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IN THE

MASSACHUSETTS CONSTITUTIONAL CONVENTION

1917–1919

VOLUME IV

REARRANGEMENT OF THE CONSTITUTION

AND

MISCELLANEOUS SUBJECTS

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REARRANGEMENT OF THE CONSTITUTION

AND

MISCELLANEOUS SUBJECTS

REARRANGEMENT OF THE CONSTITUTION.

The session of 1919 of the Constitutional Convention was held for the purpose of taking action upon the report of a special committee on Rearrangement of the Constitution, which had been instructed to "arrange the Constitution, as amended, under appropriate titles and in proper parts, chapters, sections and articles, omitting all sections, articles, clauses and words not in force, and make no substantive change in the provisions thereof."

The report of the committee, which was read at the first day's session, Tuesday, August 12, was as follows: —

The special committee appointed pursuant to the order of the Convention of August 20, 1918, "to arrange the Constitution as amended," has performed the duty assigned to it, and submits the following report, with a copy of the proposed rearrangement of the Constitution and amendments accompanying the same as document No. 2, July, 1919, as a part thereof.

The order under which the committee was appointed provides that the committee shall "arrange the Constitution as amended under appropriate titles, and in proper parts, chapters, sections and articles, omitting all sections, articles, clauses and words not in force and making no substantive change in the provisions thereof." It also provides that "printed copies of the report of such committee containing the draft and arrangement so made as aforesaid and showing in detail any and all omissions and any and all alterations in punctuation and phraseology shall be mailed to each delegate of the Convention," which has been done.

Document No. 1 accompanying this report is a reprint of the Constitution with all amendments, made only for the convenience of the committee and the Convention.

Document No. 3 shows the omissions and transpositions as required by the order of the Convention.

The object of the order was, as the committee understands it, to have the existing Constitution and its amendments, sixty-six in all, brought together in one body, omitting all "sections, articles, clauses and words" which by the lapse of time, or by repeal, or annulment, or otherwise, have ceased to be in force, and making such rearrangement, with the changes in phraseology and punctuation necessarily involved, as would form a consistent and connected whole. The committee are of opinion that it manifestly was not intended that they should draft a new Constitution embodying the existing Constitution and amendments, and they have not attempted to do so. They have considered that their duty in that regard was confined to one of rearrangement. The committee have construed the order to mean that it was the will and purpose of the Convention that no change in the existing Constitution and its amendments should be made by the committee which would or might in any way affect their meaning or present construction, or the construction which has heretofore been given to the provisions thereof, and they have carefully refrained from making any change which, it seemed to them, would or might have that effect.

Where there was an obvious omission, or a manifest ambiguity, as there seems to have been in a few cases, or where a change in phraseology or punctuation was rendered necessary by the rearrangement, or by the omission of words, phrases or articles, and when it was clear that another word or phrase should be substituted for the one used, to secure consistency, or uniformity in language, the committee deemed that it came within the scope of their duty to supply such omissions or remove such ambiguity or make such changes, and they have done so. The textual changes so made have been comparatively few.

The committee have transposed articles and provisions where such transposition seemed to them to effect a better and more logical arrangement. In no instance was any change of meaning or substance intended by, nor has any as the committee believe resulted from, such transposition. Changes in phraseology are shown or

intended to be shown in the rearrangement by italics. The omissions and transpositions appear, as already observed, in document No. 3 accompanying this report. It has been impossible to indicate the changes in punctuation otherwise than by a comparison of the text of the proposed rearrangement with the original text of the existing Constitution and amendments.

In the main the committee have followed the general arrangement of subjects in the existing Constitution, putting the various amendments now in force in the respective places where they appear to belong. They have deemed it wisest that the textual and other changes above referred to should be as few as possible consistently with the rearrangement intended. Except in the cases referred to above, and the cases where articles or clauses have been omitted as no longer in force, the present text of the Constitution and amendments has been strictly adhered to.

The division heretofore existing into Part the First and Part the Second, each being further subdivided into chapters, sections and articles, has been abandoned as confusing and inconvenient, and instead thereof the proposed draft, after the Preamble, is arranged in articles consecutively numbered from beginning to end. Related articles have been grouped together under captions or headings descriptive of the subjects to which they belong, following here also in the main the arrangement heretofore existing. The committee have construed so much of the order as provides for an arrangement with "appropriate titles and in proper parts, chapters, sections and articles" as directory rather than restrictive, and have felt at liberty to adopt such method of arrangement as seemed to them on the whole the simplest and most convenient.

The amendments relating to the Initiative and Referendum, to the Budget, and to Lending the Credit of the Commonwealth, the two latter being grouped together under one caption or heading, have been included in the Legislative Department. For purposes of convenience, some new divisions and titles have been introduced, but without, as the committee believe and intend, affecting the construction. The title of Receiver-General used in connection with that of Treasurer has been omitted as no longer of any significance.

While the report is substantially unanimous, it is proper to say that some differences of opinion exist in the committee. It should be noted, however, that in only one instance is there any difference of opinion as to what has been omitted as no longer in force. Such other differences as there are relate mainly to matters of arrangement.

For the committee,

JAMES M. MORTON,
Acting Chairman.

The old Constitution, with the amendments, was as follows:

PREAMBLE.

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain, and establish, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS.

PART THE FIRST.

A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.

Article I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship. [See Amendments, Arts. XLVI and XLVIII.]

III. [As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community but by the institution of the public worship of GOD, and of public instructions in piety, religion, and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD, and for the support and maintenance of public Protestant teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

And all moneys paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law.] [Superseded by Amendments, Art. XI.]

IV. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them expressly delegated to the United States of America, in Congress assembled.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

VII. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government; and

to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

IX. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments. [See Amendments, Art. XLV. Freedom of elections, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII. The initiative, II, sect. 2. For compulsory voting, see Amendments, Art. LXI.]

X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor. [See Amendments, Arts. XXXIX and XLVII. Right to receive compensation for private property appropriated to public use, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land. [Right of access to and protection in courts of justice, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury. [Right of trial by jury, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

XIV. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws. [Protection from unreasonable search, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practiced, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it. [Right of trial by jury, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

XVI. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth. [Freedom of the press, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer. [Right of peaceable assembly, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for. [Modified by the popular initiative and referendum. See Amendments, Art. XLVIII, I, Definition.]

XXI. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever. [Freedom of speech, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

XXIII. No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments. [Protection from unreasonable bail, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature. [Protection from law-martial, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws. [Tenure of their office, not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.]

XXX. In the government of this commonwealth, 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 it may be a government of laws and not of men. [For popular initiative and referendum, see Amendments, Art. XLVIII. For organization of executive, etc., work of the Commonwealth in not more than twenty departments, see Amendments, Art. LXVI.]

PART THE SECOND.

The Frame of Government.

The people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body politic, or state, by the name of The Commonwealth of Massachusetts.

CHAPTER I.

THE LEGISLATIVE POWER.

Section I.

The General Court.

Article I. The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other.

The legislative body shall assemble every year [on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May;] and shall be styled, The General Court of Massachusetts. [For change of time, etc., see Amendments, Art. X.]

II. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revisal; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichsoever the same shall have originated; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the commonwealth. [For right of governor to return bill or resolve for amendment, see Amendments, Art. LVI. For disapproval or reduction of items by the governor in bills appropriating money, see Amendments, Art. LXIII, sect. 5.]

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law. [For exception in case of adjournment of the general court within the five days, see Amendments, Art. I.]

III. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes, and things, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same: whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon. To which courts and judicatories are hereby given and granted

full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them. [See Amendments, Art. XLVIII. The initiative, II, sect. 2 and The referendum, III, sect. 2.]

IV. And further, full power and authority are hereby given and granted to the said general court, from time to time to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling, all civil officers within the said commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same. [See Amendments, Arts. XLI, XLIV and XLVIII.]

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order. [For the authority of the general court to charter cities, see Amendments, Art. II. For the state wide referendum on bills and resolves of the general court, see Amendments, Art. XLII, Art. XLII annulled by initiative and referendum amendment, see Amendments, Art. XLVIII, The referendum, VIII. For the power given the general court to provide by law for absentee and compulsory voting, see Amendments, Arts. XLV and LXI. For the power given the general court to determine the manner of providing and distributing the necessaries of life, etc., during time of war, public distress, etc., by the commonwealth and the cities and towns therein, see Amendments, Art. XLVII.]

CHAPTER I.

Section II.

Senate.

Article I. [There shall be annually elected, by the freeholders and other inhabitants of this commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators for the year ensuing their election; to be chosen by the inhabitants of the districts into which the commonwealth may, from time to time, be divided by the general court for that purpose: and the general court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the commonwealth the limits of each district, and the number of councillors and senators to be chosen therein; provided, that the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six senators.

And the several counties in this commonwealth shall, until the general court shall determine it necessary to alter the said districts, be districts for the choice of councillors and senators, (except that the counties of Dukes County and Nantucket shall form one district for that purpose) and shall elect the following number for councillors and senators, viz.: — Suffolk, six; Essex, six; Middlesex, five; Hampshire, four; Plymouth, three; Barnstable, one; Bristol, three; York, two; Dukes County and Nantucket, one; Worcester, five; Cumberland, one; Lincoln, one; Berkshire, two.

[Superseded by Amendments, Art. XIII, which was also superseded by Amendments, Art. XXII. For provision as to councillors, see Amendments, Art. XVI.]

II. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz.: there shall be a meeting on the [first Monday in April,] annually, forever, of the inhabitants of each town in the several counties of this commonwealth; to be called by the selectmen, and warned in due course of law, at least seven days before the [first Monday in April,] for the purpose of electing persons to be senators and councillors; [and at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the commonwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the senators for the district of which he is an inhabitant.] And to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this state, in that town, district, or plantation where he dwelleth, or hath his home. [See Amendments, Arts. X, XV, XLV and LXIV, sect. 1. As to cities, see Amendments, Art. II. Provisions as to qualifications of voters, superseded by Amendments, Arts. III, XX, XXVIII, XXX, XXXI and XXXII. See also Amendments, Art. XXIII, which was annulled by Art. XXVI.]

The selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name: and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before [the last Wednesday in May] annually; or it shall be delivered into the secretary's office seventeen days at least before the said [last Wednesday in May:] and the sheriff of each county shall deliver all such certificates by him received, into the secretary's office, seventeen days before the said [last Wednesday in May.] [As to cities, see Amendments, Art. II. Time changed to first Wednesday of January. See Amendments, Art. X.]

And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for councillors and senators in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held annually [on the same first Monday in April], at such place in the plantations, respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns, by this constitution. And all other persons living in places unincorporated (qualified as aforesaid) who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of giving in their votes for councillors and senators in the town where they shall be assessed, and be notified of the place of meeting by the selectmen of the town where they shall be assessed, for that purpose, accordingly. [Time of election changed by Amendments, Art. XV.]

III. And that there may be a due convention of senators on the [last Wednesday in May] annually, the governor with five of the council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by [a majority of] voters, to attend on that day, and take their seats accordingly: provided, nevertheless, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid. [Time changed to first Wednesday in January by Amendments, Art. X. Majority changed to plurality by Amendments, Art. XIV.]

IV. The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution; and shall, [on the said last Wednesday in May] annually, determine and declare who are elected by each district to be senators [by a majority of votes; and in case there shall not appear to be the full number of senators returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz.: The members

of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be, after such vacancies shall happen.] [Time changed to first Wednesday of January by Amendments, Art. X. Majority changed to plurality by Amendments, Art. XIV. Changed to election by people by Amendments, Art. XXIV.]

V. Provided, nevertheless, that no person shall be capable of being elected as a senator, [who is not seised in his own right of a freehold, within this commonwealth, of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and] who has not been an inhabitant of this commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district for which he shall be chosen. [See Amendments, Art. XIII. For further provision as to residence, see also Amendments, Art. XXII.]

VI. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time. [See Amendments, Art. LII.]

VII. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

VIII. The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and mal-administration in their offices. But previous to the trial of every impeachment the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this commonwealth; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

IX. [Not less than sixteen members of the senate shall constitute a quorum for doing business.] [See Amendments, Arts. XXII and XXXIII.]

CHAPTER I.

Section III.

House of Representatives.

Article I. There shall be, in the legislature of this commonwealth, a representation of the people, annually elected, and founded upon the principle of equality. [For change to biennial elections, see Amendments, Art. LXIV, sect. 1.]

II. [And in order to provide for a representation of the citizens of this commonwealth, founded upon the principle of equality, every corporate town containing one hundred and fifty ratable polls may elect one representative; every corporate town containing three hundred and seventy-five ratable polls may elect two representatives; every corporate town containing six hundred ratable polls may elect three representatives; and proceeding in that manner, making two hundred and twenty-five ratable polls the mean increasing number for every additional representative.

Provided, nevertheless, that each town now incorporated, not having one hundred and fifty ratable polls, may elect one representative; but no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same one hundred and fifty ratable polls.] [Superseded by Amendments, Arts. XII and XIII, which were also superseded by Amendments, Art. XXI.]

And the house of representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

[The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.] [Annulled by Art. XXXV.]

III. Every member of the house of representatives shall be chosen by written vote; [and, for one year at least next preceding his election, shall have been an

inhabitant of, and have been seised in his own right of a freehold of the value of one hundred pounds within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.] [See Amendments, Art. XXI. Property qualifications abolished by Amendments, Art. XIII.]

IV. [Every male person, being twenty-one years of age, and resident in any particular town in this commonwealth for the space of one year next preceding, having a freehold estate within the said town of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town.] [These provisions superseded by Amendments, Arts. III, XX, XXVIII, XXX, XXXI, XXXII and XLV.] [See also Amendments, Art. XXIII, which was annulled by Art. XXVI.]

V. [The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.] [Time of election changed by Amendments, Art. X, and changed again by Amendments, Art. XV.]

VI. The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them shall be heard and tried by the senate.

VII. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

VIII. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time. [See Amendments, Art. LII.]

IX. [Not less than sixty members of the house of representatives shall constitute a quorum for doing business.] [See Amendments, Arts. XXI and XXXIII.]

X. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker; appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house; or who shall assault any of them therefor; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house.

And no member of the house of representatives shall be arrested, or held to bail on mesne process, during his going unto, returning from, or his attending the general assembly.

XI. The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases: provided, that no imprisonment on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

CHAPTER II.

EXECUTIVE POWER.

SECTION I.

Governor.

Article I. There shall be a supreme executive magistrate, who shall be styled — THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be — HIS EXCELLENCY.

II. The governor shall be chosen annually; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding; [and unless he shall at the same time be seised, in his own right, of a freehold, within the commonwealth, of the value of one thousand pounds;] [and unless he shall declare himself to be of the Christian

religion.] [For change to biennial elections, see Amendments, Art. LXIV, sects. 1–4. See Amendments, Arts. VII and XXXIV.]

III. Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth shall, at a meeting to be called for that purpose, on the [first Monday of April] annually, give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the [last Wednesday in May]; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said [last Wednesday in May]; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before the said day; and the secretary shall lay the same before the senate and the house of representatives on the [last Wednesday in May], to be by them examined; and in case of an election by a [majority] of all the votes returned, the choice shall be by them declared and published; but if no person shall have a [majority] of votes, the house of representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor. [See Amendments, Art. XLV. Time of election changed by Amendments, Art. X, and changed again by Amendments, Art. XV. As to cities, see Amendments, Art. II. Time changed to first Wednesday of January by Amendments, Art. X. Changed to plurality by Amendments, Art. XIV.]

IV. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and the governor with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land.

V. The governor, with advice of council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire; [and to dissolve the same on the day next preceding the last Wednesday in May; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess;] and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other, the most convenient place within the state.

[And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.] [As to dissolution, see Amendments, Art. X.]

VI. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment or prorogation, the governor, with advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

VII. [The governor of this commonwealth, for the time being, shall be the commander-in-chief of the army and navy, and of all the military forces of the state, by sea and land; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise, and govern the militia and navy; and, for the special defence and safety of the commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repel, resist, expel, and pursue, by force of arms, as well by sea as by land, within or without the limits of this commonwealth, and also to kill, slay, and destroy, if necessary, and conquer, by all fitting ways, enterprises, and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of this commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law-martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise, by all ways and means whatsoever, all and every such person or

persons, with their ships, arms, ammunition, and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this commonwealth; and that the governor be intrusted with all these and other powers, incident to the offices of captain-general and commander-in-chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise.

Provided, that the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the state to which they cannot otherwise conveniently have access.] [This Article annulled and superseded by Amendments, Art. LIV.]

VIII. The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon, granted by the governor, with advice of the council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

IX. All judicial officers, [the attorney-general,] the solicitor-general, [all sheriffs,] coroners, [and registers of probate,] shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment. [For provisions as to election of attorney-general, see Amendments, Arts. XVII and LXIV, sect. 1. For provision as to election of sheriffs, registers of probate, etc., see Amendments, Art. XIX. For provision as to appointment of notaries public, see Amendments, Arts. IV. and LVII. Appointment, tenure, etc., of judges not to be the subject of an initiative or referendum petition; see Amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.]

X. [The captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm list of their respective companies, [of twenty-one years of age and upwards;] the field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments; the brigadiers shall be elected, in like manner, by the field officers of their respective brigades; and such officers, so elected, shall be commissioned by the governor, who shall determine their rank. [Limitation of age struck out by Amendments, Art. V.]

The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the governor, the officers elected.

The major-generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor. [For provisions as to appointment of a commissary-general, see Amendments, Art. IV.]

And if the electors of brigadiers, field officers, captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices.

[And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the commonwealth for the time being.] [Superseded by Amendments, Art. IV.]

The commanding officers of regiments shall appoint their adjutants and quartermasters; the brigadiers their brigade-majors; and the major-generals their aids; and the governor shall appoint the adjutant-general.

The governor, with advice of council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this commonwealth shall appoint, as also all officers of forts and garrisons.

The divisions of the militia into brigades, regiments, and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this commonwealth, until the same shall be altered in pursuance of some future law.] [This Article annulled and superseded by Amendments, Art. LIII.]

XI. No moneys shall be issued out of the treasury of this commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by

warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court. [Certain appropriations of money from treasury not to be subjects of initiative or referendum petition. See Amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.]

XII. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors, adjacent.

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively.

XIII. As the public good requires that the governor should not be under the undue influence of any of the members of the general court by a dependence on them for his support, that he should in all cases act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns, and that he should maintain the dignity of the commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: and it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court. [Compensation of judges not to be the subject of an initiative or referendum petition; see Amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.]

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

CHAPTER II.

Section II.

Lieutenant-Governor.

Article I. There shall be annually elected a lieutenant-governor of the commonwealth of Massachusetts, whose title shall be — His Honor; and who shall be qualified, in point of [religion,] [property,] and residence in the commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; [and if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no one person shall have a majority of the votes of the people to be governor.] [See Amendments, Arts. VII and XXXIV. For change to biennial elections, see Amendments, Art. LXIV, sect. 1. Election by plurality provided for by Amendments, Art. XIV.]

II. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

III. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which by this constitution the governor is vested with, when personally present. [See Amendments, Art. LV.]

CHAPTER II.

SECTION III.

Council, and the Manner of settling Elections by the Legislature.

Article I. There shall be a council for advising the governor in the executive part of the government, to consist of [nine] persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land. [See Amendments, Art. XVI.]

II. [Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room; and in case there shall not be found upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.] [Modified by Amendments, Arts. X and XIII. Superseded by Amendments, Art. XVI.]

III. The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant-governor.

IV. [Not more than two councillors shall be chosen out of any one district of this commonwealth.] [Superseded by Amendments, Art. XVI.]

V. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority.

VI. [Whenever the office of the governor and lieutenant-governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of them, shall, during such vacancy, have full power and authority to do, and execute, all and every such acts, matters, and things, as the governor or the lieutenant-governor might or could, by virtue of this constitution, do or execute, if they, or either of them, were personally present.] [This Article annulled and superseded by Amendments, Art. LV.]

VII. [And whereas the elections appointed to be made, by this constitution, on the last Wednesday in May annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of elections shall be as follows: the vacancies in the senate, if any, shall first be filled up; the governor and lieutenant-governor shall then be elected, provided there should be no choice of them by the people; and afterwards the two houses shall proceed to the election of the council.] [Superseded by Amendments, Arts. XVI and XXV.]

CHAPTER II.

SECTION IV.

Secretary, Treasurer, Commissary, etc.

Article I. [The secretary, treasurer and receiver-general, and the commissary-general, notaries public, and] naval officers, shall be chosen annually, by joint ballot of the senators and representatives in one room. And, that the citizens of this commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively. [For provision as to election of secretary, treasurer, auditor and attorney-general, see Amendments, Arts. XVII and LXIV, sect. 1. For provision as to appointment of notaries public and the commissary-general, see Amendments, Arts. IV and LVII. Treasurer and receiver-general ineligible to election for more than three successive terms. See Amendments, Art. LXIV, sect. 2.]

II. The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

CHAPTER III.

JUDICIARY POWER.

Article I. The tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature. [For tenure, etc., of judges, see Amendments, Art. XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2. For retirement of judicial officers, see Amendments, Art. LVIII.]

II. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

III. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the commonwealth. [For removal of justices of the peace, see Amendments, Art. XXXVII.]

IV. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places; until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

V. All causes of marriage, divorce, and alimony, and all appeals from the judges of probate, shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision.

CHAPTER IV.

DELEGATES TO CONGRESS.

[The delegates of this commonwealth to the congress of the United States, shall, some time in the month of June, annually, be elected by the joint ballot of the senate and house of representatives, assembled together in one room; to serve in congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the governor, and the great seal of the commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.]

CHAPTER V.

THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE, ETC.

SECTION I.

The University.

Article I. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences which qualified them for public employments, both in church and state; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of GOD, the advantage of the Christian religion, and the great benefit of this and the other United States of America, — it is declared, that the PRESIDENT and FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy, all the powers, authorities, rights, liberties, privileges, immunities, and franchises, which they now have, or are entitled to have, hold, use, exercise, and enjoy; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

II. And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies, and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college by some other description, under several charters, successively; it is declared, that all the said gifts, grants, devises, legacies, and conveyances, are hereby forever confirmed unto the president and fellows of Harvard College, and to their successors in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

III. And whereas, by an act of the general court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the governor and deputy-governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College; and it being necessary, in this new constitution of government to ascertain who shall be deemed successors to the said governor, deputy-governor, and magistrates; it is declared, that the governor, lieutenant-governor, council, and senate of this commonwealth, are, and shall be deemed, their successors, who, with the president of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the overseers of Harvard College; provided, that nothing herein shall be construed to prevent the legislature of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late Province of the Massachusetts Bay.

CHAPTER V.

Section II.

The Encouragement of Literature, etc.

Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments, among the people. [For further provisions as to public schools, see Amendments, Arts. XVIII and XLVI.]

CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES; PECUNIARY QUALIFICATIONS; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, ETC.

Article I. [Any person chosen governor, lieutenant-governor, councillor, senator, or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz.:

"I, A. B., do declare, that I believe the Christian religion, and have a firm persuasion of its truth; and that I am seised and possessed, in my own right, of the property required by the constitution, as one qualification for the office or place to which I am elected."

And the governor, lieutenant-governor, and councillors, shall make and subscribe the said declaration, in the presence of the two houses of assembly; and the senators

and representatives, first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being.] [See Amendments, Art. VII.]

And every person chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz.:

["I, A. B., do truly and sincerely acknowledge, profess, testify, and declare, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign, and independent state; and I do swear, that I will bear true faith and allegiance to the said commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection, and obedience to the king, queen, or government of Great Britain (as the case may be), and every other foreign power whatsoever; and that no foreign prince, person, prelate, state, or potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing or other power, in any matter, civil, ecclesiastical, or spiritual, within this commonwealth, except the authority and power which is or may be vested by their constituents in the congress of the United States: and I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath, declaration, or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation, and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me, GOD."] [For new oath of allegiance, see Amendments, Art. VI.]

"I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as , according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth. So help me, GOD."

Provided, always, that when any person chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oath[s], he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words, ["*I do swear*," "*and abjure*," "*oath or*," "*and abjuration*," in the first oath, and in the second oath, the words] "*swear and*," and [in each of them] the words "*So help me*, GOD;" subjoining instead thereof, "*This I do under the pains and penalties of perjury.*" [See Amendments, Art. VI.]

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor, and councillors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

II. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace through the state; nor shall they hold any other place or office, or receive any pension or salary from any other state or government or power whatever. [See Amendments, Art. VIII.]

No person shall be capable of holding or exercising at the same time, within this state, more than one of the following offices, viz.: judge of probate — sheriff — register of probate — or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the state at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

No person holding the office of judge of the supreme judicial court — secretary — attorney-general — solicitor-general — treasurer or receiver-general — judge of probate — commissary-general — [president, professor, or instructor of Harvard College] — sheriff — clerk of the house of representatives — register of probate — register of deeds — clerk of the supreme judicial court — clerk of the inferior court of common pleas — or officer of the customs, including in this description naval officers — shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate

as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up. [For further provisions as to incompatible offices, see Amendments, Art. VIII. Officers of Harvard College excepted by Amendments, Art. XXVII.]

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in council; or any councillor shall accept of either of those offices or places.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

III. In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at six shillings and eight pence per ounce; and it shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the commonwealth shall require. [See Amendments, Arts. XIII and XXXIV.]

IV. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the governor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto.

V. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

VI. All the laws which have heretofore been adopted, used, and approved in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

VII. The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious, and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

VIII. The enacting style, in making and passing all acts, statutes, and laws, shall be — "Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same."

IX. To the end there may be no failure of justice, or danger arise to the commonwealth from a change of the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts Bay in New England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise, and enjoy, all the powers and authority to them granted or committed, until other persons shall be appointed in their stead; and all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies, and powers shall continue in full force, in the enjoyment and exercise of all their trusts, employments and authority; until the general court, and the supreme and executive officers under this constitution, are designated and invested with their respective trusts, powers, and authority.

X. [In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the general court which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution, in order to amendments. [For existing provision as to amendments, see Amendments, Art. IX.]

And if it shall appear, by the returns made, that two-thirds of the qualified voters throughout the state, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office, to the several towns to elect delegates to meet in convention for the purpose aforesaid.

The said delegates to be chosen in the same manner and proportion as their representatives in the second branch of the legislature are by this constitution to be chosen.]

XI. This form of government shall be enrolled on parchment, and deposited in

the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of the said laws.

ARTICLES OF AMENDMENT.

Article I. If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it with his objections, as provided by the constitution, such bill or resolve shall not become a law nor have force as such. [See Const., Ch. I, § 1, Art. II.]

Art. II. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose. And provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court. [See Amendments, Arts. XLVII and XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.]

Art. III. Every male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, who shall have resided within the commonwealth one year, and within the town or district in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, [and who shall have paid, by himself, or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned,] shall have a right to vote in such election of governor, lieutenant-governor, senators, and representatives; and no other person shall be entitled to vote in such election. [See Amendments, Arts. XXX, XXXII, XL and XLV. For educational qualification, see Amendments, Art. XX. For provision as to those who have served in the army or navy in time of war, see Amendments, Arts. XXVIII and XXXI. See also Amendments, Art. XXIII, which was annulled by Amendments, Art. XXVI. For absentee voting, see Amendments, Art. XLV.]

Art. IV. Notaries public shall be appointed by the governor in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the governor, with the consent of the council, upon the address of both houses of the legislature. [See Amendments, Art. XXXVII. For appointment of women as notaries public, see Amendments, Art. LVII.]

[In case the office of secretary or treasurer of the commonwealth shall become vacant from any cause, during the recess of the general court, the governor, with the advice and consent of the council, shall nominate and appoint, under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the general court.] [This clause superseded by Amendments, Art. XVII.]

[Whenever the exigencies of the commonwealth shall require the appointment of a commissary-general, he shall be nominated, appointed, and commissioned, in such manner as the legislature may, by law, prescribe.

All officers commissioned to command in the militia may be removed from office in such manner as the legislature may, by law, prescribe.] [Last two paragraphs of Art. IV annulled and superseded by Amendments, Art. LIII.]

Art. V. [In the elections of captains and subalterns of the militia, all the members of their respective companies, as well those under as those above the age of twenty-one years, shall have a right to vote.] [This article annulled and superseded by Amendments, Art. LIII.]

Art. VI. Instead of the oath of allegiance prescribed by the constitution, the following oath shall be taken and subscribed by every person chosen or appointed to

any office, civil or military, under the government of this commonwealth, before he shall enter on the duties of his office, to wit: —

"I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, God."

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word "swear" and inserting, instead thereof, the word "affirm," and omitting the words "So help me, God," and subjoining, instead thereof, the words, "This I do under the pains and penalties of perjury." [See Const., Ch. VI, Art. I.]

Art. VII. No oath, declaration, or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the governor, lieutenant-governor, councillors, senators, or representatives, to qualify them to perform the duties of their respective offices.

Art. VIII. No judge of any court of this commonwealth, (except the court of sessions,) and no person holding any office under the authority of the United States, (postmasters excepted,) shall, at the same time, hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this commonwealth; and no judge of any court in this commonwealth, (except the court of sessions,) nor the attorney-general, solicitor-general, county attorney, clerk of any court, sheriff, treasurer and receiver-general, register of probate, nor register of deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; and judges of the courts of common pleas shall hold no other office under the government of this commonwealth, the office of justice of the peace and militia offices excepted.

