who may construct or operate any public utility along or across the public streets of any city, town or village under any privileges or franchise permitting such construction or operation, shall be liable to abutting proprietors for the actual damages done to the abutting property on account of such construction, or operation.

228. No city or town having a population of more than six thousand shall have authority to grant any person, firm, corporation or association the right to use its streets, avenues, alleys or public places for the construction or operation of water works, gas works, telephone or telegraph lines, electric light or power plants, steam or other heating plants, street railroads or any other public utility except railroads, other than street railroads, for longer period than thirty years.

PRIVATE CORPORATIONS.

229. The Legislature shall pass no special act conferring corporate powers, but shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal at the will of the Legislature; and shall pass general laws under which charters 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; but strictly benevolent, educational or religious corporations shall not be required to pay such a tax. The charter of any corporation shall be subject to amendment, alteration or repeal under general laws.

230. All existing charters, under which a bona fide organization shall not have taken place and business commenced in good faith within twelve months from the time of the ratification of this Constitution, shall thereafter have no validity.

231. The Legislature shall not remit the forfeiture of the charter of any corporation now existing or alter or amend the same, or pass any general or special law for the benefit of such corporation, other than in execution of a trust created by law or by contract, except upon condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

232. 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. 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, but such franchise shall be based on the actual amount of

capital employed in this State. Strictly benevolent, educational or religious corporations shall not be required to pay such a tax.

233. No corporation shall engage in any business other than that expressly authorized in its charter or articles of incorporation.

234. No corporation shall issue stock or bonds except for money, labor done 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 of stock, first obtained at a meeting to be held after thirty days notice, given in pursuance of law.

235. Municipal and other corporations and individuals invested with the privilege of taking 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 herewith prohibited from denying the right of appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise, but such appeal shall not deprive those who have obtained the judgment of condemnation from right of entry, provided the amount of the damages assessed shall have been paid into court in money and a bond shall have been given in not less than double the amount of the damages assessed, with good and sufficient sureties, to pay such damages as the property owner may sustain; and the amount of damages in all cases of appeal shall, on demand of either party, be determined by a jury according to law.

236. 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.

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

238. The Legislature shall have the power to alter, amend or revoke any charter of incorporation now existing and revocable at the ratification of this Constitution, or any that may be hereafter created, whenever, in its opinion, such charter may be injurious to the citizens of this State, in such manner, however, that no injustice shall be done to the stockholders.

239. 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 competitive line, or acquire, by purchase or otherwise, any other competing line of telegraph or telephone.

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

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

RAILROADS AND CANALS.

242. All railroads and canals not constructed and used exclusively for private purposes 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 railway between any points in this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and each shall receive and transport the freight and passengers and cars, loaded or empty, of the others without delay or discrimination.

243. The power and authority of regulating railroad freight and passenger tariffs, the locating and building of passenger and freight depots, correcting abuses, preventing unjust discrimination and extortion and requiring reasonable and just rate of freight and passenger tariffs, 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 discrimination on the various railroads, canals and rivers of the State and to prohibit the charging of other than just and reasonable rates, and enforce the same by adequate penalty.

244. 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 or 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 five hundred dollars 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. That the Circuit Court or any other Court of like jurisdic-

tion in 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 one 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 or other transportation company by which he is employed.

245. 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.

246. No railroad, canal or 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 the execution of a trust created by law or by contract, except on condition of complete acceptance of all the provisions of this article.

ARTICLE XIII.

Banks and Banking.

247. The Legislature shall not have the power to establish or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this Constitution.

248. No bank shall be established otherwise than under a general banking law, nor otherwise than upon a specie basis; provided, that any bank may be established with authority to issue bills to circulate as money in an amount equal to the face value of bonds of the United States, or of this State, convertible into specie at their face value, which shall, before such bank is authorized to issue its bills for circulation, be deposited with the State Treasurer, or other depository prescribed by law, in an amount equal to the aggregate of such proposed issue, with power in such Treasurer or depository to dispose of any or all of such bonds for a sufficient amount of specie to redeem the circulating notes of such bank at any time and without delay, should such bank suspend specie payment or fail to redeem its notes on demand.

249. All bills or notes issued as money shall be at all times redeemable in gold or silver, and no law shall be passed sanctioning, directly or indirectly, the suspension by any bank or banking company of specie payment.

250. Holders of bank notes, and depositors who have not stipulated for interest, shall, for such notes and deposits, be entitled in case of insolvency, to preference of payment over all other creditors; provided, this section shall apply to all banks, whether incorporated or not.

251. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, unless the time be extended by law, and promptly thereafter close its business; but after it has closed its business it shall have corporate capacity to sue and shall be liable to suits until its affairs and liabilities are fully closed.

252. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals for lending money.

253. Neither the State nor any political subdivision thereof shall be a stockholder in any bank, nor shall the credit of the State or any political subdivision thereof ever be given or lent to any banking company, association or corporation.

254. The Legislature shall by appropriate laws provide for the examination by some public officer, of all banks and banking institutions and trust companies engaged in a banking business in this State; and each of such banks and banking companies or institutions shall, through its president or such other officer as the Legislature may designated, make a report under oath of its resources and liabilities at least twice a year.

255. The provisions of this Article shall apply to all banks except to national banks, and to all trust companies and individuals doing a banking business, whether incorporated or not.

ARTICLE XIV.

Education.

256. The Legislature shall establish, organize and maintain a liberal system of public schools throughout the State for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the number of children of school age therein, and shall be so apportioned to the schools in the districts or townships in the county as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships. Separate schools shall be provided for white and colored children, and no child of either race shall be permitted to attend a school of the other race.

257. The principal of all funds arising from the sale or other disposition of lands or other property, which has been or may hereafter be granted or intrusted to this State or given by the United States for educational purposes shall be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific object of the original grants or appropriations.

258. All lands or other property given by individuals, or appropriated by the State for educational purposes, and all estates of deceased persons who die without leaving a will or heir, shall be faithfully applied to the maintenance of the public schools

259. All poll taxes collected in this State shall be applied to the support of the public schools in the respective counties where collected.

260. The income arising from the sixteenth section trust fund, until it is called for by the United States government, and the funds enumerated in Sections 256 and 257 of this Constitution, together with a special annual tax of thirty cents on each one hundred dollars of taxable property in this State, which the Legislature shall levy, shall be applied to the support and maintenance of the public schools, and it shall be the duty of the Legislature to increase the public school fund from time to time, as necessity therefor and the condition of the treasury and the resources of the State may justify; provided, that nothing herein contained shall be so construed as to authorized the Legislature to levy in any one year a greater rate of State taxation for all purposes, including schools, than sixty-five cents on each one hundred dollars' worth of taxable property; and provided further, that nothing herein contained shall prevent the Legislature from first providing for the payment of the bonded indebtedness of the State and interest thereon out of all the revenues of the State.

261. Not more than four per cent of all moneys raised, or which may hereafter be appropriated for the support of public schools, shall be used or expended otherwise than for the payment of teachers employed in such schools; provided, that the Legislature may, by a vote of two-thirds of each house, suspend the operation of this section.

262. The supervision of the public schools shall be vested in a Superintendent of Education, whose powers, duties and compensation shall be fixed by law.

263. No money raised for the support of the public schools, shall be appropriated to or used for the support of any sectarian or denominational school.

264. The State University shall be under the management and control of a board of trustees which shall consist of two members from the Congressional District in which the University is

located, one from each of the other Congressional Districts in the State, the Superintendent of Education and the Governor, who shall be ex officio president of the board. The members of the board of trustees as now constituted shall hold office until their respective terms expire under existing law, and until their successors shall be elected and confirmed as hereinafter required. Successors to those trustees whose terms expire in 1902 shall hold office until 1907; successors to those trustees whose terms expire in 1904 shall hold office until 1911; sucessors to those trustees whose terms expire in 1906 shall hold office until 1915; and thereafter their successors shall hold office for a term of twelve years. When the term of any member of such board shall expire, the remaining members of the board shall by secret ballot elect his successor; provided, that any trustee so elected shall hold office from the date of his election until his confirmation or rejection by the Senate, and, if confirmed, until the expiration of the term for which he was elected, and until his successor is elected. At every meeting of the Legislature, the Superintendent of Education shall certify to the Senate the names of all who shall have been so elected since the last session of the Legislature, and the Senate shall confirm or reject them, as it shall determine is for the best interest of the University. If it reject the names of any members, it shall thereupon elect trustees in the stead of those rejected. In case of a vacancy on said board by death or resignation of a member or from any cause other than the expiration of his term of office, the board shall elect his successor, who shall hold office until the next session of the Legislature. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such.

265. After the ratification of this Constitution, there shall be paid out of the treasury of this State at the time and in the manner provided by law, the sum of not less than thirty-six thousand dollars per annum as interest on the funds of the University of Alabama, heretofore covered into the treasury, for the maintenance and support of said institution; provided, that the Legislature shall have the power at any time they deem proper for the best interest of said university to abolish the military system at said institution, or reduce the said system to a department of instruction, and that such action on the part of the Legislature shall not cause any diminution of the amount of annual interest payable out of the treasury for the support and maintenance of said University.

266. The Alabama Polytechnic Institute, formerly called the Agricultural and Mechanical College, shall be under the management and control of a board of trustees, which shall consist of two members from the Congressional District in which the Institute is located, and one each of the other Congressional Districts in the State; said trustees shall be appointed by the Governor, by and with the advice and consent of the Senate, and they shall hold

office for a term of twelve years, and until their successors shall be appointed and qualified. The board shall be divided into three classes, as nearly equal as may be so that one-third may be chosen quadrennially. Vacancies occurring in the office of trustees from death or resignation, and the vacancies regularly occurring in 1905, shall be filled by the Governor, and such appointee shall hold office until the next meeting of the Legislature. Successors to those trustees whose terms expire in 1903 shall hold office until 1911; successors to those whose terms expire in nineteen hundred and five shall hold office until nineteen hundred and fifteen; and successors to those whose terms of office expire in nineteen hundred and seven shall hold office until nineteen hundred and nineteen. No trustee shall receive any pay or emolument other than his actual expenses incurred in the discharge of his duties as such.

267. The Legislature shall not have power to change the location of the State University, or the Alabama Polytechnic Institute, or the Alabama Schools for the Deaf and Blind, or the Alabama Girls' Industrial School, as now established by law, except upon a vote of two-thirds of the Legislature taken by yeas and nays and entered upon the journals.

268. The Legislature shall provide for taking a school census by townships and districts throughout the State not oftener than once in two years and shall provide for the punishment of all persons or officers making false or fraudulent enumerations and returns; provided, the State Superintendent of Education may order and supervise the taking of a new census in any township, district or county whenever he may have reasonable cause to believe that false or fraudulent returns have been made.

269. The several counties in this State shall have power to levy and collect a special tax not exceeding ten cents on each one hundred dollars of taxable property in such counties, for the support of public schools; provided, that the rate of such tax, the time it is to continue, and the purpose thereof, shall have been first submitted to a vote of the qualified electors of the county, and voted for by three-fifths of those voting at such election; but the rate of such special tax shall not increase the rate of taxation, State and county combined, in any one year, to more than one dollar and twenty-five cents on each one hundred dollars of taxable property; excluding, however, all special county taxes for public buildings, roads, bridges and the payment of debts existing at the ratification of the Constitution of eighteen hundred and seventy-five. The funds arising from such special school tax shall be so apportioned and paid through the proper school officials to the several schools in the townships and districts in the county that the school terms of the respective schools shall be extended by such supplement as nearly the same length of time as practicable; provided, that this section shall not apply to the cities of Decatur, New Decatur and Cullman.

270. The provisions of this article and of any act of the Legislature passed in pursuance thereof to establish, organize and maintain a system of public schools throughout the State shall apply to Mobile County only so far as to authorize and require the authorities designated by law to draw the portions of the funds to which said county shall be entitled for school purposes and to make reports to the Superintendent of Education as may be prescribed by law; and all special incomes and powers of taxation as now authorized by law for the benefit of public schools in said county shall remain undisturbed until otherwise provided by the Legislature; provided, that separate schools for each race shall always be maintained by said school authorities.

ARTICLE XV.

Militia, etc.

271. The Legislature shall have power to declare who shall constitute the militia of the State, and to provide for organizing, arming and disciplining the same; and the Legislature may provide for the organization of a State naval militia.

272. The Legislature, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

273. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, they may be appointed by the Governor.

274. Volunteer organizations of the infantry, cavalry and artillery and naval militia may be formed in such manner and under such restrictions and with such privileges, as may be provided by law.

275. The militia and volunteer forces shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters, parades and elections, and in going to and returning from the same.

276. The Governor shall, with the advice and consent of the Senate, appoint all general officers whose term of office shall be four years. The Governor, the generals and regimental and battalion commanders shall appoint their own staffs, as may be provided by law.

277. The legislature shall provide for the safe keeping of the arms, ammunition and accoutrements and military records, banners and relics of the State.

278. The officers and men of the militia and volunteer forces shall not be entitled to or receive any pay, rations, or emoluments when not in active service.

ARTICLE XVI.

Oath of Office.

279. All members of the Legislature, and all officers, executive and judicial, before they enter upon the execution of the duties of their respective offices, shall take the following oath or affirmation:

"I, ..., solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States, and the Constitution of the State of Alabama, so long as I continue a citizen thereof; and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter, to the best of my ability. So help me God."

This oath may be administered by the presiding officer of either house of the Legislature, or by any officer authorized by law to administer an oath.

ARTICLE XVII.

Miscellaneous Provisions.

280. 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, unless otherwise provided in this Constitution, 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.

281. 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.

282. It is made the duty of the Legislature to enact all laws necessary to give effect to the provisions of this Constitution.

283. The act of the General Assembly of Alabama, entitled "An Act to consolidate and adjust the bonded debt of the State of Alabama," approved Feb. 18, 1895, and an act amendatory thereof entitled "An act to amend Section 6 of an act to consolidate and adjust the bonded debt of the State of Alabama, approved Feb. 18, 1895," which said last named act was approved Feb. 16, 1899, are hereby made valid, and both of said acts shall have the full force and effect of law, except insofar as they authorize the redemption before maturity of the bonds authorized by said acts to be issued. The Governor is authorized and empowered to act under the same and to carry out all of the provisions thereof, provided, that the bonds authorized to be issued by said acts and issued thereunder may be made payable at any time, not exceeding fifty years from the date thereof, and shall not be redeemable until after their maturity.

ARTICLE XVIII.

Mode of Amending the Constitution.

284. Amendments may be proposed to this Constitution by the Legislature 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 Legislature 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 Legislature at which the amendments are proposed, or upon another day appointed by the Legislature not less than three months after the final adjournment of the session of the Legislature at which the amendments were 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 Legislature shall direct, for at least eight successive weeks 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 upon the proposed amendment. If such election be held on the day of the general election, the officers of such general election shall open a poll for the vote of the qualified electors upon 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, and tabulated and return thereof made to the Secretary of State, and counted, in the same manner as in elections for representatives to the Legislature; and if it shall thereupon appear that a majority of the qualified electors who voted at such election upon the proposed amendments voted 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. Representation in the Legislature shall be based upon population, and such basis of representation shall not be changed by constitutional amendment.

285. Upon the ballots used at all elections provided for in Section 282 of this Constitution, the substance or subject matter shall be so printed that the nature thereof shall be clearly indicated. Following each proposed amendment on the ballot shall be printed the word "Yes," and immediately under that shall be printed the word "No." The choice of the elector shall be indicated by a cross mark opposite the word expressing his desire, and no amend-

ment shall be adopted unless it receive the affirmative vote of a majority of all the qualified electors who vote at such election.

286. No convention shall hereafter be held for the purpose of altering or amending the Constitution of this State, unless, after the Legislature, by a vote of a majority of all 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 be first submitted to a vote of all the qualified electors of the State and approved by a majority of those voting at such election. No act or resolution of the Legislature 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 session at which such act or resolution was passed; provided, nothing herein contained shall be construed as restricting the jurisdiction and power of the convention, when 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 for the purpose of altering, revising or amending the existing Constitution.

287. All votes of the Legislature upon the 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 Legislature 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.

THE SCHEDULE.

In order that no injury or inconvenience may arise from the alterations and amendments made by this Constitution to the existing Constitution of this State, and to carry this Constitution into effect, it is hereby ordained and declared:

1. That all laws in force at the ratification of this Constitution and not inconsistent therewith, shall remain in full force until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims and contracts of the State, counties, municipal corporations, individuals, or bodies corporate, not inconsistent with this Constitution, shall continue to be valid as if this Constitution had not been ratified.

2. That all bonds executed by or to any officer of this State, all recognizances, obligations, and all other instruments executed to this State, or to any subdivision or municipality thereof, before the ratification of this Constitution, and all fines, taxes, penalties and forfeitures due and owing to the State, or any subdivision or municipality thereof, and all writs, suits, prosecutions, claims and

causes of action, except as herein otherwise provided, shall continue and remain unaffected by the ratification of this Constitution. All indictments which have been found, or which may hereafter be found, for any crime or offense committed before the ratification of this Constitution, shall be proceeded upon in the same manner as if this Constitution had not been ratified.

3. That all the executive and judicial officers and all other officers in this State, who shall have been elected at the election held in this State on the first day of August, 1898, and 1900, or who may have been appointed since that time, and all members of the present General Assembly and all who may hereafter be elected members of the present General Assembly, and all other officers holding office at the time of the ratification of this Constitution, shall continue in office and exercise the duties thereof until their respective terms shall expire, as provided by the Constitution of 1875, or the laws of this State.

4. This Constitution shall be submitted to the qualified electors of this State for ratification or rejection, as authorized and required by an act of the General Assembly of this State, entitled "An Act to provide for holding a convention to revise and amend the Constitution of this State," approved the 11th day of December, 1900, and no elector shall be deprived of his right to vote at the election to be held for such purpose by reason of his not being registered.

5. That instead of the publications as required by the act to provide for holding a Convention to revise and amend the Constitution approved December 11, 1900, the Governor of the State is hereby authorized to take such steps as will give general publicity and circulation to this Constitution in a manner as economical as practicable.

6. The salaries of the executive and judicial and all other officers of the State who may be holding office at the time of the ratification of this Constitution and the payment of the present members of the General Assembly shall not be affected by the provisions of this Constitution.

Done by the people of Alabama through their delegates in Convention assembled in the hall of the House of Representatives at Montgomery, Ala., this the third day of September, Anno Domoni, nineteen hundred and one.

(Loud and prolonged applause).

(Line lost from original copy).

gentlemen in the Convention who wanted the resolution reported by the Committee as to the attestation clause read before the Constitution was signed. I therefore ask unanimous consent that it may be read.

The consent was given.

The resolution was read as follows:

"Done by the people of Alabama through their delegates in Convention assembled at Montgomery, Alabama, this the third day of September, 1901, as hereby attested."

Mr. Reese was recognized.

MR. WEATHERLY—I ask the gentleman to yield to me for a moment.

MR. REESE—I will yield to the gentleman from Jefferson.

MR. WEATHERLY—I have a resolution which I desire to offer.