Art. IX. [If, at any time hereafter, any specific and particular amendment or amendments to the constitution be proposed in the general court, and agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two houses, with the yeas and nays taken thereon, and referred to the general court then next to be chosen, and shall be published; and if, in the general court next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, then it shall be the duty of the general court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the constitution of this commonwealth.] [This Article annulled by Art. XLVIII, General Provisions, VIII.]

Art. X. The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the general court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor. The governor, lieutenant-governor and councillors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead. [See Amendments, Art. LXIV, sect. 1 and sect. 3.]

[The meeting for the choice of governor, lieutenant-governor, senators, and representatives, shall be held on the second Monday of November in every year; but meetings may be adjourned, if necessary, for the choice of representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.] [This clause superseded by Amendments, Art. XV.]

All the other provisions of the constitution, respecting the elections and proceedings of the members of the general court, or of any other officers or persons whatever, that have reference to the last Wednesday of May, as the commencement of the political year, shall be so far altered, as to have like reference to the first Wednesday of January.

This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the constitution; and the governor, lieutenant-governor, councillors, senators, representatives, and all other state officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer; and the first election of the governor, lieutenant-governor, senators, and representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November following the day on which the same shall be in force, and go into operation, pursuant to the foregoing provision.

All the provisions of the existing constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.

Art. XI. Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted: —

"As the public worship of God and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law." [See Dec. of Rights, Art. III. See Amendments, Arts. XLVI and XLVIII, The initiative, II, sect. 2, and The referendum, III, sect. 2.]

Art. XII. [In order to provide for a representation of the citizens of this commonwealth, founded upon the principles of equality, a census of the ratable polls, in each city, town, and district of the commonwealth, on the first day of May, shall be taken and returned into the secretary's office, in such manner as the legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid; and each town or city having three hundred ratable polls at the last preceding decennial census of polls, may elect one representative, and for every four hundred and fifty ratable polls in addition to the first three hundred, one representative more.

Any town having less than three hundred ratable polls shall be represented thus: The whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred; and such town may elect one representative as many years within ten years, as three hundred is contained in the product aforesaid.

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented, as to that surplus number, by multiplying such surplus number by ten and dividing the product by four hundred and fifty; and such city or town may elect one additional representative as many years, within the ten years, as four hundred and fifty is contained in the product aforesaid.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns and districts, respectively, called for that purpose, and held previous to the first day of July, in the year in which the decennial census of polls shall be taken, form themselves into a representative district to continue until the next decennial census of polls, for the election of a representative, or representatives; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

The governor and council shall ascertain and determine, within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives, which each city, town, and representative district is entitled to elect, and the number of years, within the period of ten years then next ensuing, that each city, town, and

representative district may elect an additional representative; and where any town has not a sufficient number of polls to elect a representative each year, then, how many years within the ten years, such town may elect a representative; and the same shall be done once in ten years, thereafter, by the governor and council, and the number of ratable polls in each decennial census of polls, shall determine the number of representatives, which each city, town and representative district may elect as aforesaid; and when the number of representatives to be elected by each city, town, or representative district is ascertained and determined as aforesaid, the governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.

All the provisions of the existing constitution inconsistent with the provisions herein contained, are hereby wholly annulled.] [This Article was superseded by Amendments, Art. XIII, which was also superseded by Amendments, Art. XXI.]

Art. XIII. [A census of the inhabitants of each city and town, on the first day of May, shall be taken, and returned into the secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter; which census shall determine the apportionment of senators and representatives for the term of ten years. [Provisions as to census superseded by Amendments, Arts. XXI and XXII.]

The several senatorial districts now existing shall be permanent. The senate shall consist of forty members; and in the year one thousand eight hundred and forty, and every tenth year thereafter, the governor and council shall assign the number of senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one senator shall be assigned to each district. [Provisions as to senators superseded by Amendments, Art. XXII.]

The members of the house of representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants may elect one representative; and two thousand four hundred inhabitants shall be the mean increasing number, which shall entitle it to an additional representative. [Provisions as to representatives superseded by Amendments, Art. XXI.]

Every town containing less than twelve hundred inhabitants shall be entitled to elect a representative as many times within ten years as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one representative for the year in which the valuation of estates within the commonwealth shall be settled.

Any two or more of the several towns may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns, respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a representative district, to continue for the term of ten years; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of inhabitants.

The number of inhabitants which shall entitle a town to elect one representative, and the mean increasing number which shall entitle a town or city to elect more than one, and also the number by which the population of towns not entitled to a representative every year is to be divided, shall be increased, respectively, by one-tenth of the numbers above mentioned, whenever the population of the commonwealth shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants, the same addition of one-tenth shall be made, respectively, to the said numbers above mentioned.

In the year of each decennial census, the governor and council shall, before the first day of September, apportion the number of representatives which each city, town, and representative district is entitled to elect, and ascertain how many years, within ten years, any town may elect a representative, which is not entitled to elect one every year; and the governor shall cause the same to be published forthwith.

Nine councillors shall be annually chosen from among the people at large, on the first Wednesday of January, or as soon thereafter as may be, by the joint ballot of the senators and representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the council, by death, resignation, or otherwise. No person shall be elected a councillor, who has not been an inhabitant of this commonwealth for the term of five years immediately preceding his election; and not more than one councillor shall be chosen from any one senatorial district in the commonwealth.] [Provisions as to councillors superseded by Amendments, Art. XVI.]

No possession of a freehold, or of any other estate, shall be required as a qualifi-

cation for holding a seat in either branch of the general court, or in the executive council.

Art. XIV. In all elections of civil officers by the people of this commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

Art. XV. The meeting for the choice of governor, lieutenant-governor, senators, and representatives, shall be held on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November. [For change to biennial elections, see Amendments, Art. LXIV, sects. 1–4. For compulsory voting, see Amendments, Art. LXI.]

Art. XVI. Eight councillors shall be annually chosen by the inhabitants of this commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next state census shall have been taken, and at its first session after each decennial state census thereafterwards, shall divide the commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor: *provided, however*, that if, at any time, the constitution shall provide for the division of the commonwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts, that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor. [Whenever there shall be a failure to elect the full number of councillors, the vacancies shall be filled in the same manner as is required for filling vacancies in the senate; and vacancies occasioned by death, removal from the state, or otherwise, shall be filled in like manner, as soon as may be, after such vacancies shall have happened.] And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers. [For change to biennial elections, see Amendments, Art. LXIV, sects. 1–4. For compulsory voting, see Amendments, Art. LXI. For new provision as to vacancies, see Amendments, Art. XXV.]

Art. XVII. The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen annually, on the day in November prescribed for the choice of governor; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like manner be filled by choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for

the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment. [For election biennially, see Amendments, Art. LXIV, sect. 1. For compulsory voting, see Amendments, Art. LXI.]

Art. XVIII. [All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the state for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.] [For original provision as to schools, see Constitution, Part First, Art. III. This Article was superseded by Amendments, Art. XLVI.]

Art. XIX. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, [commissioners of insolvency,] and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe. [See Amendments, Art. XXXVI.]

Art. XX. No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name: *provided, however*, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect. [For other qualifications, see Amendments, Art. III. See also Amendments, Art. XXIII, which was annulled by Amendments, Art. XXVI. For absentee voting, see Amendments, Art. XLV.]

Art. XXI. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters; and in each city, said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk, — or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, — shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease

to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law. [Not less than one hundred members of the house of representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.] [See Amendments, Art. XXXIII.]

Art. XXII. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: *provided, however*, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth. [Not less than sixteen senators shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.] [See Amendments, Arts. XXIV and XXXIII.]

Art. XXIII. [No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and, *provided, further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.] [This Article annulled by Art. XXVI.]

Art. XXIV. Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of the senators elected.

Art. XXV. In case of a vacancy in the council, from a failure of election, or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the same by appointment of some eligible person.

Art. XXVI. The twenty-third article of the articles of amendment of the constitution of this commonwealth, which is as follows, to wit: "No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and *provided, further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom," is hereby wholly annulled.

Art. XXVII. So much of article two of chapter six of the constitution of this commonwealth as relates to persons holding the office of president, professor, or instructor of Harvard College, is hereby annulled.

Art. XXVIII. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if

otherwise qualified to vote, shall be disqualified therefor on account of being a pauper; or, if a pauper, because of the non-payment of a poll tax. [Superseded by Art. XXXI.]

Art. XXIX. The general court shall have full power and authority to provide for the inhabitants of the towns in this commonwealth more than one place of public meeting within the limits of each town for the election of officers under the constitution, and to prescribe the manner of calling, holding and conducting such meetings. All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby annulled. [For absentee voting provision, see Amendments, Art. XLV.]

Art. XXX. No person, otherwise qualified to vote in elections for governor, lieutenant-governor, senators, and representatives, shall, by reason of a change of residence within the commonwealth, be disqualified from voting for said officers in the city or town from which he has removed his residence, until the expiration of six calendar months from the time of such removal. [For absentee voting provision, see Amendments, Art. XLV.]

Art. XXXI. Article twenty-eight of the amendments of the constitution is hereby amended by striking out in the fourth line thereof the words "being a pauper", and inserting in place thereof the words: — receiving or having received aid from any city or town, — and also by striking out in said fourth line the words "if a pauper", so that the article as amended shall read as follows: ARTICLE XXVIII. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town, or because of the non-payment of a poll tax.

Art. XXXII. So much of article three of the amendments of the constitution of the commonwealth as is contained in the following words: "and who shall have paid, by himself, or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned", is hereby annulled.

Art. XXXIII. A majority of the members of each branch of the general court shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and compel the attendance of absent members. All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby annulled.

Art. XXXIV. So much of article two of section one of chapter two of part the second of the constitution of the commonwealth as is contained in the following words: "and unless he shall at the same time be seised, in his own right, of a freehold, within the commonwealth, of the value of one thousand pounds"; is hereby annulled.

Art. XXXV. So much of article two of section three of chapter one of the constitution of the commonwealth as is contained in the following words: "The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave", is hereby annulled.

Art. XXXVI. So much of article nineteen of the articles of amendment to the constitution of the commonwealth as is contained in the following words: "commissioners of insolvency" is hereby annulled.

Art. XXXVII. The governor, with the consent of the council, may remove justices of the peace and notaries public.

Art. XXXVIII. Voting machines or other mechanical devices for voting may be used at all elections under such regulations as may be prescribed by law: *provided, however*, that the right of secret voting shall be preserved. [For compulsory voting, see Amendments, Art. LXI.]

Art. XXXIX. Article ten of part one of the constitution is hereby amended by adding to it the following words: — The legislature may by special acts for the purpose of laying out, widening or relocating highways or streets, authorize the taking in fee by the commonwealth, or by a county, city or town, of more land and property than are needed for the actual construction of such highway or street: *provided, however*, that the land and property authorized to be taken are specified in the act and are no more in extent than would be sufficient for suitable building lots on both sides of such highway or street, and after so much of the land or property has been appropriated for such highway or street as is needed therefor, may authorize the sale of the remainder for value with or without suitable restrictions.

Art. XL. Article three of the amendments to the constitution is hereby amended by inserting after the word "guardianship", in line two, the following: — and persons temporarily or permanently disqualified by law because of corrupt practices in respect to elections.

Art. XLI. Full power and authority are hereby given and granted to the general court to prescribe for wild or forest lands such methods of taxation as will develop and conserve the forest resources of the commonwealth.

Art. XLII. [Full power and authority are hereby given and granted to the general court to refer to the people for their rejection or approval at the polls any act or resolve of the general court or any part or parts thereof. Such reference shall be by a majority yea and nay vote of all members of each house present and voting. Any act, resolve, or part thereof so referred shall be voted on at the regular state election next ensuing after such reference, shall become law if approved by a majority of the voters voting thereon, and shall take effect at the expiration of thirty days after the election at which it was approved or at such time after the expiration of the said thirty days as may be fixed in such act, resolve or part thereof.] [This article annulled by Amendments, Art. XLVIII, General Provisions, VIII.]

Art. XLIII. The general court shall have power to authorize the commonwealth to take land and to hold, improve, sub-divide, build upon and sell the same, for the purpose of relieving congestion of population and providing homes for citizens: *provided, however*, that this amendment shall not be deemed to authorize the sale of such land or buildings at less than the cost thereof. [Credit of the commonwealth restricted by Amendments, Art. LXII, sect. 1.]

Art. XLIV. Full power and authority are hereby given and granted to the general court to impose and levy a tax on income in the manner hereinafter provided. Such tax may be at different rates upon income derived from different classes of property, but shall be levied at a uniform rate throughout the commonwealth upon incomes derived from the same class of property. The general court may tax income not derived from property at a lower rate than income derived from property, and may grant reasonable exemptions and abatements. Any class of property the income from which is taxed under the provisions of this article may be exempted from the imposition and levying of proportional and reasonable assessments, rates and taxes as at present authorized by the constitution. This article shall not be construed to limit the power of the general court to impose and levy reasonable duties and excises.

Art. XLV. The general court shall have power to provide by law for voting by qualified voters of the commonwealth who, at the time of an election, are absent from the city or town of which they are inhabitants in the choice of any officer to be elected or upon any question submitted at such election. [For compulsory voting, see Amendments, Art. LXI.]

Art. XLVI. (In place of article XVIII of the articles of amendment of the constitution ratified and adopted April 9, 1821, the following article of amendment, submitted by the constitutional convention, was ratified and adopted November 6, 1917.) ARTICLE XVIII. SECTION 1. No law shall be passed prohibiting the free exercise of religion. [See Amendments, Art. XLVIII, The initiative, II, sect. 2.]

SECTION 2. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the commonwealth for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is expended; and no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the commonwealth or any political division thereof for the purpose of founding, maintaining or aiding any school or institution of learning, whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school, or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control, order and superintendence of public officers or public agents authorized by the commonwealth or federal authority or both, except that appropriations may be made for the maintenance and support of the Soldiers' Home in Massachusetts and for free public libraries in any city or town, and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society. [Credit of the Commonwealth restricted by Amendments, Art. LXII, sect. 1.]

SECTION 3. Nothing herein contained shall be construed to prevent the com-

monwealth, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries or institutions to such persons as may be in whole or in part unable to support or care for themselves.

Section 4. Nothing herein contained shall be construed to deprive any inmate of a publicly controlled reformatory, penal or charitable institution of the opportunity of religious exercises therein of his own faith; but no inmate of such institution shall be compelled to attend religious services or receive religious instruction against his will, or, if a minor, without the consent of his parent or guardian.

Section 5. This amendment shall not take effect until the October first next succeeding its ratification and adoption by the people.

Art. XLVII. The maintenance and distribution at reasonable rates, during time of war, public exigency, emergency or distress, of a sufficient supply of food and other common necessaries of life and the providing of shelter, are public functions, and the commonwealth and the cities and towns therein may take and may provide the same for their inhabitants in such manner as the general court shall determine.