The resolution was read as follows:

Resolution 336, by Mr. Weatherly:

Whereas, the Hon. John B. Knox has presided over the deliberations of this body with untiring zeal, with unfailing courtesy, and conspicuous ability; and

Whereas, both as President and member of this Convention, he has, by wise counsel, and the application of statesmanlike qualities to the work of the Convention, most effectively aided in the attainment of the object for which the Convention was called;

Therefore, Resolved, That the thanks of this Convention and the delegates thereof, and of the people of Alabama, are hereby tendered to the Hon. John B. Knox for his distinguished services to the people of Alabama as President and member of the Convention.

Resolved further, That this resolution be spread upon the Journal, and that a specially engrossed copy of the same be prepared by the enrolling clerk and be presented to Mr. Knox, as a memorial of the high esteem in which he is held by the delegates of this Convention.

THE PRESIDENT PRO TEM—The question will be upon the adoption of the resolution.

MR. WEATHERLY—It is hardly necessary for me to make any comment on that resolution, and yet it speaks the simple truth without any fulsome adulation. It is with the greatest pleasure that I rise to endorse it.

Mr. President, I believe it was said by no less distinguished a person than Robert E. Lee that the word "duty" was the grandest word in the English language. It is a characteristic of high citizenship and noble manhood when one who is called to a trust,

especially a trust which involves the interest of his neighbors and fellow citizens, appreciates it and rises to the full measure of it, and fulfills it with a spirit which rises to the highest height of civilized man. I do not hesitate, Mr. President, and I say it with the greatest cordiality, that our distinguished President, in the execution of the duties of the office, has risen to the full measure of the trust devolving upon him. (Applause.) I therefore move that the resolution be adopted by a rising vote.

THE PRESIDENT PRO TEM—The gentleman from Jefferson moves that the resolution read in your hearing be adopted by a rising vote. As many as favor the motion will make it known by rising. The Convention will be seated. There are none left to vote on the other side. (Loud and prolonged applause.)

MR. REESE (Dallas)—Mr. President: On the 21st day of May this Convention assembled in this Hall, which was the theatre on whose stage was rung up the curtain upon the first scenes of the most serious and tragic and political tableau that in a century has been produced in America; with actors as heroic an patriotic as the world has ever beheld; realistic with the fire of battle and the thunders of war. When the curtain fell upon that bloody drama, it was upon a pathetic scene of ruin, of desolation and of despair. But in the hearts of those battle scarred heroes the same lofty patriotism and undaunted courage that had carried victory over many a battlefield, was burning undimmed and unquenched, the shield and protection of a sorrow-stricken and down-trodden people.

Action rather than deliberation, perhaps, was expected and exercised in that gathering.

In this Convention, different conditions were presented. We were called upon to solve the most cruel and threatening problems ever propounded for solution to a proud and cultured people, problems demanding all the patriotism, wisdom and ability of this splendid assemblage, reflecting, as it does, our citizenship in its highest and noblest type.

The exalted position of President of such a Convention as this, embodying as it does, the supreme political power of this State, is one of responsibility to which but few are equal, is one of such honor as may inspire pride in the breast of the proudest. (I now address my remarks to the President, who occupies a seat on the floor.)

To this position, Mr. President, you were unanimously elected by your fellow delegates and the wisdom of your action has been ratified with one accord in the confiding hearts of your countrymen.

Its responsibilities you have borne with impartiality, courage and wisdom. Its honors you have worn with knightly dignity

and grace, and added new lustre to the honored name of John B. Knox.

As a reminder of the happy relations that have existed during this Convention between yourself and your fellow delegates, I have the pleasure in their behalf, to present to you this watch. Upon it is inscribed a motto, which has characterized the faithful discharge of your duties, "Sans peur, sans reproche." Accept it then, Mr. President, as a lasting memorial of our esteem and love. (Loud applause.)

MR. KNOX—Mr. President and gentlemen of the Convention, I value more than I can express this evidence of your appreciation of my humble services, and I thank you from the bottom of my heart. I thank you, too, gentlemen, for the uniform sympathy and support you have given me in the discharge of the arduous and responsible duties of my position. The Chairman is but the mouthpiece of the Convention, and without your approval and support I could have done nothing. It has been my earnest endeavor, in excercising the powers with which you have invested me, to so administer them as that the humblest and most inexperienced member of the Convention might have an opportunity, if he saw fit, to impress his views upon the Convention, and, if in any respect I have failed in this, it has not been intentional, but has been because of conditions that the presiding officer could not control.

I will not undertake, gentlemen, at this time to point out or emphasize the merits of the great work which you have accomplished in this Convention. That I hope and feel will be done by the committee the appointment of which this Convention has authorized, and which will be appointed before we conclude our labors.

Again thanking you most profoundly and sincerely for this evidence of your confidence. (Prolonged applause.)

MR. WADDELL—I desire to offer a resolution.

Resolution No. 337 by Mr. Waddell was read as follows.

"Resolved by the Constitutional Convention of the State of Alabama that the thanks of this Convention be and the same are hereby tendered to the clerical force of this Convention for the prompt and efficient discharge of all duties incumbent upon them.

"Resolved, further, that this resolution be spread upon the journal of this Convention."

THE PRESIDENT PRO TEM.—The question is upon the adoption of the resolution.

MR. ROGERS (Sumter)—I move that we adopt the resolution.

MR. FITTS—I move to amend by adding the official stenographers as well as the clerks.

THE PRESIDENT PRO TEM.—The Chair will recognize the gentleman from Montgomery on that. The question is upon the adoption of the resolution.

Upon a vote being taken the resolution was unanimously adopted.

MR. LOMAX—I have a resolution.

The resolution by Mr. Lamax was read as follows:

"Resolved, that the thanks of this Convention are due and are hereby tendered to the official stenographer and to the associate stenographers for the correct reports of the daily proceedings of the Convention and for the uniform courtesy and kindness they have exhibited toward each and every member of the Convention."

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

Upon a vote being taken, the resolution was unanimously adopted.

MR. HOWELL—I have a resolution.

The resolution was read as follows:

"Resolved, that the sincere thanks of this Convention are due and are hereby tendered to the ministers of the city for their faithful attendance and conduct of religious services at the opening of the daily sessions of this Convention, and that we will carry to our homes the kindest memories of their devout prayers daily offered up to the Great Dispenser of all blessings in our behalf."

THE PRESIDENT PRO TEM.—The question is upon the adoption of the resolution.

Upon a vote being taken the resolution was unanimously adopted.

MR. ROGERS (Sumter)—The Alabama Constitutional Convention of 1901 has purchased, and is now ready to present to the Hon. Frank N. Julian, Secretary of this Convention, a silver service. In presenting this service to Mr. Julian, it acknowledges the efficient services of an official and testifies to the high character of the man, Mr. Frank N. Julian. (Applause.)

THE PRESIDENT PRO TEM.—The rules have been unanimously suspended for the purpose of allowing the Secretary to address the Convention.

MR. JULIAN—Mr. President and gentlemen of the Convention, in accepting this token of your esteem, I desire to express to you my thanks for the honor conferred upon me. I shall ever re-

member the kind treatment I have received at the hands of the delegates, and hope that my work has been satisfactory. I thank you, gentlemen. (Applause.)

MR. EYSTER (Morgan)—I was on a committee to select a suitable present for the Reading Clerk of this Convention, and unfortunately, while at the jeweler's selecting it and having it appropriately inscribed, the time understood for this presentation was precipitated about two hours. The delay on the part of the committee was caused by the gentleman from Sumter (Mr. Rogers) and the gentleman from Cullman (Mr. Parker).

Mr. President, when I came to this Convention in May last, if there ever was a political hatred rankling in my breast for any man—I make public acknowledgement of the fact—it was there in all of its intensity for the distinguished citizen whom I am now about to address, and who is not a member of this Convention, but has been prominently identified with all its proceedings, and for whom personally I now entertain feelings of the most affectionate regard.

An intimate association with him has led me to believe differently from what I did when I came here, and as a testimonial of the friendship which I have formed and of the feelings which I now entertain, which are born of an association that has been intimate both personally and officially, I can truthfully say that:

"None know him but to love him, none name him but to praise."

A few minutes later, after the appropriate inscription is engraved, I will have the pleasure, in behalf of the Convention, of presenting to the distinguished Reading Clerk of this Convention, Hon. W. W. Brandon, a beautiful silver service, as a testimonial of the appreciation in which he is held by the members of this Convention and the citizens of the State who have been patriotically interested in its result. (Loud applause.)

MR. BRANDON—Mr. President, Mr. Chairman of the committee and delegates to the Constitutional Convention, had I known two years ago that Alabama would have had such an able body of men to give to the people of Alabama a Constitution such as you have framed, I would not have been so vigorous in my efforts to defeat it. As is well known by the delegates to this Convention, throughout the length and breadth of this commonwealth, and in this hall, I did all that I could to prevent you from assembling here prior to the State Convention of last year. But since you have come and have acted so well your part, I sir, with the "flying squadron" (if the same admiral will command) will join with him the land forces of Alabama in having it ratified by the people. (Applause.)

I appreciate deeply the sentiments expressed by the distinguished delegate from Morgan, and, my friends, I appreciate more than I can express the testimonial presented to me by the delegates to this Convention. Although my name will not be written here, and I have not the proud privilege of signing the greatest and best document that has ever been given for the government of the people, in the quietude of my home I will have a silver service that will ever be a reminder to me of the brain and patriotism of the best men of this State in which I live. (Applause.)

Born, as I was, on Alabama soil, I love my State. The history of her past enthuses me, and the history that is to be for the future but presses me onward to better things.

Now, gentlemen, again thanking you for this testimonial, I promise you that if there is any characteristic about me in my humble way, it is that I never forget a friend (loud applause), and while I have called at this desk daily for eighty-one days the names of the delegates who compose this Convention, they are today inscribed indelibly upon the tablets of my warm Southern heart never to be forgotten. (Applause.)

MR. ROGERS (Lowndes)—I desire to offer a resolution and ask unanimous consent to do so.

The consent was given.

The resolution was read as follows:

"Resolved, that the Secretary of this Convention be instructed to mail a copy of the stenographic report of this day's proceedings of the Convention to each member of this body."

MR. DUKE—I move to amend the resolution by inserting four copies instead of one copy.

MR. ROGERS—I ask unanimous consent to accept the amendment.

The consent was given.

THE PRESIDENT—The question is upon the adoption of the resolution as amended.

Upon a vote being taken the resolution was unanimously adopted.

MR. HEFLIN (Randolph)—I ask unanimous consent to make a report from the Committee on Schedule and Printing and to call up a report.

The consent was given.

The report was read as follows:

Ordinance 463:

Whereas, the Secretary will be unable to complete the clerical work of the Convention before adjournment, therefore, be it ordained, by the people of Alabama in Convention assembled that the sum of $200, or so much thereof as may be necessary, be and the same is hereby appropriate to be paid to T. N. Julian, Secretary of the Convention, for compensation for services necessary to be rendered by him after the adjournment of the Convention in completing the clerical work of the Convention.

Be it further ordained that the President of the Convention is hereby authorized after the adjournment of the Convention to certify the amount to the State Auditor, who shall draw his warrant in favor of said Secretary upon the State Treasurer for the amount so certified by the President.

The President of the Convention here resumed the chair.

MR. ROGERS (Sumter)—I move that the rules be suspended and that the resolution be put upon its passage.

Upon a vote being taken, the rules were suspended.

THE PRESIDENT—As many as favor the adoption of the ordinance 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,
Altman,
Ashcraft,
Banks,
Barefield,
Beavers,
Beddow,
Blackwell,
Boone,
Brooks,
Browne,
Bulger,
Burnett,
Byars,
Cardon,
Carmichael,
of Colbert,
Carmichael,
of Coffee,
Carnathon,
Case,
Chapman,
Cobb,
Coleman,
of Greene,
Coleman,
of Walker,
Cunningham,
Davis,
of DeKalb,
Davis,
of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Espy,
Ferguson,
Fitts,
Fletcher,
Foshee,
Foster,
Gilmore,
Glover,
Graham,
of Montgomery,
Graham,
of Talladega,
Grayson,
Greer,
of Calhoun,
Greer,
of Perry,
Haley,
Handley
Harrison,
Heflin,
of Chambers,
Heflin,
of Randolph,
Henderson,
Hinson,
Hodges,
Howell,
Inge,

Jackson,
Jenkins,
Jones,
of Bibb,
Jones,
of Wilcox,
Kirk,
Kirkland,
Knight,
Kyle,
Leigh,
Lomax,
Long,
of Walker,
Lowe,
of Jefferson,
Lowe,
of Lawrence,
Macdonald,
McMillan,
(Baldwin),
McMillan,
of Wilcox,
Malone,
Martin,
Merrill,
Miller,
of Marengo,
Miller,
of Wilcox,
Moody,
Mulkey,
Murphree,
NeSmith,
Norwood,
Oates,
O'Neal,
of Lauderdale,
Opp,
O'Rear,
Parker,
of Cullman,
Parker,
of Elmore,
Pearce,
Pettus,
Pillans,
Pitts,
Porter,
Renfro,
Reynolds,
of Chilton,
Reynolds,
(Henry),
Robinson,
Rogers,
of Lowndes,
Rogers,
of Sumter,
Sanders,
Sanford,
Searcy,
Selheimer,
Sentell,
Sloan,
Smith,
of Mobile,
Smith,
Mac A,
Smith,
Morgan M.,
Sollie,
Sorrell,
Spragins,
Stewart,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
Whiteside,
Williams,
of Barbour,
Williams,
of Marengo,
Williams,
of Elmore,
Wilson,
of Clarke,
Wilson,
of Washington,
Winn.

Total—125.

ABSENT OR NOT VOTING.

Almon,
Bartlett,
Bethune,
Burns,
Cofer,
Cornwall,
Craig,
Freeman,
Grant,
Hood,
Howze,
Jones,
of Hale,
Jones,
of Montgomery,
King,
Ledbetter,
Locklin,
Long,
of Butler,
Maxwell,
Morrissette,
Norman,
O'Neill
(Jefferson),
Palmer,
Phillips,
Proctor,
Reese,
Samford,
Spears,
Studdard,
White,
Willet.

So the ordinance was adopted.

Mr. Jones of Montgomery was recognized.

MR. HEFLIN (Randolph)—Our report is not finished yet. We had unanimous consent to call up that report.

THE PRESIDENT—Does the gentleman from Montgomery yield to the gentleman from Randolph?

MR. JONES—Yes, sir.

The Clerk read the report as follows:

The Committee has audited the accounts hereto attached and finds that the State of Alabama is indebted to Marshall & Bruce of Nashville, Tenn., in the sum of $7.

We find that said State is indebted to the Brown Printing Company of Montgomery, Ala., in the sum of $207.50.

We find that said State is indebted to the Ed C. Fowler Co., of Montgomery, Ala., in the sum of $64.40.

We find that said State is indebted to The Montgomery Advertiser of Montgomery, Ala., in the sum of 75 cents.

We find that said State is indebted to Robert Hasson, Door-Keeper, in the sum of $6.10.

We find that said State is indebted to Jos. R. Wing of Montgomery, Ala., in the sum of $6.70.

All of the above amounts are for printing done, and for articles furnished the State of Alabama for use of the Constitutional Convention, and all of the above accounts are itemized as shown by bills hereto attached. Total amount, $292.45, and we recommend the payment of the same, all of which is respectfully submitted.

MR. HEFLIN—I move the adoption of the report.

THE PRESIDENT—As many as favor the adoption of the report will say aye, and those opposed no as your names are called.

Upon a call of the roll, the vote resulted as follows:

AYES.

Messrs. President,	Blackwell,	Cardon,
Altman,	Boone,	Carmichael,
Ashcraft,	Brooks,	of Colbert,
Banks,	Browne,	Carmichael,
Barefield,	Bulger,	of Coffee,
Beavers,	Burnett,	Carnathon,
Beddow,	Byars,	Case,

Chapman,
Cobb,
Coleman,
of Greene,
Coleman,
of Walker,
Cunningham,
Davis,
of DeKalb,
Davis,
of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Espy,
Ferguson,
Fitts,
Fletcher,
Foshee,
Foster,
Gilmore,
Glover,
Graham,
of Montgomery,
Graham,
of Talladega,
Grayson,
Greer,
of Calhoun,
Greer,
of Perry,
Handley,
Haley,
Harrison,
Heflin,
of Chambers,
Heflin,
of Randolph,
Henderson,
Hinson,
Hodges,
Howell,
Inge,
Jackson,
Jenkins,
Jones,
of Bibb,
Jones,
of Wilcox,
Kirk,
Kirkland,
Knight,
Kyle,
Leigh,
Lomax,
Long
(Walker),
Lowe
(Jefferson),
Lowe
(Lawrence),
Macdonald,
McMillan
(Baldwin),
McMillan
(Wilcox),
Malone,
Martin,
Merrill,
Miller
(Marengo),
Miller
(Wilcox),
Moody,
Mulkey,
Murphree,
NeSmith,
Norwood,
Oates,
O'Neal
(Lauderdale),
Opp,
O'Rear,
Parker
(Cullman),
Parker
(Elmore),
Pearce,
Pettus,
Pillans,
Pitts,
Porter,
Renfro,
Reynolds
(Chilton),
Reynolds
(Henry),
Robinson,
Rogers
(Lowndes),
Rogers
(Sumter),
Sanders,
Sanford,
Searcy,
Selheimer,
Sentell,
Sloan,
Smith
(Mobile),
Smith,
Mac A.,
Smith,
Morgan M.,
Sollie,
Sorrell,
Spragins,
Stewart,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
Whiteside,
Williams
(Barbour),
Williams
(Marengo),
Williams
(Elmore),
Wilson
(Clarke),
Wilson
(Washington),
Winn.

Total—125.

ABSENT OR NOT VOTING.

Almon,
Bartlett,
Bethune,
Burns,
Cofer,
Cornwall,
Craig,
Freeman,
Grant,
Hood,
Howze,
Jones,
of Hale,
Jones,
of Montgomery,
King,
Ledbetter,
Locklin,
Long
(Butler),
Maxwell,
Morrisette,
Norman,
O'Neill
(Jefferson),
Palmer,
Phillips,
Proctor,
Reese,
Samford,
Spears,
Studdard,
White,
Willett.

So the report was adopted.

MR. JONES (Montgomery)—Mr. President, I rise to a question of privilege. I have been honored by the ladies of the White House Association with the privilege of delivering a message in their behalf to the members of this Convention. (Applause.) They desire me to say to the Convention and to the members individually that, in their earnest efforts to preserve some of the heroic memories of the man who almost made a nation of the people who first took their place, for the time being, among the powers of the earth, by reason of a command that went out from these halls, that they have been cheered and sustained and soothed by the chivalry, courtesy and kindness and the great interest which the members of this Convention have taken in their work. (Applause.) They bid me say to the members of the Convention that when they return to their homes, they will be accompanied by the earnest prayers of the good women who compose this association, and that they will take with them the hope of the women of Alabama (because these are types of all the other women), that out from this hall we have impelled great moral forces which will redound to the welfare of generations yet unborn. (Applause).