Art. XLVIII.

I. Definition.

Legislative power shall continue to be vested in the general court; but the people reserve to themselves the popular initiative, which is the power of a specified number of voters to submit constitutional amendments and laws to the people for approval or rejection; and the popular referendum, which is the power of a specified number of voters to submit laws, enacted by the general court, to the people for their ratification or rejection.

The Initiative.

II. Initiative Petitions.

Section 1. *Contents.* — An initiative petition shall set forth the full text of the constitutional amendment or law, hereinafter designated as the measure, which is proposed by the petition.

Section 2. *Excluded Matters.* — No measure that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal, recall or compensation of judges; or to the reversal of a judicial decision; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that makes a specific appropriation of money from the treasury of the commonwealth, shall be proposed by an initiative petition; but if a law approved by the people is not repealed, the general court shall raise by taxation or otherwise and shall appropriate such money as may be necessary to carry such law into effect.

Neither the eighteenth amendment of the constitution, as approved and ratified to take effect on the first day of October in the year nineteen hundred and eighteen, nor this provision for its protection, shall be the subject of an initiative amendment.

No proposition inconsistent with any one of the following rights of the individual, as at present declared in the declaration of rights, shall be the subject of an initiative or referendum petition: The right to receive compensation for private property appropriated to public use; the right of access to and protection in courts of justice; the right of trial by jury; protection from unreasonable search, unreasonable bail and the law martial; freedom of the press; freedom of speech; freedom of elections; and the right of peaceable assembly.

No part of the constitution specifically excluding any matter from the operation of the popular initiative and referendum shall be the subject of an initiative petition; nor shall this section be the subject of such a petition.

The limitations on the legislative power of the general court in the constitution shall extend to the legislative power of the people as exercised hereunder.

Section 3. *Mode of Originating.* — Such petition shall first be signed by ten qualified voters of the commonwealth and shall then be submitted to the attorney-general, and if he shall certify that the measure is in proper form for submission to the people, and that it is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people within three years of the succeeding first Wednesday in December and that it contains only subjects not excluded from the popular initiative and which are

related or which are mutually dependent, it may then be filed with the secretary of the commonwealth. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed measure as such description will appear on the ballot together with the names and residences of the first ten signers. All initiative petitions, with the first ten signatures attached, shall be filed with the secretary of the commonwealth not earlier than the first Wednesday of the September before the assembling of the general court into which they are to be introduced, and the remainder of the required signatures shall be filed not later than the first Wednesday of the following December.

SECTION 4. *Transmission to the General Court.* — If an initiative petition, signed by the required number of qualified voters, has been filed as aforesaid, the secretary of the commonwealth shall, upon the assembling of the general court, transmit it to the clerk of the house of representatives, and the proposed measure shall then be deemed to be introduced and pending.

III. Legislative Action. General Provisions.

SECTION 1. *Reference to Committee.* — If a measure is introduced into the general court by initiative petition, it shall be referred to a committee thereof, and the petitioners and all parties in interest shall be heard, and the measure shall be considered and reported upon to the general court with the committee's recommendations, and the reasons therefor, in writing. Majority and minority reports shall be signed by the members of said committee.

SECTION 2. *Legislative Substitutes.* — The general court may, by resolution passed by yea and nay vote, either by the two houses separately, or in the case of a constitutional amendment by a majority of those voting thereon in joint session in each of two years as hereinafter provided, submit to the people a substitute for any measure introduced by initiative petition, such substitute to be designated on the ballot as the legislative substitute for such an initiative measure and to be grouped with it as an alternative therefor.

IV. Legislative Action on Proposed Constitutional Amendments.

SECTION 1. *Definition.* — A proposal for amendment to the constitution introduced into the general court by initiative petition shall be designated an initiative amendment, and an amendment introduced by a member of either house shall be designated a legislative substitute or a legislative amendment.

SECTION 2. *Joint Session.* — If a proposal for a specific amendment of the constitution is introduced into the general court by initiative petition signed by not less than twenty-five thousand qualified voters, or if in case of a proposal for amendment introduced into the general court by a member of either house, consideration thereof in joint session is called for by vote of either house, such proposal shall, not later than the second Wednesday in June, be laid before a joint session of the two houses, at which the president of the senate shall preside; and if the two houses fail to agree upon a time for holding any joint session hereby required, or fail to continue the same from time to time until final action has been taken upon all amendments pending, the governor shall call such joint session or continuance thereof.

SECTION 3. *Amendment of Proposed Amendments.* — A proposal for an amendment to the constitution introduced by initiative petition shall be voted upon in the form in which it was introduced, unless such amendment is amended by vote of three-fourths of the members voting thereon in joint session, which vote shall be taken by call of the yeas and nays if called for by any member.

SECTION 4. *Legislative Action.* — Final legislative action in the joint session upon any amendment shall be taken only by call of the yeas and nays, which shall be entered upon the journals of the two houses; and an unfavorable vote at any stage preceding final action shall be verified by call of the yeas and nays, to be entered in like manner. At such joint session a legislative amendment receiving the affirmative votes of a majority of all the members elected, or an initiative amendment receiving the affirmative votes of not less than one-fourth of all the members elected, shall be referred to the next general court.

SECTION 5. *Submission to the People.* — If in the next general court a legislative amendment shall again be agreed to in joint session by a majority of all the members elected, or if an initiative amendment or a legislative substitute shall again receive the affirmative votes of at least one-fourth of all the members elected, such fact shall be certified by the clerk of such joint session to the secretary of the common-

wealth, who shall submit the amendment to the people at the next state election. Such amendment shall become part of the constitution if approved, in the case of a legislative amendment, by a majority of the voters voting thereon, or if approved, in the case of an initiative amendment or a legislative substitute, by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such amendment.

V. Legislative Action on Proposed Laws.

Section 1. *Legislative Procedure.* — If an initiative petition for a law is introduced into the general court, signed by not less than twenty thousand qualified voters, a vote shall be taken by yeas and nays in both houses before the first Wednesday of June upon the enactment of such law in the form in which it stands in such petition. If the general court fails to enact such law before the first Wednesday of June, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit such proposed law to the people at the next state election. If it shall be approved by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such law, it shall become law, and shall take effect in thirty days after such state election or at such time after such election as may be provided in such law.

Section 2. *Amendment by Petitioners.* — If the general court fails to pass a proposed law before the first Wednesday of June, a majority of the first ten signers of the initiative petition therefor shall have the right, subject to certification by the attorney-general, filed as hereinafter provided, to amend the measure which is the subject of such petition. An amendment so made shall not invalidate any signature attached to the petition. If the measure so amended, signed by a majority of the first ten signers, is filed with the secretary of the commonwealth before the first Wednesday of the following July, together with a certificate signed by the attorney-general to the effect that the amendment made by such proposers is in his opinion perfecting in its nature and does not materially change the substance of the measure, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit the measure to the people in its amended form.

VI. Conflicting and Alternative Measures.

If in any judicial proceeding, provisions of constitutional amendments or of laws approved by the people at the same election are held to be in conflict, then the provisions contained in the measure that received the largest number of affirmative votes at such election shall govern.

A constitutional amendment approved at any election shall govern any law approved at the same election.

The general court, by resolution passed as hereinbefore set forth, may provide for grouping and designating upon the ballot as conflicting measures or as alternative measures, only one of which is to be adopted, any two or more proposed constitutional amendments or laws which have been or may be passed or qualified for submission to the people at any one election: *provided*, that a proposed constitutional amendment and a proposed law shall not be so grouped, and that the ballot shall afford an opportunity to the voter to vote for each of the measures or for only one of the measures, as may be provided in said resolution, or against each of the measures so grouped as conflicting or as alternative. In case more than one of the measures so grouped shall receive the vote required for its approval as herein provided, only that one for which the largest affirmative vote was cast shall be deemed to be approved.

The Referendum.

I. When Statutes shall take Effect.

No law passed by the general court shall take effect earlier than ninety days after it has become a law, excepting laws declared to be emergency laws and laws which may not be made the subject of a referendum petition, as herein provided.

II. Emergency Measures.

A law declared to be an emergency law shall contain a preamble setting forth the facts constituting the emergency, and shall contain the statement that such law is necessary for the immediate preservation of the public peace, health, safety or convenience. A separate vote shall be taken on the preamble by call of the yeas and nays, which shall be recorded, and unless the preamble is adopted by two-thirds of the members of each house voting thereon, the law shall not be an emergency law; but if the governor, at any time before the election at which it is to be submitted to the people on referendum, files with the secretary of the commonwealth a statement declaring that in his opinion the immediate preservation of the public peace, health, safety or convenience requires that such law should take effect forthwith and that it is an emergency law and setting forth the facts constituting the emergency, then such law, if not previously suspended as hereinafter provided, shall take effect without suspension, or if such law has been so suspended such suspension shall thereupon terminate and such law shall thereupon take effect: but no grant of any franchise or amendment thereof, or renewal or extension thereof for more than one year shall be declared to be an emergency law.

III. Referendum Petitions.

Section 1. *Contents.* — A referendum petition may ask for a referendum to the people upon any law enacted by the general court which is not herein expressly excluded.

Section 2. *Excluded Matters.* — No law that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal or compensation of judges; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that appropriates money for the current or ordinary expenses of the commonwealth or for any of its departments, boards, commissions or institutions shall be the subject of a referendum petition.

Section 3. *Mode of Petitioning for the Suspension of a Law and a Referendum thereon.* — A petition asking for a referendum on a law, and requesting that the operation of such law be suspended, shall first be signed by ten qualified voters and shall then be filed with the secretary of the commonwealth not later than thirty days after the law that is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than fifteen thousand qualified voters of the commonwealth, then the operation of such law shall be suspended, and the secretary of the commonwealth shall submit such law to the people at the next state election, if thirty days intervene between the date when such petition is filed with the secretary of the commonwealth and the date for holding such state election; if thirty days do not so intervene, then such law shall be submitted to the people at the next following state election, unless in the meantime it shall have been repealed; and if it shall be approved by a majority of the qualified voters voting thereon, such law shall, subject to the provisions of the constitution, take effect in thirty days after such election, or at such time after such election as may be provided in such law; if not so approved such law shall be null and void; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election.

Section 4. *Petitions for Referendum on an Emergency Law or a Law the Suspension of which is not asked for.* — A referendum petition may ask for the repeal of an emergency law or of a law which takes effect because the referendum petition

does not contain a request for suspension, as aforesaid. Such petition shall first be signed by ten qualified voters of the commonwealth, and shall then be filed with the secretary of the commonwealth not later than thirty days after the law which is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition filed as aforesaid is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than ten thousand qualified voters of the commonwealth protesting against such law and asking for a referendum thereon, then the secretary of the commonwealth shall submit such law to the people at the next state election, if thirty days intervene between the date when such petition is filed with the secretary of the commonwealth and the date for holding such state election. If thirty days do not so intervene, then it shall be submitted to the people at the next following state election, unless in the meantime it shall have been repealed; and if it shall not be approved by a majority of the qualified voters voting thereon, it shall, at the expiration of thirty days after such election, be thereby repealed; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election.

General Provisions.

I. Identification and Certification of Signatures.

Provision shall be made by law for the proper identification and certification of signatures to the petitions hereinbefore referred to, and for penalties for signing any such petition, or refusing to sign it, for money or other valuable consideration, and for the forgery of signatures thereto. Pending the passage of such legislation all provisions of law relating to the identification and certification of signatures to petitions for the nomination of candidates for state offices or to penalties for the forgery of such signatures shall apply to the signatures to the petitions herein referred to. The general court may provide by law that no co-partnership or corporation shall undertake for hire or reward to circulate petitions, may require individuals who circulate petitions for hire or reward to be licensed, and may make other reasonable regulations to prevent abuses arising from the circulation of petitions for hire or reward.

II. Limitation on Signatures.

Not more than one-fourth of the certified signatures on any petition shall be those of registered voters of any one county.

III. Form of Ballot.

Each proposed amendment to the constitution, and each law, submitted to the people, shall be described on the ballots by a description to be determined by the attorney-general, subject to such provision as may be made by law, and the secretary of the commonwealth shall give each question a number and cause such question, except as otherwise authorized herein, to be printed on the ballot in the following form: —

In the case of an amendment to the constitution: Shall an amendment to the constitution (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved?

YES.	
NO.	

In the case of a law: Shall a law (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved?

YES.	
NO.	

IV. Information for Voters.

The secretary of the commonwealth shall cause to be printed and sent to each registered voter in the commonwealth the full text of every measure to be submitted to the people, together with a copy of the legislative committee's majority and minority reports, if there be such, with the names of the majority and minority members thereon, a statement of the votes of the general court on the measure, and a description of the measure as such description will appear on the ballot; and shall, in such manner as may be provided by law, cause to be prepared and sent to the voters other information and arguments for and against the measure.

V. The Veto Power of the Governor.

The veto power of the governor shall not extend to measures approved by the people.

VI. The General Court's Power of Repeal.

Subject to the veto power of the governor and to the right of referendum by petition as herein provided, the general court may amend or repeal a law approved by the people.

VII. Amendment declared to be Self-executing.

This article of amendment to the constitution is self-executing, but legislation not inconsistent with anything herein contained may be enacted to facilitate the operation of its provisions.

VIII. Articles IX and XLII of Amendments of the Constitution annulled.

Article IX and Article XLII of the amendments of the constitution are hereby annulled.

Art. XLIX. The conservation, development and utilization of the agricultural, mineral, forest, water and other natural resources of the commonwealth are public uses, and the general court shall have power to provide for the taking, upon payment of just compensation therefor, of lands and easements or interests therein, including water and mineral rights, for the purpose of securing and promoting the proper conservation, development, utilization and control thereof and to enact legislation necessary or expedient therefor.

Art. L. Advertising on public ways, in public places and on private property within public view may be regulated and restricted by law.

Art. LI. The preservation and maintenance of ancient landmarks and other property of historical or antiquarian interest is a public use, and the commonwealth and the cities and towns therein may, upon payment of just compensation, take such property or any interest therein under such regulations as the general court may prescribe.

Art. LII. The general court, by concurrent vote of the two houses, may take a recess or recesses amounting to not more than thirty days; but no such recess shall extend beyond the sixtieth day from the date of their first assembling.

Art. LIII. Article X of Section I of Chapter II of the constitution, the last two paragraphs of Article IV of the articles of amendment, relating to the appointment of a commissary general and the removal of militia officers, and Article V of the articles of amendment are hereby annulled, and the following is adopted in place thereof: ARTICLE X. All military and naval officers shall be selected and appointed and may be removed in such manner as the general court may by law prescribe, but no such officer shall be appointed unless he shall have passed an examination prepared by a competent commission or shall have served one year in either the federal or state militia or in military service. All such officers who are entitled by law to receive commissions shall be commissioned by the governor.

Art. LIV. Article VII of Section I of Chapter II of the constitution is hereby annulled and the following is adopted in place thereof: ARTICLE VII. The general court shall provide by law for the recruitment, equipment, organization, training and discipline of the military and naval forces. The governor shall be the commander-in-chief thereof, and shall have power to assemble the whole or any part of them for training, instruction or parade, and to employ them for the suppression of rebellion, the repelling of invasion, and the enforcement of the laws. He may, as authorized by the general court, prescribe from time to time the organization of the military and naval forces and make regulations for their government.

Art. LV. Article VI of Section III of Chapter II of the constitution is hereby annulled and the following is adopted in place thereof: Whenever the offices of governor and lieutenant-governor shall both be vacant, by reason of death, absence from the commonwealth, or otherwise, then one of the following officers, in the order of succession herein named, namely, the secretary, attorney-general, treasurer and receiver-general, and auditor, shall, during such vacancy, have full power and authority to do and execute all and every such acts, matters and things as the governor or the lieutenant-governor might or could lawfully do or execute, if they, or either of them, were personally present.

Art. LVI. The governor, within five days after any bill or resolve shall have been laid before him, shall have the right to return it to the branch of the general court in which it originated with a recommendation that any amendment or amendments specified by him be made therein. Such bill or resolve shall thereupon be before the general court and subject to amendment and re-enactment. If such bill or resolve is re-enacted in any form it shall again be laid before the governor for his action, but he shall have no right to return the same a second time with a recommendation to amend.

Art. LVII. Article IV of the articles of amendment of the constitution of the commonwealth is hereby amended by adding thereto the following words: — Women shall be eligible to appointment as notaries public. Change of name shall render the commission void, but shall not prevent re-appointment under the new name.

Art. LVIII. Article I of Chapter III of Part the Second of the constitution is hereby amended by the addition of the following words: — and provided also that the governor, with the consent of the council, may after due notice and hearing retire them because of advanced age or mental or physical disability. Such retirement shall be subject to any provisions made by law as to pensions or allowances payable to such officers upon their voluntary retirement.

Art. LIX. Every charter, franchise or act of incorporation shall forever remain subject to revocation and amendment.

Art. LX. The general court shall have power to limit buildings according to their use or construction to specified districts of cities and towns.

Art. LXI. The general court shall have authority to provide for compulsory voting at elections, but the right of secret voting shall be preserved.

Art. LXII. Section 1. The credit of the commonwealth shall not in any manner be given or loaned to or in aid of any individual, or of any private association, or of any corporation which is privately owned and managed.

Section 2. The commonwealth may borrow money to repel invasion, suppress insurrection, defend the commonwealth, or to assist the United States in case of war, and may also borrow money in anticipation of receipts from taxes or other sources, such loan to be paid out of the revenue of the year in which it is created.

Section 3. In addition to the loans which may be contracted as before provided, the commonwealth may borrow money only by a vote, taken by the yeas and nays, of two-thirds of each house of the general court present and voting thereon. The governor shall recommend to the general court the term for which any loan shall be contracted.

Section 4. Borrowed money shall not be expended for any other purpose than that for which it was borrowed or for the reduction or discharge of the principal of the loan.

Art. LXIII. Section 1. *Collection of Revenue.* — All money received on account of the commonwealth from any source whatsoever shall be paid into the treasury thereof.

Section 2. *The Budget.* — Within three weeks after the convening of the general court the governor shall recommend to the general court a budget which shall contain a statement of all proposed expenditures of the commonwealth for the fiscal year, including those already authorized by law, and of all taxes, revenues, loans and other means by which such expenditures shall be defrayed. This shall be arranged in such form as the general court may by law prescribe, or, in default thereof, as the governor shall determine. For the purpose of preparing his budget, the governor shall have power to require any board, commission, officer or department to furnish him with any information which he may deem necessary.

Section 3. *The General Appropriation Bill.* — All appropriations based upon the budget to be paid from taxes or revenues shall be incorporated in a single bill which shall be called the general appropriation bill. The general court may increase, decrease, add or omit items in the budget. The general court may provide for its salaries, mileage, and expenses and for necessary expenditures in anticipation of appropriations, but before final action on the general appropriation bill it shall not enact any other appropriation bill except on recommendation of the governor. The governor may at any time recommend to the general court supplementary budgets which shall be subject to the same procedure as the original budget.

Section 4. *Special Appropriation Bills.* — After final action on the general appropriation bill or on recommendation of the governor, special appropriation bills may be enacted. Such bills shall provide the specific means for defraying the appropriations therein contained.

Section 5. *Submission to the Governor.* — The governor may disapprove or reduce items or parts of items in any bill appropriating money. So much of such

bill as he approves shall upon his signing the same become law. As to each item disapproved or reduced, he shall transmit to the house in which the bill originated his reason for such disapproval or reduction, and the procedure shall then be the same as in the case of a bill disapproved as a whole. In case he shall fail so to transmit his reasons for such disapproval or reduction within five days after the bill shall have been presented to him, such items shall have the force of law unless the general court by adjournment shall prevent such transmission, in which case they shall not be law.

Art. LXIV. SECTION 1. The governor, lieutenant-governor, councillors, secretary, treasurer and receiver-general, attorney-general, auditor, senators and representatives, shall be elected biennially. The governor, lieutenant-governor and councillors shall hold their respective offices from the first Wednesday in January succeeding their election to and including the first Wednesday in January in the third year following their election and until their successors are chosen and qualified. The terms of senators and representatives shall begin with the first Wednesday in January succeeding their election and shall extend to the first Wednesday in January in the third year following their election and until their successors are chosen and qualified. The terms of the secretary, treasurer and receiver-general, attorney-general and auditor, shall begin with the third Wednesday in January succeeding their election and shall extend to the third Wednesday in January in the third year following their election and until their successors are chosen and qualified.

SECTION 2. No person shall be eligible to election to the office of treasurer and receiver-general for more than three successive terms.

SECTION 3. The general court shall assemble every year on the first Wednesday in January.

SECTION 4. The first election to which this article shall apply shall be held on the Tuesday next after the first Monday in November in the year nineteen hundred and twenty, and thereafter elections for the choice of all the officers before-mentioned shall be held biennially on the Tuesday next after the first Monday in November.

Art. LXV. No person elected to the general court shall during the term for which he was elected be appointed to any office created or the emoluments whereof are increased during such term, nor receive additional salary or compensation for service upon any recess committee or commission except a committee appointed to examine a general revision of the statutes of the commonwealth when submitted to the general court for adoption.

Art. LXVI. On or before January first, nineteen hundred twenty-one, the executive and administrative work of the commonwealth shall be organized in not more than twenty departments, in one of which every executive and administrative office, board and commission, except those officers serving directly under the governor or the council, shall be placed. Such departments shall be under such supervision and regulation as the general court may from time to time prescribe by law.

The Constitution of Massachusetts was agreed upon by delegates of the people, in Convention, begun and held at Cambridge, on the first day of September, 1779, and continued by adjournments to the second day of March, 1780, when the Convention adjourned to meet on the first Wednesday of the ensuing June. In the mean time the Constitution was submitted to the people, to be adopted by them, provided two-thirds of the votes given should be in the affirmative. When the Convention assembled, it was found that the Constitution had been adopted by the requisite number of votes, and the Convention accordingly *Resolved*, "That the said Constitution or Frame of Government shall take place on the last Wednesday of October next; and not before, for any purpose, save only for that of making elections, agreeable to this resolution." The first Legislature assembled at Boston, on the twenty-fifth day of October, 1780.

The first nine Articles of Amendment were submitted, by delegates in Convention assembled, November 15, 1820, to the people, and by them ratified and adopted April 9, 1821.

The tenth Article was adopted by the Legislatures of the political years 1829–30 and 1830–31, respectively, and was approved and ratified by the people May 11, 1831.

The eleventh Article was adopted by the Legislatures of the political years 1832 and 1833, respectively, and was approved and ratified by the people November 11, 1833.

The twelfth Article was adopted by the Legislatures of the political years 1835 and 1836, respectively, and was approved and ratified by the people the fourteenth day of November, 1836.

The thirteenth Article was adopted by the Legislatures of the political years 1839 and 1840, respectively, and was approved and ratified by the people the sixth day of April, 1840.

The fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth Articles were adopted by the Legislatures of the political years 1854 and 1855, respectively, and ratified by the people the twenty-third day of May, 1855.

The twentieth, twenty-first and twenty-second Articles were adopted by the Legislatures of the political years 1856 and 1857, respectively, and ratified by the people on the first day of May, 1857.

The twenty-third Article was adopted by the Legislatures of the political years 1858 and 1859, respectively, and ratified by the people on the ninth day of May, 1859, and was repealed by the twenty-sixth Amendment.

The twenty-fourth and twenty-fifth Articles were adopted by the Legislatures of the political years 1859 and 1860, and ratified by the people on the seventh day of May, 1860.

The twenty-sixth Article was adopted by the Legislatures of the political years 1862 and 1863, and ratified by the people on the sixth day of April, 1863.

The twenty-seventh Article was adopted by the Legislatures of the political years 1876 and 1877, and was approved and ratified by the people on the sixth day of November, 1877.

The twenty-eighth Article was adopted by the Legislatures of the political years 1880 and 1881, and was approved and ratified by the people on the eighth day of November, 1881.

The twenty-ninth Article was adopted by the Legislatures of the political years 1884 and 1885, and was approved and ratified by the people on the third day of November, 1885.

The thirtieth and thirty-first Articles were adopted by the Legislatures of the political years 1889 and 1890, and were approved and ratified by the people on the fourth day of November, 1890.

The thirty-second and thirty-third Articles were adopted by the Legislatures of the political years 1890 and 1891, and were approved and ratified by the people on the third day of November, 1891.

The thirty-fourth Article was adopted by the Legislatures of the political years 1891 and 1892, and was approved and ratified by the people on the eighth day of November, 1892.

The thirty-fifth Article was adopted by the Legislatures of the political years 1892 and 1893, and was approved and ratified by the people on the seventh day of November, 1893.

The thirty-sixth Article was adopted by the Legislatures of the political years 1893 and 1894, and was approved and ratified by the people on the sixth day of November, 1894.

The thirty-seventh Article was adopted by the Legislatures of the political years 1906 and 1907, and was approved and ratified by the people on the fifth day of November, 1907.

The thirty-eighth Article was adopted by the Legislatures of the political years 1909 and 1910, and was approved and ratified by the people on the seventh day of November, 1911.

The thirty-ninth Article was adopted by the Legislatures of the political years 1910 and 1911, and was approved and ratified by the people on the seventh day of November, 1911.

The fortieth and forty-first Articles were adopted by the Legislatures of the political years 1911 and 1912, and were approved and ratified by the people on the fifth day of November, 1912.

The forty-second Article was adopted by the Legislatures of the political years 1912 and 1913, and was approved and ratified by the people on the fourth day of November, 1913.

The forty-third and forty-fourth Articles were adopted by the Legislatures of the political years 1914 and 1915, and were approved and ratified by the people on the second day of November, 1915.

The forty-fifth, forty-sixth and forty-seventh Articles were submitted, by delegates in Convention assembled, September 28, 1917, August 30, 1917, and October 11, 1917, respectively, to the people, and by them ratified and adopted November 6, 1917.

The forty-eighth Article was submitted, by delegates in Convention assembled, November 28, 1917, the forty-ninth Article, August 7, 1918, the fiftieth to the sixtieth Articles, inclusive, August 15, 1918, the sixty-first to the sixty-fourth Articles, inclusive, August 20, 1918, and the sixty-fifth and sixty-sixth Articles, August 21, 1918, to the people, and by them ratified and adopted, November 5, 1918.

PROPOSED AMENDMENTS REJECTED BY THE PEOPLE.

A proposed Article of Amendment prohibiting the manufacture and sale of Intoxicating Liquor as a beverage, adopted by the Legislatures of the political years 1888 and 1889, was rejected by the people on the twenty-second day of April, 1889.

Proposed Articles of Amendment, (1) Establishing biennial elections of State officers, and (2) Establishing biennial elections of members of the General Court, adopted by the

Legislatures of the political years 1895 and 1896, were rejected by the people at the annual election held on the third day of November, 1896.

A proposed Article of Amendment to make women eligible to appointment as notaries public, adopted by the Legislatures of the political years 1912 and 1913, was rejected by the people on the fourth day of November, 1913.

A proposed Article of Amendment enabling women to vote, adopted by the Legislatures of the political years 1914 and 1915, was rejected by the people on the second day of November, 1915.

The following is the rearranged form of the Constitution, as amended, as submitted for the consideration of the Convention (see Rearrangement Document No. 2):

Explanation. — The text which follows is the result of the labors of the committee on Rearrangement of the Constitution reported to the Convention. It includes every word of the present Constitution which the committee believes to be in force, rearranged and numbered in consecutive articles.

The figures on the left are the new consecutive article numbers, which are expected to appear in the final version of the Constitution, subject to such changes of numbering as may be thought expedient by the Convention.

The figures in brackets on the right at the end of the articles refer to the consecutive numbers of the present Constitution as introduced into the Manual for the General Court, and other texts, including the little leather-bound text issued to members of the Convention. These numbers, however, did not include the three amendments of 1917 and the nineteen amendments of 1918. To meet that difficulty, a special edition of the Constitution has been prepared for the use of members of the Convention (Rearrangement Document No. 1), in which the consecutive section numbering is continued to the end.

The version presented below is intended to be the complete text of the proposed draft, but does not indicate portions of the old Constitution and amendments which have been omitted. These will be shown separately (Rearrangement Document No. 3). Changes in phraseology are shown or intended to be shown by the words in *italics*.

PREAMBLE.

(a) The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness. [§ 1]

(b) The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them. [§ 1]

(c) We, therefore, the people of Massachusetts, *inhabiting the territory formerly called the Province of Massachusetts Bay*, acknowledging, with grateful hearts, the goodness of the Great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peacefully, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, *do hereby solemnly and mutually agree with each other, to form ourselves into a free, sovereign, and independent body politic, or state, by the name of The Commonwealth of Massachusetts, and* do agree upon, ordain, and establish, the following Declaration of Rights, and Frame of Government, as the Constitution *thereof*. [§§ 1, 32]

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS.