MR. HEFLIN (Chambers)—Mr. President and delegates to the Convention, I have been requested to express on the part of the Convention our appreciation of the noble work in which the Daughters of the Confederacy are engaged, and to express to them our desire to see the work they are engaged in completed, and completed soon. They have been laboring here, Mr. President, during these hot summer months, gathering in, as best they could, a few dollars and dimes to purchase the old residence in which lived Jefferson Davis, my typical American, and to erect a relic hall in this capital city of our beloved old State. To purchase that house, Mr. President, where lived the man who spoke in this city, I believe in 1886, and when he met his old friends and comrades at the Exchange Hotel said to them: "I feel at home, and as I came

along through the country to your city, I felt that I was going home to where liberty died not and heroic sentiment lives forever." I thank God, Mr. President, that it does live. More than thirty years lie between us and the great cause that he left, but if memory still lives, and the daughters and mothers who loved that cause are carrying out and on today, and their hearts beat loyal to every sentiment expressed by our fathers in those times, and I think that it is necessary that we should encourage them all we can, and I move that this Convention do stand and express by standing, our endorsement of their noble work.

MR. ROGERS (Sumter)—I second the motion. God bless the women of Alabama.

MR. WATTS—I have a resolution on that subject that I desire to offer first.

The resolution was read as follows:

"Be it resolved, that the thanks of this Convention are due and are hereby tendered to the ladies of the White House Association for their attendance at all times with something soothing to the inner man, upon the sittings of the Convention, and for having always ready that greatest comfort of man, the cigar, and most of all for the unvarying sweetness, kindness and womanly conduct which has marked their course.

"Resolved, second, that a copy hereof be spread upon the minutes of the Convention, and that a copy be sent by the Secretary of this Convention to the President of the White House Association."

THE PRESIDENT—The question will be upon the adoption of the resolution.

By a rising vote the Convention unanimously adopted the resolution.

MR. SANFORD (Montgomery)—I ask the indulgence of the Convention for a few moments. This morning when this body was courteous enough to allow me to explain what they supposed would be a vote, I declined to vote. I did so because in the ordinances that were passed in the proposed Constitution there were some articles which I most strenuously opposed. But my declension to vote could not repeal them or lift the burden from the people. There were some, also, which I just as heartily approved. My friends since my refusal to vote have urged me to take a position; that I should vote, either for or against it; that it was due to my friends, it was due to myself, who am known among them as being a very positive man. I never was on the fence except in passing over it. There were articles there which urgently pressed upon the Convention, and which they, by a majority, defeated. I still think they are wise. They adopted articles and sections

which I still believe were unwise and notwithstanding my convictions upon the urgency of friends I see around me, whom I have known from early manhood, with whom I have stood when Alabama prospered in days gone by, and with whom I have stood when the darkness of sorrow rested upon her people; some of these men I see who stood by me gallantly and as fearlessly as any that ever carried a sword on the fields of battle, I do not propose to abandon them now. I shall stand by them just as earnestly and truly now as they stood by me then. (Applause.) While there are objections, as I repeat, as to what was not done, there are objections to what was done. While I favored things that failed and opposed those that succeeded, still I am determined to go with these people who are intellectual, honorable and brave and patriotic. I will not separate myself from them, and while the errors of the Constitution may be less, at last, than my apprehensions teach me, I hope that the men who will be chosen by the qualified electors of this great State to carry it into effect will be their virtue and genius, make it a blessing to this grand commonwealth, so that, under its influence Alabama shall flourish; so that under its power, the fields and the cities of Alabama shall be clothed with light and beauty. Therefore, Mr. President, I vote for the Constitution. (Applause.)

MR. GREER (Calhoun)—I have a resolution.

MR. PILLANS—I call for the regular order, which I believe is the signing of the Constitution.

THE PRESIDENT—The Chair recognizes the gentleman from Calhoun.

The following resolution was read:

"Resolved, That the thanks of this Convention are hereby tendered to the doorkeepers and to the pages of this Convention for their efficient services during the long and arduous sessions of this Convention."

Upon a vote being taken the resolution was adopted.

MR. deGRAFFENREID—I desire to call up on ordinance.

The ordinance was read as follows:

"An ordinance to appropriate one hundred dollars to pay James E. Cobb for indexing the stenographic report of the proceedings of this Convention."

Be it ordained by the people of Alabama in Convention assembled, that the sum of one hundred dollars be and the same is hereby appropriated out of any funds in the treasury, to pay James E. Cobb for indexing the stenographic report of these proceedings, upon the certificate of the President of the Convention."

THE PRESIDENT—The attention of the Chair is called to the fact that the ordinance is already adopted.

MR. PILLANS—I call for the regular order.

MR. SPRAGINS—As Acting Chairman of the Committee—

MR. PILLANS—I rise to a point of order. Is not the regular order before this house, the completion and signing of the Constitution, If so, I insist upon it.

THE PRESIDENT—The gentleman from Madison moves a suspension of the rules, in order that he may report from the Committee on Harmony important ordinances necessary to be disposed of.

MR. SPRAGINS—As acting chairman of the committee, I send up Ordinance 390, which is the Ordinance in reference to Shelby County and St. Clair County. That Ordinance is ready for the signature of the President, to be attested by the Secretary. I also send up Ordinance 412, which is a separate and independent ordinance, with reference to funding the bonded debt of the State. This Ordinance as I understand the rules, will have to be adopted by an aye and no vote of the House. I move the adoption of that Ordinance.

THE PRESIDENT—By an aye any nay vote?

MR. SPRAGINS—I think it will require it.

Upon a call of the roll the vote resulted as follows:

AYES.

Messrs. President,
Altman,
Ashcraft,
Banks,
Barefield,
Beavers,
Beddow,
Blackwell,
Boone,
Brooks,
Bulger,
Browne,
Burnett,
Byars,
Cardon,
Carmichael,
of Colbert,
Carmichael,
of Coffee,
Carnathon,
Case,
Chapman,
Cobb,
Coleman,
of Greene,
Coleman,
of Walker,
Cunningham,
Davis,
of DeKalb,
Davis,
of Etowah,
Dent,
deGraffenreid,
Duke,
Eley,
Eyster,
Lowe
(Lawrence),
Macdonald,
McMillan
(Baldwin),
McMillan
(Wilcox),
Malone,
Martin,
Merrill,
Miller
(Marengo),
Miller
(Wilcox),
Moody,
Mulkey,
Murphree,
NeSmith,
Norwood,
Oates,
O'Neal
(Lauderdale),
Opp,

O'Rear,
Parker (Cullman),
Parker (Elmore),
Pearce,
Pettus,
Pillans,
Pitts,
Porter,
Renfro,
Reynolds (Chilton),
Reynolds
Espy,
Ferguson,
Fitts,
Fletcher,
Foshee,
Foster,
Gilmore,
Glover,
Graham, of Montgomery,
Graham, of Talladega,
Grayson,
Greer, of Calhoun,
Greer, of Perry,
Haley,
Handley,
Harrison,
Heflin, of Chambers,
Heflin, of Randolph,
Henderson,
Hinson,
Hodges,
Howell,
Inge,
Jackson,
Jenkins,
Jones, of Bibb,
Jones, of Wilcox,
Kirk,
Kirkland,
Knight,
Kyle,
Leigh,
Lomax,
Long (Walker),
Lowe (Jefferson), (Henry),
Robinson,
Rogers (Lowndes),
Rogers (Sumter),
Sanders,
Sanford,
Searcy,
Selheimer,
Sentell,
Sloan,
Smith (Mobile),
Smith, Mac A.,
Smith, Morgan M.,
Sollie,
Sorrell,
Spragins,
Stewart,
Tayloe,
Thompson,
Vaughan,
Waddell,
Walker,
Watts,
Weakley,
Weatherly,
Whiteside,
Williams (Barbour),
Williams (Marengo),
Williams (Elmore),
Wilson, (Clarke),
Wilson, (Washington),
Winn.

Total—125.

ABSENT OR NOT VOTING.

Almon,
Bartlett,
Bethune,
Burns,
Cofer,
Cornwall,
Craig,
Freeman,
Grant,
Hood,
Howze,
Jones, of Hale,
Jones, of Montgomery,
King,
Ledbetter,
Locklin,
Long (Butler),
Maxwell,
Morrisette,
Norman,
O'Neill (Jefferson),
Palmer,
Phillips,
Proctor,
Reese,
Samford,
Spears,
Studdard,
White,
Willet.

There being 125 ayes and no noes, Ordinance No. 412 was adopted.

MR. deGRAFFENREID—I am requested by Mr. White, chairman of the Committee of Order, Consistency and Harmony of the Whole Constitution, to announce that there will be a meeting of that committee in the Senate chamber, which will not interfere with the business of the Convention, and we will report back immediately.

Consent was given for the committee to sit during the session of the Convention.

MR. HEFLIN (Chambers)—The committee of which Mr. NeSmith is chairman is looking now for a present to be presented to Mr. Herbert for his faithful services to this Convention. We have not selected it, but the committee is down town for that purpose, and I yield the floor to Mr. Pettus of Limestone to introduce a resolution.

The resolution was read as follows:

Resolution 343 by Mr. Pettus:

Whereas, The Hon. W. F. Herbert, Assistant Secretary of this Convention, has by his courteous conduct and the conscientious discharge of his duties, won the esteem of every delegate on the floor, and,

Whereas, He is entitled to the thanks of this Convention for his faithful services; therefore be it

Resolved, That this Convention recognizes in the Hon. W. F. Herbert, Assistant Secretary, a faithful and conscientious official and the thanks of this Convention be and the same are hereby tendered him for his efficient services.

Upon a vote being taken the resolution was adopted.

THE PRESIDENT—The regular order of this Convention will now be the signing of the Constitution.

MR. O'NEAL—I move that the Convention remain in session until the signatures are finished.