Article 1. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness. [§ 2]

Art. 2. It is the right as well as the duty of all men in society, publicly, and at

stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession of sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship. [§ 3]

ART. 3. *Section 1.* As the public worship of GOD and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law. [Art. XI. of Amendments; § 158]

Section 2. No law shall be passed prohibiting the free exercise of religion. [§ 193]

All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the commonwealth for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is expended; and no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the commonwealth or any political division thereof for the purpose of founding, maintaining or aiding any school or institution of learning, whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school, or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control, order and superintendence of public officers or public agents authorized by the commonwealth or federal authority or both, except that appropriations may be made for the maintenance and support of the Soldiers' Home in Massachusetts and for free public libraries in any city or town, and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society. [§ 194]

Nothing herein contained shall be construed to prevent the commonwealth, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries or institutions to such persons as may be in whole or in part unable to support or care for themselves. [§ 195]

Nothing herein contained shall be construed to deprive any inmate of a publicly controlled reformatory, penal or charitable institution of the opportunity of religious exercises therein of his own faith; but no inmate of such institution shall be compelled to attend religious services or receive religious instruction against his will, or, if a minor, without the consent of his parent or guardian. [Art. XLVI. of Amendments; § 196]

ART. 4. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them expressly delegated to the United States of America. [§ 5]

ART. 5. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them. [§ 6]

ART. 6. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the

public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural. [§ 7]

Art. 7. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it. [§ 8]

Art. 8. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments. [§ 9]

Art. 9. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments. [§ 10]

Art. 10. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor. [§ 11]

Art. 11. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws. [§ 12]

Art. 12. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land. And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury. [§ 13]

The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious, and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months. [Part the Second, Ch. VI., Art. VII.; § 129]

Art. 13. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen. [§ 14]

Art. 14. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws. [§ 15]

Art. 15. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it. [§ 16]

ART. 16. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth. [§ 17]

ART. 17. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it. [§ 18]

ART. 18. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth. [§ 19]

ART. 19. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer. [§ 20]

ART. 20. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for. [§ 21]

ART. 21. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever. [§ 22]

ART. 22. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require. [§ 23]

ART. 23. No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature. [§ 24]

ART. 24. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government. [§ 25]

ART. 25. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature. [§ 26]

ART. 26. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments. [§ 27]

ART. 27. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature. [§ 28]

ART. 28. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature. [§ 29]

ART. 29. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws. [§ 30]

ART. 30. In the government of this commonwealth, 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 it may be a government of laws and not of men. [§ 31]

THE FRAME OF GOVERNMENT.

SUFFRAGE. ELECTIONS. TERMS OF OFFICE.

ART. 31. Every male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, and persons temporarily or permanently disqualified by law because of corrupt practices in respect to elections, who shall have resided within the commonwealth one year, and within the *city or town* in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, shall have a right to vote in such election of governor, lieutenant-governor, senators, and representatives; and no other person shall be entitled to vote in such election. [Arts. III. and XL. of Amendments; §§ 140, 187]

ART. 32. No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name: provided, however, that *these* provisions shall not apply to any person prevented by physical disability from complying with *them*, nor to any person who *had* the right to vote *when these provisions were adopted*. [Art. XX. of Amendments; § 167]

ART. 33. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town, or because of the non-payment of a poll tax. [Arts. XXVIII. and XXXI. of Amendments; § 178]

ART. 34. No person, otherwise qualified to vote in elections for governor, lieutenant-governor, senators, and representatives, shall, by reason of a change of residence within the commonwealth, be disqualified from voting for said officers in the city or town from which he has removed his residence, until the expiration of six calendar months from the time of such removal. [Art. XXX. of Amendments; § 177]

ART. 35. The general court shall have power to provide by law for voting by qualified voters of the commonwealth who, at the time of an election, are absent from the city or town of which they are inhabitants, in the choice of any officer to be elected or upon any question submitted at such election. [Art. XLV. of Amendments; § 192]

ART. 36. In all elections of civil officers by the people of this commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected. [Art. XIV. of Amendments; § 161]

ART. 37. Voting machines or other mechanical devices for voting may be used at all elections under such regulations as may be prescribed by law, *and* the general court shall have authority to provide for compulsory voting at elections; provided that the right of secret voting shall be preserved. [Arts. XXXVIII. and LXI. of Amendments; §§ 185, 249]

ART. 38. The general court shall have full power and authority to provide for the inhabitants of the towns in this commonwealth more than one place of public meeting within the limits of each town for the election of officers under the constitution, and to prescribe the manner of calling, holding and conducting such meetings. [Art. XXIX. of Amendments; § 176]

ART. 39. *Beginning with* the Tuesday next after the first Monday in November in the year nineteen hundred and twenty, the governor, lieutenant-governor, councillors, secretary, treasurer, attorney-general, auditor, senators and representatives shall be elected biennially, and thereafter elections for the choice of *these* officers shall be held biennially on the Tuesday next after the first Monday in November. The governor, lieutenant-governor and councillors shall hold their respective offices from the first Wednesday in January succeeding their election to and including the first Wednesday in January in the third year following their election, and until their successors are chosen and qualified. The terms of senators and representatives shall begin with the first Wednesday in January succeeding their election and shall extend to the first Wednesday in January in the third year following their election. The terms of the secretary, treasurer, attorney-general and auditor shall begin with the third Wednesday in January succeeding their election and shall extend to the third Wednesday in January in the third year following their election and until their successors are chosen and qualified. [Art. LXIV. of Amendments; §§ 259, 262]

ART. 40. Elections appointed to be *held* by the two houses of the legislature on

the first Wednesday in January *or at any other time, if* not completed on *the* day *appointed* may be adjourned from day to day until the same shall be completed. Vacancies in the *office of governor and lieutenant-governor shall be first filled in the order named and then vacancies in the council.* [See Part the Second, Ch. II., Sect. III., Art. VII.; §§ 99, 154]

THE LEGISLATIVE *DEPARTMENT.*

THE GENERAL COURT.

ART. 41. The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other. [§ 33]

The political year shall begin on the first Wednesday *in* January, and the general court shall assemble every year on the first Wednesday in January, and at such other times as they shall judge necessary, or when called together by the governor; and shall dissolve and be dissolved on the day next preceding the first Wednesday *in* January *in the third year following their election,* without any proclamation or other act of the governor, and shall be styled, THE GENERAL COURT OF MASSACHUSETTS. [Arts. X. and XLIV. of Amendments; §§ 33, 152, 259, 261]

A majority of the members of each branch of the general court shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and compel the attendance of absent members. [Art. XXXIII. of Amendments.] By concurrent vote of the two houses, the general court may take a recess or recesses amounting to not more than thirty days; but no such recess shall extend beyond the sixtieth day from the date of their *annual* assembling. [Art. LII. of Amendments; §§ 180, 238]

The enacting style, in making and passing all acts, statutes, and laws, shall be — "Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same." [Part the Second, Ch. VI., Art. VIII.; § 130]

ART. 42. No person elected to the general court shall during the term for which he was elected be appointed to any office created or the emoluments whereof are increased during such term, nor receive additional salary or compensation for service upon any recess committee or commission except a committee appointed to examine a general revision of the statutes of the commonwealth when submitted to the general court for adoption. [Art. LXV. of Amendments; § 263]

ART. 43. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revisal; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichsoever the same shall have originated; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the commonwealth. [§ 34]

The governor, within five days after any bill or resolve shall have been laid before him, shall have the right to return it to the branch of the general court in which it originated with a recommendation that any amendment or amendments specified by him be made therein. Such bill or resolve shall thereupon be before the general court and subject to amendment and re-enactment. If such bill or resolve is re-enacted in any form it shall again be laid before the governor for his action, but he shall have no right to return the same a second time with a recommendation to amend. [Art. LVI. of Amendments; § 244]

In order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law. [§ 35]

If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have

been laid before the governor for his approbation, and thereby prevent his returning it with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such. [Art. I. of Amendments; § 138]

THE SENATE.

ART. 44. A census of the *inhabitants* of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand *nine hundred and twenty-five;* and every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city *such* enumeration shall specify the number of legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. [§ 169]

ART. 45. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: provided, however, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. [§ 169]

Each district shall elect *biennially for the term of two years* one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth. [Art. XXII. of Amendments; § 169a]

ART. 46. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz.: there shall be a meeting on the Tuesday next after the first Monday in November, *biennially*, of the inhabitants of each town in the several counties of this commonwealth; to be called by the selectmen, and warned in due course of law, at least seven days before *such* Tuesday, for the purpose of electing persons to be senators; and at such meetings every male inhabitant of twenty-one years of age and upwards, *qualified as provided in this constitution*, shall have a right to give in his vote for the senator for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this state, in that *city or town* where he dwelleth, or hath his home. [Art. XV. of Amendments, and Part the Second, Ch. I., Sect. II., Art. II.; §§ 41, 41b, 259]

The selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name: and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before the first Wednesday *in* January *biennially;* or it shall be delivered into the secretary's office seventeen days at least before the said first Wednesday in January: and the sheriff of each county shall deliver all such certificates by him received into the secretary's office, seventeen days before *such* first Wednesday. [§§ 41a, 154, 259]

ART. 47. And that there may be a due convention of senators on the first Wednesday in January annually, the governor with five of the council, for the time being, shall, as soon as may be *after each biennial election*, examine the returned copies of such records; *and after each biennial election* fourteen days before *such* Wednesday he shall issue his summons to such persons as shall appear to be chosen by the highest number of votes to attend on that day, and take their seats accordingly. [§§ 43, 154, 161]

ART. 48. The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution; and shall, on the first Wednesday *in* January *biennially*, determine and declare who *is* elected by each district to be senator by the *highest number* of votes. Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order

of a majority of senators elected. [Art. XXIV. of Amendments; §§ 44, 154, 161, 171]

Art. 49. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings. [§ 47]

Art. 50. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time. [§ 46]

Art. 51. The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and maladministration in their offices. But previous to the trial of every impeachment the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this commonwealth; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land. [§ 48]

THE HOUSE OF REPRESENTATIVES.

Art. 52. There shall be, in the legislature of this commonwealth, a representation of the people, *biennially* elected, and founded upon the principle of equality. [§ 50]

Art. 53. *The special enumeration of legal voters hereinbefore required in the case of the senate* shall determine the apportionment of representatives for the periods between the taking of the census. [§ 168]

The house of representatives shall consist of two hundred and forty members. *The representatives* shall be apportioned by the legislature, at its first session after the return of each *such special* enumeration, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. [§ 168]

The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk, — or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, — shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. [§ 168]

Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law. [Art. XXI. of Amendments; § 168a]

Art. 54. Every member of the house of representatives shall be chosen by written votes. *A vote by a lawfully authorized voting machine or other mechanical device shall be deemed a written vote.* The house of representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution. [Part the Second, Ch. I., Sect. III., Arts. II. and III.; §§ 53, 55, 185]

ART. 55. The members of the house of representatives shall be chosen *biennially as hereinbefore provided* on the Tuesday next after the first Monday in November; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November. [Art. XV. of Amendments; §§ 57, 162, 259]

ART. 56. The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them shall be heard and tried by the senate. [§ 58]

ART. 57. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills. [§ 59]

ART. 58. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time. [§ 60]

ART. 59. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker; appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house; or who shall assault any of them therefor; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house. [§ 62]

And no member of the house of representatives shall be arrested, or held to bail on mesne process, during his going unto, returning from, or his attending the general *court*. [§ 62a]

ART. 60. The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases: provided, that no imprisonment on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days. [§ 63]

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best. [§ 64]

LEGISLATIVE POWERS.

ART. 61. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes, and things, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same: whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them. [§ 36]

ART. 62. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe. [Arts. XIX. and XXXVI. of Amendments; §§ 166, 183]

ART. 63. And further, full power and authority are hereby given and granted to the general court, from time to time to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling, all civil officers within the said commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military

officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same. [§ 37]

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order. [§ 38]

Art. 64. Full power and authority are hereby given and granted to the general court to impose and levy a tax on income in the manner hereinafter provided. Such tax may be at different rates upon income derived from different classes of property, but shall be levied at a uniform rate throughout the commonwealth upon incomes derived from the same class of property. The general court may tax income not derived from property at a lower rate than income derived from property, and may grant reasonable exemptions and abatements. Any class of property the income from which is taxed under the provisions of this article may be exempted from the imposition and levying of proportional and reasonable assessments, rates and taxes as at present authorized by the constitution. This article shall not be construed to limit the power of the general court to impose and levy reasonable duties and excises. [Art. XLIV. of Amendments; § 191]

Art. 65. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose. And provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court. [Art. II of Amendments; § 139]

Art. 66. The general court shall have power to authorize the commonwealth to take land and to hold, improve, sub-divide, build upon and sell the same, for the purpose of relieving congestion of population and providing homes for citizens: provided, however, that this *article* shall not be deemed to authorize the sale of such land or buildings at less than the cost thereof. [Art. XLIII. of Amendments; § 190]

Art. 67. The conservation, development and utilization of the agricultural, mineral, forest, water and other natural resources of the commonwealth, are public uses, and the general court shall have power to provide for the taking, upon payment of just compensation therefor, of lands and easements or interests therein, including water and mineral rights, for the purpose of securing and promoting the proper conservation, development, utilization and control thereof and to enact legislation necessary or expedient therefor. [Art. XLIX. of Amendments; § 235]

Art. 68. Full power and authority are hereby given and granted to the general court to prescribe for wild or forest lands such methods of taxation as will develop and conserve the forest resources of the commonwealth. [Art. XLI. of Amendments; § 188]

Art. 69. The maintenance and distribution at reasonable rates, during time of war, public exigency, emergency or distress, of a sufficient supply of food and other common necessaries of life and the providing of shelter, are public functions, and the commonwealth and the cities and towns therein may take and may provide the same for their inhabitants in such manner as the general court shall determine. [Art. XLVII. of Amendments; § 197]

ART. 70. The *general court* may by special acts for the purpose of laying out, widening or relocating highways or streets, authorize the taking in fee by the commonwealth, or by a county, city or town, of more land and property than are needed for the actual construction of such highway or street: provided, however, that the land and property authorized to be taken are specified in the act and are no more in extent than would be sufficient for suitable building lots on both sides of such highway or street, and after so much of the land or property has been appropriated for such highway or street as is needed therefor, may authorize the sale of the remainder for value with or without suitable restrictions. [Art. XXXIX. of Amendments; § 186]

ART. 71. The general court shall have power to limit buildings according to their use or construction to specified districts of cities and towns. [Art. LX. of Amendments; § 248]

ART. 72. Advertising on public ways, in public places and on private property within public view may be regulated and restricted by law. [Art. L. of Amendments; § 236]

ART. 73. The preservation and maintenance of ancient landmarks and other property of historical or antiquarian interest is a public use, and the commonwealth and the cities and towns therein may, upon payment of just compensation, take such property or any interest therein under such regulations as the general court may prescribe. [Art. LI. of Amendments; § 237]

ART. 74. On or before January first, nineteen hundred twenty-one, the executive and administrative work of the commonwealth shall be organized in not more than twenty departments, in one of which every executive and administrative office, board and commission, except those officers serving directly under the governor or the council, shall be placed. Such departments shall be under such supervision and regulation as the general court may from time to time prescribe by law. [Art. LXVI. of Amendments; § 264]

ART. 75. Every charter, franchise or act of incorporation shall forever remain subject to revocation and amendment. [Art. LIX. of Amendments; § 247]

THE INITIATIVE AND REFERENDUM.

DEFINITION.

ART. 76. Legislative power shall continue to be vested in the general court; but the people reserve to themselves the popular initiative, which is the power of a specified number of voters to submit constitutional amendments and laws to the people for approval or rejection; and the popular referendum, which is the power of a specified number of voters to submit laws, enacted by the general court, to the people for their ratification or rejection. [§ 198]

THE INITIATIVE.

INITIATIVE PETITIONS.

ART. 77. **Contents.** — An initiative petition shall set forth the full text of the constitutional amendment or law, hereinafter designated as the measure, which is proposed by the petition. [§ 199]

ART. 78. **Excluded Matters.** — No measure that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal, recall or compensation of judges; or to the reversal of a judicial decision; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that makes a specific appropriation of money from the treasury of the commonwealth, shall be proposed by an initiative petition; but if a law approved by the people is not repealed, the general court shall raise by taxation or otherwise and shall appropriate such money as may be necessary to carry such law into effect. [§ 200]

Neither the *provisions of this constitution embodied in article three, section two of the Bill of Rights*, nor this provision for *their* protection, shall be the subject of an initiative amendment. [§ 201]

No *measure* inconsistent with any one of the following rights of the individual, as at present declared in the declaration of rights, shall be the subject of an initiative petition: The right to receive compensation for private property appropriated to public use; the right of access to and protection in courts of justice; the right of trial by jury; protection from unreasonable search, unreasonable bail and the law

martial; freedom of the press; freedom of speech; freedom of elections; and the right of peaceable assembly. [§ 202]

No part of the constitution specifically excluding any matter from the operation of the popular initiative and referendum shall be the subject of an initiative petition; nor shall this *article* be the subject of such a petition. [§ 203]

The limitations on the legislative power of the general court in the constitution shall extend to the legislative power of the people as exercised hereunder. [§ 204]

ART. 79. **Mode of Originating.** — Such petition shall first be signed by ten qualified voters of the commonwealth and shall then be submitted to the attorney-general, and if he shall certify that the measure is in proper form for submission to the people, and that it is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people within three years of the succeeding first Wednesday in December and that it contains only subjects not excluded from the popular initiative and which are related or which are mutually dependent, it may then be filed with the secretary of the commonwealth. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed measure as such description will appear on the ballot together with the names and residences of the first ten signers. All initiative petitions with the first ten signatures attached, shall be filed with the secretary of the commonwealth not earlier than the first Wednesday of the September before the *annual* assembling of the general court into which they are to be introduced, and the remainder of the required signatures shall be filed not later than the first Wednesday of the following December. [§ 205]

ART. 80. **Transmission to the General Court.** — If an initiative petition, signed by the required number of qualified voters, has been filed as aforesaid, the secretary of the commonwealth shall, upon the *next* assembling of the general court, transmit it to the clerk of the house of representatives, and the proposed measure shall then be deemed to be introduced and pending. [§ 206]

LEGISLATIVE ACTION. GENERAL PROVISIONS.

ART. 81. **Reference to Committee.** — If a measure is introduced into the general court by initiative petition, it shall be referred to a committee thereof, and the petitioners and all parties in interest shall be heard, and the measure shall be considered and reported upon to the general court with the committee's recommendations, and the reasons therefor, in writing. Majority and minority reports shall be signed by the members of said committee. [§ 207]

ART. 82. **Legislative Substitutes.** — The general court may, by resolution passed by yea and nay vote, either by the two houses separately, or in the case of a constitutional amendment by a majority of those voting thereon in joint session in each of two *general courts successively elected* as hereinafter provided, submit to the people a substitute for any measure introduced by initiative petition, such substitute to be designated on the ballot as the legislative substitute for such an initiative measure and to be grouped with it as an alternative therefor. [§ 208]

LEGISLATIVE ACTION ON PROPOSED CONSTITUTIONAL AMENDMENTS.

ART. 83. **Definition.** — A proposal for amendment to the constitution introduced into the general court by initiative petition shall be designated an initiative amendment, and an amendment introduced by a member of either house shall be designated a legislative substitute or a legislative amendment. [§ 209]

ART. 84. **Joint Session.** — If a proposal for a specific amendment of the constitution is introduced into the general court by initiative petition signed by not less than twenty-five thousand qualified voters, or if in case of a proposal for amendment introduced into the general court by a member of either house, consideration thereof in joint session is called for by vote of either house, such proposal shall, not later than the second Wednesday in *the following* June, be laid before a joint session of the two houses, at which the president of the senate shall preside; and if the two houses fail to agree upon a time for holding any joint session hereby required, or fail to continue the same from time to time until final action has been taken upon all amendments pending, the governor shall call such joint session or continuance thereof. [§ 210]

ART. 85. **Amendment of Proposed Amendments.** — A proposal for an amendment to the constitution introduced by initiative petition shall be voted upon in the form in which it was introduced, unless such amendment is amended

by vote of three-fourths of the members voting thereon in joint session, which vote shall be taken by call of the yeas and nays if called for by any member. [§ 211]

ART. 86. **Legislative Action.** — Final legislative action in the joint session upon any amendment shall be taken only by call of the yeas and nays, which shall be entered upon the journals of the two houses; and an unfavorable vote at any stage preceding final action shall be verified by call of the yeas and nays, to be entered in like manner. At such joint session a legislative amendment receiving the affirmative votes of a majority of all the members elected, or an initiative amendment receiving the affirmative votes of not less than one-fourth of all the members elected, shall be referred to the general court *next to be elected*. [§ 212]

ART. 87. **Submission to the People.** — If in the general court *next elected* a legislative amendment shall again be agreed to in joint session by a majority of all the members elected, or if an initiative amendment shall again receive the affirmative votes of at least one-fourth of all the members elected, such fact shall be certified by the clerk of such joint session to the secretary of the commonwealth, who shall submit the amendment to the people at the next *biennial* state election. [§ 213]

An amendment shall become part of the constitution if approved, in the case of a legislative amendment, by a majority of the voters voting thereon, or if approved, in the case of an initiative amendment or a legislative substitute, by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such amendment. [§ 213]

LEGISLATIVE ACTION ON PROPOSED LAWS.

ART. 88. **Legislative Procedure.** — If an initiative petition for a law is introduced into the general court, signed by not less than twenty thousand qualified voters, a vote shall be taken by yeas and nays in both houses before the first Wednesday of *the following* June upon the enactment of such law in the form in which it stands in such petition. If the general court fails to enact such law before *such* first Wednesday of June, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit such proposed law to the people at the next *biennial* state election. If it shall be approved by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such law, it shall become law, and shall take effect in thirty days after such state election or at such time after such election as may be provided in such law. [§ 214]

ART. 89. **Amendment by Petitioners.** — If the general court fails to pass a proposed law before *such* first Wednesday of June, a majority of the first ten signers of the initiative petition therefor shall have the right, subject to certification by the attorney-general filed as hereinafter provided, to amend the measure which is the subject of such petition. An amendment so made shall not invalidate any signature attached to the petition. If the measure so amended, signed by a majority of the first ten signers, is filed with the secretary of the commonwealth before the first Wednesday of the following July, together with a certificate signed by the attorney-general to the effect that the amendment made by such proposers is in his opinion perfecting in its nature and does not materially change the substance of the measure, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit the measure to the people in its amended form. [§ 215]

CONFLICTING AND ALTERNATIVE MEASURES.

ART. 90. If in any judicial proceeding, provisions of constitutional amendments or of laws approved by the people at the same election are held to be in conflict, then the provisions contained in the measure that received the largest number of affirmative votes at such election shall govern. [§ 216]

ART. 91. A constitutional amendment approved at any election shall govern any law approved at the same election. [§ 217]

ART. 92. The general court, by resolution passed as hereinbefore set forth, may provide for grouping and designating upon the ballot as conflicting measures or as alternative measures, only one of which is to be adopted, any two or more proposed constitutional amendments or laws which have been or may be passed or qualified for submission to the people at any one election: provided, that a proposed constitutional amendment and a proposed law shall not be so grouped, and that the ballot shall afford an opportunity to the voter to vote for each of the measures or for only one of the measures, as may be provided in said resolution, or against each of the measures so grouped as conflicting or as alternative. In case more than one of the measures so grouped shall receive the vote required for its approval as herein provided, only that one for which the largest affirmative vote was cast shall be deemed to be approved. [§ 218]

THE REFERENDUM.

WHEN STATUTES SHALL TAKE EFFECT.

ART. 93. No law passed by the general court shall take effect earlier than ninety days after it has become a law, excepting laws declared to be emergency laws and laws which may not be made the subject of a referendum petition, as herein provided. [§ 219]

EMERGENCY MEASURES.

ART. 94. A law declared to be an emergency law shall contain a preamble setting forth the facts constituting the emergency, and shall contain the statement that such law is necessary for the immediate preservation of the public peace, health, safety or convenience. A separate vote shall be taken on the preamble by call of the yeas and nays, which shall be recorded, and unless the preamble is adopted by two-thirds of the members of each house voting thereon, the law shall not be an emergency law. [§ 220]

But if the governor, at any time before the election at which *a law may* be submitted to the people on referendum, files with the secretary of the commonwealth a statement declaring that in his opinion the immediate preservation of the public peace, health, safety or convenience requires that such law should take effect forthwith and that it is an emergency law and setting forth the facts constituting the emergency, then such law, if not previously suspended as hereinafter provided, shall *thereupon* take effect, or if such law has been so suspended such suspension shall thereupon terminate and such law shall take effect. [§ 220]

No grant of any franchise or amendment thereof, or renewal or extension thereof for more than one year shall be declared to be an emergency law. [§ 220]

REFERENDUM PETITIONS.

ART. 95. **Contents.** — A referendum petition may ask for a referendum to the people upon any law enacted by the general court which is not herein expressly excluded. [§ 221]

ART. 96. **Excluded Matters.** — No law that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal or compensation of judges; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that appropriates money for the current or ordinary expenses of the commonwealth or for any of its departments, boards, commissions or institutions shall be the subject of a referendum petition. [§ 222]

ART. 97. **Mode of Petitioning for the Suspension of a Law and a Referendum thereon.** — A petition asking for a referendum on a law, and requesting that the operation of such law be suspended, shall first be signed by ten qualified voters and shall then be filed with the secretary of the commonwealth not later than thirty days after the law that is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than fifteen thousand qualified voters of the commonwealth, then the operation of such law shall be suspended,

and the secretary of the commonwealth shall submit such law to the people at the next *biennial* state election, if thirty days intervene between the date when such petition is *so completed and* filed with the secretary of the commonwealth and the date for holding such state election; if thirty days do not so intervene, then such law shall be submitted to the people at the next following *biennial* state election, unless in the meantime it shall have been repealed; and if it shall be approved by a majority of the qualified voters voting thereon, such law shall, subject to the provisions of the constitution, take effect in thirty days after such election, or at such time after such election as may be provided in such law; if not so approved such law shall be null and void; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election. [§ 223]

ART. 98. **Petitions for Referendum on an Emergency Law or a Law the Suspension of which is not asked for.** — A referendum petition may ask for the repeal of an emergency law or of a law which takes effect because the referendum petition does not contain a request for suspension, as aforesaid. Such petition shall first be signed by ten qualified voters of the commonwealth, and shall then be filed with the secretary of the commonwealth not later than thirty days after the law which is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition filed as aforesaid is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than ten thousand qualified voters of the commonwealth protesting against such law and asking for a referendum thereon, then the secretary of the commonwealth shall submit such law to the people at the next *biennial* state election, if thirty days intervene between the date when such petition is *so completed and* filed with the secretary of the commonwealth and the date for holding such state election. If thirty days do not so intervene, then it shall be submitted to the people at the next following *biennial* state election, unless in the meantime it shall have been repealed; and if it shall not be approved by a majority of the qualified voters voting thereon, it shall, at the expiration of thirty days after such election, be thereby repealed; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election. [§ 224]

GENERAL PROVISIONS.

IDENTIFICATION AND CERTIFICATION OF SIGNATURES.

ART. 99. Provision shall be made by law for the proper identification and certification of signatures to the petitions hereinbefore referred to, and for penalties for signing any such petition, or refusing to sign it, for money or other valuable consideration, and for the forgery of signatures thereto. Pending the passage of such legislation all provisions of law relating to the identification and certification of signatures to petitions for the nomination of candidates for state offices or to penalties for the forgery of such signatures shall apply to the signatures to the petitions herein referred to. The general court may provide by law that no co-partnership or corporation shall undertake for hire or reward to circulate petitions, may require individuals who circulate petitions for hire or reward to be licensed, and may make other reasonable regulations to prevent abuses arising from the circulation of petitions for hire or reward. [§ 225]

LIMITATION ON SIGNATURES.

ART. 100. Not more than one-fourth of the certified signatures on any petition shall be those of registered voters of any one county. [§ 226]

FORM OF BALLOT.

ART. 101. Each proposed amendment to the constitution, and each law submitted to the people, shall be described on the ballots by a description to be determined by the attorney-general, subject to such provision as may be made by law, and the secretary of the commonwealth shall give each question a number and cause such question, except as otherwise authorized herein, to be printed on the ballot in the following form: — [§ 227]

ART. 102. In the case of an amendment to the constitution: Shall an amendment to the constitution (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved? [§ 228]

YES.	
NO.	

ART. 103. In the case of a law: Shall a law (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved? [§ 229]

YES.	
NO.	

INFORMATION FOR VOTERS.

ART. 104. The secretary of the commonwealth shall cause to be printed and sent to each registered voter in the commonwealth the full text of every measure to be submitted to the people, together with a copy of the legislative committee's majority and minority reports, if there be such, with the names of the majority and minority members thereon, a statement of the votes of the general court on the measure, and a description of the measure as such description will appear on the ballot; and shall, in such manner as may be provided by law, cause to be prepared and sent to the voters other information and arguments for and against the measure. [§ 230]

THE VETO POWER OF THE GOVERNOR.

ART. 105. The veto power of the governor shall not extend to measures approved by the people. [§ 231]

THE GENERAL COURT'S POWER OF REPEAL.

ART. 106. Subject to the veto power of the governor and to the right of referendum by petition as herein provided, the general court may amend or repeal a law approved by the people. [§ 232]

INITIATIVE AND REFERENDUM DECLARED TO BE SELF-EXECUTING.

ART. 107. The provisions of the initiative and referendum are self-executing, but legislation not inconsistent with anything therein contained may be enacted to facilitate the operation of such provisions. [§ 233]

STATE BUDGET AND VETO OF ITEMS BY THE GOVERNOR. — LENDING CREDIT OF COMMONWEALTH.