Upon a vote being taken the motion was carried.

Mr. Banks (Russell) took the Chair, while the President signed the Constitution.

The roll was called and the delegates came forward and signed the Constitution.

When the name of Mr. White of Jefferson was called for the purpose of signing the Constitution there was loud and prolonged applause, and calls for a speech, whereupon Mr. White addressed the Convention as follows:

Mr. President, gentlemen of the Convention and fellow delegates this to me is one of the most trying moments of my life. Never since I was sixteen years of age has there been a campaign of my party in which I was not in the fight. I love its history and its traditions, and I love the men who compose this Convention. (Applause.) And I do love the people of Alabama and for weeks and days I have been battling with my conscience. Would to God that I could lay it aside and be with you. Never will I lift this hand or raise this voice against what you have done. (Loud applause). My friends, today friends in whom I have every confidence, friends that I love and respect, came to me and told me that I ought to yield for their sake and for the sake of the people of Alabama, and while I could not vote for it, I say to you now, for their sake, for the sake of my State, and to better the wretched conditions under which we live, I will support it. (Loud and prolonged applause).

The President resumed the Chair.

THE PRESIDENT—The Chair desires to announce the appointment of the committee under the resolution heretofore passed by this Convention to prepare an address, as follows:

First District—Gregory L. Smith.

Second District—Thomas G. Jones.

Third District—Thomas Espy.

Fourth District—Henry F. Reese.

Fifth District—James E. Cobb.

Sixth District—Thomas W. Coleman.

Seventh District—O. R. Hood.

Eighth District—R. W. Walker.

Ninth District—James Weatherly.

Mr. Speers of St. Clair took the chair.

The President, in the presence of the Convention, signed the Ordinances which had been passed by the Convention, at the conclusion of which the President resumed the Chair.

THE PRESIDENT—Gentlemen of the Convention, I take pleasure in announcing to this Convention that the Convention has concluded the work for which it assembled. (Applause).

MR. deGRAFFENREID—This Convention having concluded the work for which it was called I do now move that we adjourn sine die.

MR. WEATHERLEY—I would like to ask the gentleman from Hale to withdraw that motion for one moment.

MR. deGRAFFENREID--All right, I will.

MR. WEATHERLY—I thought I saw the Rev. Dr. Andrews here, and I ask that the deliberations of this body be closed with prayer.

THE PRESIDENT—Dr. Andrews will kindly come forward.

REV. MR. ANDREWS—O, Lord, our Heavenly Father we are reminded upon this occasion that all things human must end. Impress upon us, our Gracious Lord that this action is one of significance and attended with sadness, and also reminding us of our certain and inevitable end. Impress upon us we pray Thee, our Father, that as this Convention has concluded its labors, so each of our lives, one by one, must end. Each of us, in our order must pass from the earth and stand before the judgment at the last bar. Grant, O Lord that we may this morning have our hearts filled with a sense of Thy presence, and feel that the Lord is with us, that His grace is sufficient for us and will lead us in all the days that are to come. O Lord, bless this Convention, bless the President, and each one of its members, and as they go back to their homes, O Lord, may they go attended with heaven's blessings and with the consciousness that they have done the best they could, and we pray Thee that Thou wouldst bless them.

May their days be long and their lives happy. May God bless each one of their homes, may they be rays of light in the midst of our Christian civilization. And, O Lord God, grant and bless and prosper them temporally, in all their affairs which may have so long been neglected. May they be blessed of Heaven, and may they, O Lord, be blessed spiritually, and may they go back to their homes to live nearer unto God. May the Lord bless our people, give prosperity unto all, and grant, our gracious Lord, that this year may be one of great financial blessings, upon all our people. And, now, Lord, dismiss Thy servants with Thy benediction. They will all meet together no more in this world. There are faces that shall look into one another no more until they stand at the last judgment bar. Grant, our gracious Father, that they may so live and act that when life's labors are ended, and when we all stand at God's judgment, we may each hear the words, "Well done, good and faithful servant." And may they all without the loss of one meet in that Kingdom of Life and Glory on high and there we will praise Thee forever, through Christ our Redeemer. Amen."

MR. ROGERS (Sumter)—I move that the members of this Convention bid the President good bye at his desk.

The motion was put to the House by the gentleman from Sumter (Mr. Rogers) and unanimously carried.

At the conclusion of this ceremony the President recognized the gentleman from Macon, Mr. Cobb.

MR. COBB—Mr. President: Alabama is waiting. She has waited long and anxiously. Now and then has come the cry, almost agonizing in its intensity, "Watchman, what of the night." The hour of her deliverance is about to strike, and when it shall have struck, the watchman from some mountain peak of North Alabama will send down the response, which like a bugle call to victory, will go resounding to the sea, "The morning cometh." (Loud applause.)

THE PRESIDENT—It is moved by the gentleman from Hale that this Convention do adjourn sine die.

Upon a vote being taken, the motion was carried and the Convention thereupon adjourned.

The petitions offered by Mr. Ashcraft (Lauderdale) and ordered printed, are as follows:

Florence, Ala., Sept. 2, 1901.

To John B. Weakley or J. T. Ashcraft:

The undersigned physicians of Florence pray you to exclude negroes of bad character from approaching city elections.

P. I. Price, W. J. Cunningham, A. H. Henderson, M. Branlet, W. M. Price, H. A. Moody, J. M. Pearson, J. D. Duckett, W. H. Gregory.

Florence, Ala., Sept. 2, 1901.

To John B. Weakley and Ashcraft, Montgomery, Ala.:

The undersigned employes of the Alabama Stave Company pray you exclude negroes of bad character from voting in the coming city election.

William Mark, J. Winters, Burt Chambers, Jas. Fewell, R. Evans.

Florence, Ala., Sept. 2, 1901.

To Weakley and Ashcraft:

The undersigned officers and employes of Bellamy Planing and Mill Company pray you to exclude negroes of bad character from voting in the approaching city election:

Wm. Richardson, Secretary; D. T. Neese, Geo. H. Calvert, R. M. Cravier, S. Richardson, R. M. W. Snyder, J. R. Pitts, S. Slocum, M. L. Moonfield.

Florence, Ala., Sept. 2, 1901.

To Weakley and Ashcraft, Montgomery, Ala.:

Undersigned officers and employes of Stove Works pray you exclude negroes of bad character voting in city election.

J. F. Cherry, Henry Thoell, A. Richie, B. Wilderin, N. Hill, T. W. Reid, F. P. Andrews, James Bevens, W. W. Smith, W. Hood, Cash Young.

Florence, Ala., Sept. 2, 1901.

Ashcraft and Weakley, Constitutional Convention:

Undersigned officers and employes of Merchants Bank pray you exclude negroes of bad character voting in approaching city election:

M. B. Shelton, President; S. S. Broadus, Cashier; B. Broadus, Assistant Cashier; W. J. Rorex, Bookkeeper.

Florence, Ala., Sept. 2, 1901.

Hon. J. B. Weakley or J. T. Ashcraft:

Undersigned officers and employes of the Tennessee Valley Fertilizer Company pray you exclude negroes of bad character from voting in coming city election:

Lee Ashcraft, C. M. Johnson, F. Ashcraft, Robert T. Simpson, A. L. Lull.

Florence, Ala., Sept. 2, 1901.

To Hons. John T. Ashcraft and John B. Weakley, Montgomery, Ala.:

We, the undersigned officers and employes of the Ashcraft Cotton Mill, pray you exclude negroes of bad character from voting in the approaching city election.

C. W. Ashcraft, E. Ashcraft, Geo. Florence, F. T. Johnson, T. O. Wesson, C. E. Broadfoot, L. W. Nichols, J. G. Moss, F. A. Miller, T. A. Weatherford, T. W. Scott, Tom Jones, James E. Holden, Sid Wallace, Jim Teese, D. T. Teas, W. A. Winburn, Thomas Harhaw, R. T. Slaton, A. D. Blackwell.

Florence, Ala., Sept. 2, 1901.

To Hons. John T. Ashcraft and John B. Weakley, Montgomery, Ala.:

The undersigned Wagon Works officers and employes pray you exclude negroes of bad character voting in city elections.

W. T. Rich, C. S. Hallman, Sam Arnett, A. L. Cou, R. E. Duke, G. E. Johnson, Will Stutt, Emmet Ricard, D. B. Hall, J. W. Dillard, T. W. Wilkes, Henry Gray, James Winters, S. M. Duros, C. S. Stuck, W. R. Triplet, F. M. Lambertum, Albert Linsey, R. J. Maroney, J. A. Gaut, T. E. Jones, Wm. McKinney, J. J. Harris, Jas. Leroy Freeman, N. B. Perryman, E. N. Lowe, N. F. Hicks, R. W. Rison, L. P. Lawler, H. Jackson, S. G. Ingram, J. W. Stutts, F. Semple, M. J. Mowfield, W. C. Evans, Geo. S. Dar-

by, A. L. Millford, J. W. Patrick, W. H. Jones, Jr., J. A. Bichisby, A. W. Waldrop, G. D. White, C. Button, A. F. Mifquay, W. B. Rose, R. A. Martin, Wm. LeMay, Jas. M. Esstep, E. Beetle, L. R. Landsey, Wiley Loneman, Frank Innman, K. M. Nickles, W. H. Hunt, John Wilson, Ed Joiner, Will Bonen, Frank Hill, E. Marengale, Thos. Redding, W. D. Wiley, F. G. Greene, W. R. McCallow, L. J. Griffith, A. B. O'Brien, W. L. Lewis, J. J. Miles, Robert Terrell, C. L. Shannon, Ed Pinion, J. L. Mitchell, Dave Boraw, L. P. Anderson, J. T. Ricey, S. H. Manning, B. F. Hunt, L. M. Ramsey, A. L. Stanton, Jas. G. Chanels, S. L. Lowe, Dean Hills, John T. Cox, Leonard Linsey, B. R. Coles, W. T. Maxwell, J. A. McDonnell, J. W. McDonnell, Robert McCann, U. D. Max, H. M. Wisdom, E. J. Carter, A. R. Miller, J. M. Hillman, J. K. Evans, C. T. Renfro, T. N. Staffron, R. E. Hill, R. M. Kirk, Marshall Kirby, J. P. Miller, W. W. Stanton, J. A. Williams, Thomas Burns, C. M. Sharp, M. G. Andrews, J. J. Boston, E. J. White, J. M. Trammel, Joe Henderson, W. A. Ritchie, W. T. Little, J. M. Payton, R. T. Commins, Rev. J. Vesey, T. F. Austin, H. T. Valentine, John Banks, M. M. Singler, S. B. Page, F. M. White, W. L. White, J. M. LeMay, J. F. Abernathy, C. H. Boyd, Bill Davis, V. B. Pope, Wm. Hill, John Malachino, C. W. Potts, J. F. Jones, J. C. Terrell, J. M. Bailey, B. M. Potts, James Romine, J. M. Romine, D. F. Estep, E. Colum, Joe Gray, C. Stewart, W. A. Givens, T. H. Ingram, J. M. Mason, W. D. Harrison, J. Byars, J. P. Arnett, J. T. Trammell, T. H. Ritter, S. T. Page, R. L. Heims, A. Leon, A. L. Hughes, B. B. Phillips, T. C. Hamilton, Thos. Morrison, George Crowe, Claude Morrison, John Morrison, Frank L. Adams, Charles Morrison, Owen Arnett, G. O. Blanton, Jesse Keely, J. E. Sanderson, W. T. English, J. M. Stamford, Y. W. Landrum, W. C. Williams, W. C. Williams, M. B. Reid, E. C. Lyle, J. R. McClure, A. S. Stafford, Charles Haddock. Officers, A. D. Bellamy, president; A. B. Mason, treasurer; E. Lyon, secretary; Frank Mason, N. M. Campbell.

Florence, Ala., Sept. 2, 1901.

To Hons. John T. Ashcraft and John B. Weakley, Montgomery, Ala.:

Undersigned officers and employes of Cherry Cotton Company pray you to exclude negroes of bad character from voting in approaching city election:

N. F. Cherry, T. R. Jones, J. S. Robinson, M. M. Darby, J. M. Bnop, D. A. Hendon, J. M. Thweat, Martin Blondem, John Rolt, T. G. Brigan, W. H. Billingsley, H. P. Harper, J. T. Miller, W. W. Boundery, W. H. Holt, West Gamble, W. W. Carter, Frank Carter, P. M. Livingston, R. T. Pounder, J. B. Stricker, J. M. Dial, R. A. Caskew, J. L. Sims.

Florence, Ala., Sept. 2, 1901.

To Hons. John T. Ashcraft and John B. Weakley, Montgomery, Ala.:

We, the undersigned officers and employes of the Florence Milling Co., pray you exclude negroes of bad character from voting in approaching city election.

J. C. Rea, Jr., J. C. Rea, G. Dudley, T. J. Rea, Eng. Guest, Joe Patrick, Geo. Barton, John Orth, B. M. Mitchell.

Florence, Ala., Sept. 2, 1901.

To Hons. John T. Ashcraft and John B. Weakley, Montgomery, Ala.:

Undersigned officers and employes of Pump Factory pray you to exclude negroes of bad character from voting in approaching city election in the interest of law, order and public welfare of our city.

A. P. Smith, M. B. Parkinson, Sam Whipper, S. L. Roulhac, L. O. Scruggs, C. A. Ervine, T. L. Green, R. B. Martin, John H. Jones, T. D. Phillips, J. T. Bray, M. P. Terrell, J. R. Valentine, L. R. Huggins, W. E. Robbins, R. P. Valentine, J. H. Stopper, G. L. Hubbard, J. A. Dillam, R. L. Smoot, J. L. Broomsberry, Charles Perry, P. C. Cramblet, D. C. Wesson, R. S. Raimy, F. S. Hughes, W. R. Thomas, W. T. Hayes, L. E. Underwood, J. E. Hand, J. L. Kendall, A. H. LeMay, R. D. Berlin, S. J. Lewy, B. B. Bylan, J. L. Gray, Dan O'Brien, W. G. Dillon, T. L. Dillon, P. C. Phillips, L. G. Williams.

Florence, Ala., Sept. 2, 1901.

Hon. John B. Weakley and John T. Ashcraft, Montgomery, Ala.:

Undersigned Mechanics of Florence pray you exclude negroes of bad character from voting in approaching city election: J. F. Madery, J. W. Gray, E. U. Guest, W. E. Temple, S. E. Stafford, R. J. Bailey, J. J. Marsh, W. R. Whittaker, H. Marsh, Henry Thayle, Frank Weakley, G. A. Haile, T. A. Green, J. H. Angell, C. W. Irvin, J. H. Bradfield, W. W. White, John W. Clark, Collier Angell, W. T. McFadden.

Florence, Ala., Sept. 2, 1901.

Hon. John B. Wakley and John. T. Ashcraft, Montgomery, Ala.:

Undersigned citizens of Florence pray you exclude negroes of bad character from voting in approaching city election:

E. Linn, W. E. Llewellyn, Jas. L. Stickle, Jas. S. Citus, Jas. W. Milner, S. W. Lipscomb, J. C. Anderson, H. H. Cherry, W. T. Prouder, Geo. W. Karsner, J. W. Sommer, W. S. Douglas, A. B. Mason, Frank H. Mason, W. M. Bunting, N. W. Campbell, W. M. Spain, L. A. Scruggs, J. E. Henley, Tonny Crowder, R. M. Bowling, T. E. Broadfoot, Hugh Dobson, J. F. Johnson, C. H. Johnson, Charles Hilden, W. M. Campbell, J. R. Nivison, M. H. Darkey, H. H. Copeland, D. R. London, W. R. Hertz, W. W. Parnell, H. G.

Sermer, J. A. Gratton, M. A. Bailey, W. W. Benton, W. J. Stutz, R. M. Martin, Robert T. Simpson, F. F. Simpson, Carl Simpson, J. B. Norman, I. S. Bark, Jas. Acklin, John R. Torthill, W. Roach, W. B. Edmondson, W. T. Darby, J. R. Wade, A. F. Hennely, T. E. Bishop, W. T. Whittaker, J. T. Carum, J. P. Nunnaly, W. G. Bird, Jas. Horsehaw, Jim Mitchell, J. M. Angell, S. W. Hughes, M. B. Christine, Charles Helden, John Angell, R. E. Angell, L. U. Duncan, Paul Hodges, W. H. Cramwell, J. L. Baul, M. H. M. Mannor, Thos. H. Goode, J. C. Cormon, H. C. Gilbert, Jas. Waldsten, R. E. Coben, Sr., Lee Watts, R. T. Patterfield, F. Ashcraft, Fay E. Hazen, Lewis L. Allen, M. T. Simpson, F. M. Hogree, W. M. Price, J. A. Gillette, G. T. Boswell, W. A. Nelson, W. R. Barker, L. E. Gillem, M. E. Wyly, W. H. Weakley, H. J. Darby, H. C. Howell, M. Malone, G. L. Caren, John R. Waters.

Florence, Ala., Sept. 2, 1901.

Hon. John B. Weakley and John T. Ashcraft, Montgomery, Ala.:

Undesigned merchants, dealers and citizens of East Florence pray you exclude negroes of bad character from voting in approaching city election:

C. A. Sullivan, Thos. J. Phillips, M. L. Mitchell, J. W. Keys, A. L. White, W. C. Chambers, Will Muse, T. I. Griffith, V. D. Simmons, Alex Reading, L. C. Coffonan, R. W. Livinston, J. R. Ricord, Dunk Redding, W. H. Hill, R. W. Fields, R. B. Terrell, Jesse Tucker, D. M. Showman, W. L. Smullwood & Co., R. A. Bundolt, D. L. Gant, C. D. Garrett, W. P. Caldon.

Florence, Ala., Sept. 2, 1901.

Weakley and Ashcraft, Montgomery, Ala.:

Undersigned mechanics and citizens of Florence pray you exclude negroes of bad character from voting in approaching city election:

J. A. Cox, L. M. White, W. Byron, D. J. Wylie, E. Jacobs, W. Lindor, J. E. Smith, A. J. Barks, Geo. H. Homestead, J. E. Greeman, C. F. Carson, J. G. W. Leftwich, R. C. Kendrick, A. J. McGlathery, E. Goins, S. D. Wright, M. A. Holefin, W. O. Mc Kelders, J. F. Gaskin, R. M. Bowlinger, Hugh B. Dolson, O. B. Hill.

Florence, Ala., Sept. 2, 1901.

Hon. J. B. Weakley or J. T. Ashcraft, Montgomery, Ala.:

Undersigned citizens of Florence pray you exclude negroes of bad character from voting in the approaching city election:

W. W. Bennet, F. M. Sparks, J. M. Barnett, J. Kendall, W. M. Hyneman, J. R. McClustre, J. A. Young, J. T. Wylie, R. B. Meadows, J. Weatherly, O. B. Dockard, W. T. Colorhem, W. T. Sermer, C. Moelleck, G. Moeller, Edgar James.

Florence, Ala., Sept. 2, 1901.

J. B. Weakley or J. T. Ashcraft:

Undersigned pray you exclude negroes of bad character from voting in the approaching city election:

J. P. Powers, J. L. McDonnald, J. Bullard, O. J. Smith, T. E. Barry, J. B. White, L. C. Hudson, J. W. Beddingfield, B. T. Strippling, L. W. Douglas, R. W. Simpson, P. A. Patrick, H. P. J. Ware, R. N. Harris, M. J. Dillard.

Florence, Ala., Sept. 2, 1901.

Weakley and Ashcraft:

Hartily favor excluding negroes of bad character from voting in approaching city election.

John Bowles.

East Florence, Ala., Sept. 2nd, 1901.

Weakley and Ashcraft:

Undersigned citizens pray you exclude negroes of bad character from voting in approaching city election:

J. F. Brown, Long & Mitchell, John L. Mitchell, J. H. Steinberger, G. J. Witt, D. S. Neese, George Calveht, R. M. Calston, J. P. House, D. B. Hall, F. D. Hill, W. H. Hill, W. T. Waddell, H. C. Hall, W. G. Rains, J. Richard, H. Rainus, John D. Hall, John C. Smith, J. C. Smith, C. Smith, Sidney Lee Ricord, J. R. Beelerd, Sanford Richardson, J. R. Ruple, H. J. Moore, A. Milford, J. S. McDowell, T. J. Anes, B. Williams, C. B. Miller, Em Ray.

Florence, Ala., Sept. 2, 1901.

John T. Ashcraft:

A number of citizen state sign petition against your ordinance through misrepresentation of its purpose.

Paul Hodges.

Correction.

In remarks of Mr. Oates on Sunday, change $30,000 where so printed in reference to annual appropriation to University to $36,000.

In speaking of penalty fixed in new Constitution for using free passes by certain persons, he was made to say $5 instead of $500.

Further correct as to remarks in reference to suffrage, by conceding that Judge Coleman, Chairman of Committee, was author of the suffrage plan instead of President Knox, and that various members of the Committee aided in constructing the Article and that he (Oates) was author of some of the provisions against frauds in elections.

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STATE AT LARGE—

Robert J. Lowe, Birmingham, Jefferson County, Ala.
Frank S. White, Birmingham, Jefferson County, Ala.
William C. Oates, Montgomery, Montgomery County, Ala.
John B. Knox, Anniston, Calhoun County, Ala.

CONGRESSIONAL DISTRICTS.

First District—W. F. Glover, Butler, Choctaw County, Ala.; E. R. Morrisette, Monroeville, Monroe County, Ala.
Second District—Thos. G. Jones, Montgomery, Montgomery County, Ala.; S. C. Jenkins, Camden, Wilcox County, Ala.
Third District—J. N. Williams, Clayton, Barbour County, Ala.; M. Sollie, Ozark, Dale County, Ala.
Fourth District—Watkins M. Vaughan, Selma, Dallas County, Ala.; L. W. Grant, Anniston, Calhoun County, Ala.
Fifth District—Morgan M. Smith, Autaugaville, Autauga County, Ala.; John T. Heflin, Roanoke, Randolph County, Ala.
Sixth District—E. W. deGraffenried, Greensboro, Hale County, Ala.; Thomas L. Long, Jasper, Walker County, Ala.
Seventh District—C. L. Haley, Haleyville, Winston County, Ala.; O. R. Hood, Gadsden, Etowah County, Ala.
Eighth District—Emmett O'Neal, Florence, Lauderdale County, Ala.; R. W. Walker, Huntsville, Jefferson County, Ala.
Ninth District—A. C. Howze, Birmingham, Jefferson County, Ala.; J. F. Thompson, Centerville, Bibb County, Ala.

SENATORIAL DISTRICTS.

1st—W. T. Sanders, Athens, Limestone County, Ala.
2d—D. C. Almon, Moulton, Lawrence County, Ala.
3d—George H. Parker, Cullman, Cullman County, Ala.
4th—J. W. Grayson, Gurley, Madison County, Ala.
5th—W. P. Hodges, Scottsboro, Jackson County, Ala.
6th—Hubert T. Davis, Gadsden, Etowah County, Ala.
7th—L. F. Greer, DeArmanville, Calhoun County, Ala.
8th—J. B. Graham, Talladega, Talladega County, Ala.
9th—J. J. Robinson, Lafayette, Chambers County, Alabama.
10th—J. C. Maxwell, Alexander City, Tallapoosa County, Ala.
11th—G. A. Searcy, Tuscaloosa, Tuscaloosa County, Ala.
12th—E. W. Coleman, Jasper, Walker County, Ala.
13th—R. M. Cunningham, Pratt City, Jefferson County, Ala.
14th—W. A. Altman, York Station, Winston County, Ala.
15th—John H. Parker, Wetumpka, Elmore County, Ala.
16th—C. P. Rogers, Letohatchie, Lowndes County, Ala.

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18th—C. H. Greer, Marion, Marion County, Ala.
19th—Dabney Palmer, Washington County, Ala.
20th—Charles H. Miller, Millers, Lee County, Ala.
21st—L. W. Lochlin, Monroeville, Monroe, Ala.
22d—R. C. Jones, Camden, Wilcox County, Ala.
23d—George H. Malone, Dothan, Henry County, Ala.
24th—A. H. Merrill, Eufaula, Barbour County, Ala.
25th—William H. Samford, Troy, Pike County, Ala.
26th—D. S. Bethune, Union Springs, Bullock County, Ala.
27th—George P. Harrison, Opelika, Lee County, Ala.
28th—Tennent Lomax, Montgomery, Montgomery County, Ala.
29th—John A. Davis, Ft. Payne, De Kalb County, Ala.
30th—P. H. Pitts, Selma, Dallas County, Ala.
31st—A. H. Carmichael, Tuscumbia, Colbert County, Ala.
32d—William B. Inge, Greensboro, Hale County, Ala.
33d—Gregory L. Smith, Mobile, Mobile County, Ala.

COUNTY DELEGATES.

Autauga—Mac A. Smith, Prattville.
Baldwin—B. F. McMillan, Daphne.
Barbour—J. J. Winn, Clayton; S. H. Dent, Eufaula.
Bibb—John C. Jones, Blocton.
Blount—J. B. Sloan, Oneonta.
Bullock—James D. Norman, B. T. Eley, Union Springs.
Butler—J. Lee Long, Greenville.
Calhoun—J. T. Martin, Jacksonville; W. W. Whiteside, Anniston.
Chambers—J. Thomas Heflin, J. B. Duke, Lafayette.
Cherokee—H. W. Cardon, Center.
Chilton—L. H. Reynolds, Jemison.
Choctaw—G. H. Carnathon, Butler.
Clarke—Massey Wilson, Grove Hill; John A. Gilmore, Thomasville.
Clay—E. A. Phillips, Ashland.
Cleburne—Wilson P. Howell, Oak Level.
Coffee—M. S. Carmichael, Elba.
Colbert—James T. Kirk, Tuscumbia.
Conecuh—J. M. Foshee, Evergreen.
Coosa—John H. Porter, Iwana.
Covington—Henry Opp, Andalusia.
Crenshaw—J. O. Sentell, Luverne.
Cullman—W. T. L. Cofer, Cullman.
Dale—William W. Kirkland, Ozark.
Dallas—John F. Burns, Burnsville; B. H. Craig, Selma; H. F. Reese, Selma.
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Elmore—A. E. Williams, Wetumpka.

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Fayette—S. L. Studdard, Fayette.
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Geneva—W. O. Mulkey, Geneva.
Greene—Thomas W. Coleman, Eutaw.
Hale—William N. Knight, J. M. Jones, Greensboro.
Henry—T. M. Espy, Dothan; R. J. Reynolds, Curetons Bridge.
Jackson—John F. Proctor, Milo Moody, Scottsboro.
Jefferson—Charles W. Ferguson, Charles P. Beddow, James Weatherly, John W. O'Neal, H. C. Selheimer, Birmingham; T. J. Cornwell, Bessemer.
Lamar—C. C. NeSmith, Vernon.
Lauderdale—John B. Weakley, John T. Ashcraft, Florence.
Lawrence—W. T. Lowe, Moulton.
Lee—Emmett C. Jackson, Auburn; Noah P. Renfroe, Opelika.
Limestone—Earl Pettus, Athens.
Lowndes—Joseph Norwood, Ft. Deposit; Evans Hinson, Hayneville.
Macon—James E. Cobb, Tuskegee.
Madison—R. E. Spragins, A. C. Fletcher, Huntsville.
Marengo—John J. King, McKinley; Gesner Williams, Demopolis.
Marion—James P. Pearce, Guin.
Marshall—W. H. Bartlett, Guntersville.
Mobile—Harry Pillans, B. Boykin, Boone; L. E. Brooks, Mobile.
Monroe—J. H. Barefield, Monroeville.
Montgomery—Gordon Macdonald, Edward A. Graham, Thomas H. Watts, John W. A. Sanford, Montgomery.
Morgan—Samuel Blackwell, New Decatur; John C. Eyster, Decatur.
Perry—J. H. Stewart, Marion; W. H. Tayloe, Uniontown.
Pickens—E. D. Willett, Carrollton.
Pike—J. C. Henderson, Joel D. Murphree, Troy.
Randolph—William A. Handley, Roanoke.
Russell—William H. Banks, Letohatchie; Boswell deG. Waddell, Seale.
Shelby—J. Robert Beavers, Columbiana.
St. Clair—N. B. Spears, Pell City.
Sumter—John A. Rogers, Gainsville; Reuben Chapman, Livingston.
Talladega—E. W. Ledbetter, Sylacauga; Cecil Browne, Talladega.
Tallapoosa—Thomas L. Bulger, Dadeville; George A. Sorrell, Alexander City.
Tuscaloosa—J. Manley Foster, Wm. C. Fitts, Tuscaloosa.
Walker—Rufus A. O'Rear, Jasper.
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