ART. 108. **The Budget.** — Within three weeks after the convening of the general court the governor shall recommend to the general court a budget which shall contain a statement of all proposed expenditures of the commonwealth for the fiscal year, including those already authorized by law, and of all taxes, revenues, loans and other means by which such expenditures shall be defrayed. This shall be arranged in such form as the general court may by law prescribe, or, in default thereof, as the governor shall determine. For the purpose of preparing his budget, the governor shall have power to require any board, commission, officer or department to furnish him with any information which he may deem necessary. [Art. LXIII. of Amendments; § 255]

ART. 109. **The General Appropriation Bill.** — All appropriations based upon the budget to be paid from taxes or revenues shall be incorporated in a single bill which shall be called the general appropriation bill. The general court may increase, decrease, add or omit items in the budget. The general court may provide for its salaries, mileage, and expenses and for necessary expenditures in anticipation of appropriations, but before final action on the general appropriation bill it shall not enact any other appropriation bill except on recommendation of the governor. The governor may at any time recommend to the general court supplementary budgets which shall be subject to the same procedure as the original budget. [Art. LXIII. of Amendments; § 256]

ART. 110. **Special Appropriation Bills.** — After final action on the general appropriation bill or on recommendation of the governor, special appropriation bills may be enacted. Such bills shall provide the specific means for defraying the appropriations therein contained. [Art. LXIII. of Amendments; § 257]

ART. 111. **Submission to the Governor.** — The governor may disapprove or reduce items or parts of items in any bill appropriating money. So much of such bill as he approves shall upon his signing the same become law. As to each item disapproved or reduced, he shall transmit to the house in which the bill originated

his reason for such disapproval or reduction, and the procedure shall then be the same as in the case of a bill disapproved as a whole. In case he shall fail so to transmit his reasons for such disapproval or reduction within five days after the bill shall have been presented to him, such items shall have the force of law unless the general court by adjournment shall prevent such transmission, in which case they shall not be law. [Art. LXIII. of Amendments; § 258]

ART. 112. The credit of the commonwealth shall not in any manner be given or loaned to or in aid of any individual, or of any private association, or of any corporation which is privately owned and managed. [Art. LXII. of Amendments; § 250]

ART. 113. The commonwealth may borrow money to repel invasion, suppress insurrection, defend the commonwealth, or to assist the United States in case of war, and may also borrow money in anticipation of receipts from taxes or other sources, such loan to be paid out of the revenue of the year in which it is created. [Art. LXII. of Amendments; § 251]

ART. 114. In addition to the loans which may be contracted as before provided, the commonwealth may borrow money only by a vote, taken by the yeas and nays, of two-thirds of each house of the general court present and voting thereon. The governor shall recommend to the general court the term for which any loan shall be contracted. [Art. LXII. of Amendments; § 252]

ART. 115. Borrowed money shall not be expended for any other purpose than that for which it was borrowed or for the reduction or discharge of the principal of the loan. [Art. LXII. of Amendments; § 253]

THE EXECUTIVE *DEPARTMENT.*

THE GOVERNOR.

ART. 116. There shall be a supreme executive magistrate, who shall be styled — THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be — HIS EXCELLENCY. [§ 65]

ART. 117. The governor shall be chosen *biennially;* and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding. [§§ 66, 181, 259]

ART. 118. Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth shall, at a meeting to be called for that purpose, on the Tuesday next after the first Monday in November *biennially,* give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of *such* list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the first Wednesday in January; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before *such* first Wednesday in January; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before *such* day; and the secretary shall lay the same before the senate and the house of representatives on the first Wednesday in January, to be by them examined; *and the person having the highest number of votes shall be deemed and declared to be elected,* but if no person shall have *been so elected,* the house of representatives *on the first Wednesday in January* shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor. [Art. XIV. of Amendments; §§ 67, 154, 161, 259]

ART. 119. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and the governor with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land. [§ 68]

ART. 120. The governor, with *the* advice of *the* council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire; and, in the recess of the said court

to prorogue the same from time to time, not exceeding ninety days in any one recess; and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the *general* court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other, the most convenient place within the state. [§ 69]

Art. 121. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment or prorogation, the governor, with *the* advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require. [§ 71]

Art. 122. The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of *the* council; but no charter of pardon, granted by the governor, with *the* advice of the council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned. [§ 74]

Art. 123. All judicial officers, the solicitor-general, *and* coroners, shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment. [Arts. XVII. and XIX. of Amendments; §§ 75, 164, 166]

Notaries public shall be appointed by the governor in the same manner as judicial officers are appointed, and shall hold their offices during seven years. Women shall be eligible to appointment as notaries public. Change of name shall render the commission void, but shall not prevent reappointment under the new name. The governor, with the consent of the council, may remove justices of the peace and notaries public. [Arts. IV., XXXVII. and LVII. of Amendments; §§ 141, 184, 245]

Art. 124. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the governor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto. The tenure, that all commissioned officers shall by law have in their offices, shall be expressed in their respective commissions. [Part the Second, Ch. III., Art. I., and Ch. VI., Art. IV.; §§ 102, 126]

Art. 125. All money received on account of the commonwealth from any source whatsoever shall be paid into the treasury thereof. [Art. LXIII. of Amendments; § 254]

No moneys shall be issued out of the treasury of this commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court. [§ 84]

Art. 126. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors, adjacent. [§ 85]

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively. [§ 86]

Art. 127. As the public good requires that the governor should not be under the undue influence of any of the members of the general court by a dependence on them for his support, that he should in all cases act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns, and that he should maintain the dignity of the com-

monwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws. [§ 87]

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court. [§ 88]

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper. [§ 89]

THE LIEUTENANT-GOVERNOR.

ART. 128. There shall be *biennially* elected a lieutenant-governor of the commonwealth of Massachusetts, whose title shall be — HIS HONOR; and who shall be qualified, in point of residence in the commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; and if no one person shall be found to have *the highest number* of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no person shall have *the highest number* of the votes of the people to be governor. [§§ 90, 161, 259]

ART. 129. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant. [§ 91]

ART. 130. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which by this constitution the governor is vested with, when personally present. [§ 92]

THE COUNCIL.

ART. 131. There shall be a council for advising the governor in the executive part of the government, to consist of eight persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land. [Art. XVI. of Amendments; §§ 93, 163]

ART. 132. Eight councillors shall be *biennially* chosen by the inhabitants of this commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The *general court*, at its first session after each decennial state census, shall divide the commonwealth into eight districts of contiguous territory, each *of which districts* shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the *general court, and* each *of such eight districts* containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the elections, shall be the same as are required in the election of governor. [Art. XVI. of Amendments; §§ 163, 259]

ART. 133. In case of a vacancy in the council, from a failure of election, or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the same by appointment of some eligible person. [Art. XXV. of Amendments; § 172]

ART. 134. And that there may be no delay in the organization of the government on the first Wednesday in January, the governor, with at least five councillors for the time being, shall *biennially*, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before *such* first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on *such* first Wednesday in January, to be by them examined; and in case of the

election of either of *such* officers, the choice shall be by them declared and published; but in case there shall be no election of either of *such* officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers. [Art. XVI. of Amendments; § 163a]

ART. 135. The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant-governor. [§ 95]

ART. 136. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority. [§ 97]

ART. 137. Whenever the offices of governor and lieutenant-governor shall both be vacant, by reason of death, absence from the commonwealth, or otherwise, then one of the following officers, in the order of succession herein named, namely, the secretary, attorney-general, treasurer, and auditor, shall, during such vacancy, have full power and authority to do and execute all and every such acts, matters and things as the governor or the lieutenant-governor might or could lawfully do or execute, if they, or either of them, were personally present. [Art. LV. of Amendments; § 243a]

SECRETARY. TREASURER. *AUDITOR. ATTORNEY-GENERAL.*

ART. 138. The secretary, treasurer, auditor, and attorney-general, shall be chosen *biennially,* on the *Tuesday next after the first Monday in November;* and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of two years from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the meantime, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for *such* office on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like manner be filled by choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of *such* offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment. [§§ 164, 259]

No person shall be eligible to election to the office of treasurer for more than three successive terms. [Art. XVII. and Sect. 2, Art. LXIV. of Amendments; § 260]

ART. 139. The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require. [§ 101]

THE JUDICIAL DEPARTMENT.

ART. 140. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature; and provided also that the governor, with the consent of the council, may after due notice and hearing retire them because of advanced age or mental or physical disability. Such retirement shall be subject to any provisions made by law as to pensions or allowances payable to such officers upon their voluntary retirement. [Art. LVIII. of Amendments; §§ 102, 246]

ART. 141. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall

expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed or, another person appointed, as shall most conduce to the well-being of the commonwealth. [§ 104]

ART. 142. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places. [§ 105]

ART. 143. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court. [Part the Second, Ch. VI., Art. V.; § 127]

ART. 144. All the laws which have heretofore been adopted, used, and approved in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature, such parts only excepted as are repugnant to the rights and liberties contained in this constitution. [Part the Second, Ch. VI., Art. VI.; § 128]

ART. 145. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions. [§ 103]

THE MILITIA.

ART. 146. The general court shall provide by law for the recruitment, equipment, organization, training and discipline of the military and naval forces. The governor shall be the commander-in-chief thereof, and shall have power to assemble the whole or any part of them for training, instruction or parade, and to employ them for the suppression of rebellion, the repelling of invasion, and the enforcement of the laws. He may, as authorized by the general court, prescribe from time to time the organization of the military and naval forces and make regulations for their government. [Art. LIV. of Amendments; § 242]

ART. 147. All military and naval officers shall be selected and appointed and may be removed in such manner as the general court may by law prescribe, but no such officer shall be appointed unless he shall have passed an examination prepared by a competent commission or shall have served one year in either the federal or state militia or in military service. All such officers who are entitled by law to receive commissions shall be commissioned by the governor. [Art. LIII. of Amendments; § 240]

OATHS *OF OFFICE. INCOMPATIBLE OFFICES. DISQUALIFICATIONS FOR OFFICE.*

ART. 148. The following oaths shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this commonwealth, before he shall enter on the duties of his office, to wit: [§ 146]

"I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, GOD." [§ 147]

"I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as , according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth. So help me, GOD." [§ 117]

Provided, that when any person shall decline taking *such* oaths, he shall make his affirmation in the foregoing forms, omitting the word "swear" in the first oath, and inserting, instead thereof, the word "affirm," and omitting the words "swear and" in the second oath, and omitting the words "So help me, GOD," in each *oath*, and subjoining, instead thereof, the words "This I do under the pains and penalties of perjury." [Art. VI. of Amendments; §§ 118, 148]

No oath, declaration, or subscription, excepting the *above* oaths, shall be required of the governor, lieutenant-governor, councillors, senators, or representatives, to qualify them *for* the duties of their respective offices. [Art. VII. of Amendments; § 149]

The said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor and councillors, before the president of the senate, in the presence

of the two houses of the legislature; and by the senators and representatives before the governor and council for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature. [Part the Second, Ch. VI., Art. I.; § 119]

Art. 149. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of *such* court may hold the *office* of justice of the peace through the state; nor shall they hold any other place or office, or receive any pension or salary from any other state or government or power whatever. [§ 120]

No person shall be capable of holding or exercising at the same time, within this *commonwealth*, more than one of the following offices, *namely:* judge of probate, sheriff, register of probate, or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the state at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person. [§ 121]

No person holding the office of judge of the supreme judicial court, secretary, attorney-general, solicitor-general, treasurer, judge of probate, commissary-general, sheriff, clerk of the house of representatives, register of probate, register of deeds, clerk of the supreme judicial court, *or* clerk of the inferior court of common pleas, shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up. [§ 122]

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in *the* council; or any councillor shall accept of either of those offices or places. [§ 123]

Art. 150. And no person shall ever be admitted to hold a seat in the *general court*, or any office of trust or importance under the government of this commonwealth, who shall, in due course of law, have been convicted of bribery or corruption in obtaining an election or appointment. [Part the Second, Ch. VI., Art. II.; § 124]

Art. 151. No judge of any court of this commonwealth, (except the court of sessions,) and no person holding any office under the authority of the United States, (postmasters excepted,) shall, at the same time, hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this commonwealth; and no judge of any court in this commonwealth, (except the court of sessions,) nor the attorney-general, solicitor-general, *district* attorney, clerk of any court, sheriff, treasurer, register of probate, nor register of deeds, shall continue to hold *such* office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of *such* office; and judges of the courts of common pleas shall hold no other office under the government of this commonwealth, the office of justice of the peace and militia offices excepted. [Art. VIII. of Amendments; § 150]

THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE.

Art. 152. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of God, been initiated in those arts and sciences which qualified them for public employments, both in church and state; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of God, the advantage of the Christian religion, and the great benefit of this and the other United States of America, — it is declared, that the President and Fellows of Harvard College, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy, all the powers, authorities, rights, liberties, privileges, immunities, and franchises, which they now have, or are entitled to have, hold, use, exercise, and enjoy; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever. [§ 108]

Art. 153. And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies, and conveyances, heretofore made, either to Harvard College in Cambridge, in New Eng-

land, or to the president and fellows of Harvard College, or to the said college by some other description, under several charters, successively; it is declared, that all the said gifts, grants, devises, legacies, and conveyances, are hereby forever confirmed unto the president and fellows of Harvard College, and to their successors in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors. [§ 109]

ART. 154. Nothing herein shall be construed to prevent the *general court* of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the *general court under the provisions of the constitution adopted in seventeen hundred and eighty.* [§ 110]

ART. 155. Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments, among the people. [§ 111]

CONTINUANCE AND ENROLLMENT.

ART. 156. *Upon the ratification and adoption by the people of this rearrangement of the existing constitution and the amendments thereto, the constitution shall be deemed and taken to be so rearranged and shall appear in such rearranged form in all future publications thereof. Such rearrangements shall not be deemed or taken to change the meaning or effect of any part of the constitution or its amendments as theretofore existing or operative.*

ART. 157. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of *such* laws. [Part the Second, Ch. VI., Art. XI.; § 135]

SECTION NUMBERS OF THE EXISTING CONSTITUTION AND THE DRAFT COMPARED.

A. ARTICLES OF THE DRAFT SHOWING THE SECTION NUMBERS OF THE EXISTING CONSTITUTION FROM WHICH THEY ORIGINATE.

For matter not in the text of the existing Constitution, but added in the Draft, see the parts in *italics* in this Document.

DRAFT.	EXISTING CONSTITUTION.
Preamble	[§§ 1, 32]
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Art. 2	[§ 3]
Art. 3	[§§ 158, 193, 194, 195, 196]
Art. 4	[§ 5]
Art. 5	[§ 6]
Art. 6	[§ 7]
Art. 7	[§ 8]
Art. 8	[§ 9]
Art. 9	[§ 10]
Art. 10	[§ 11]
Art. 11	[§ 12]
Art. 12	[§§ 13, 129]
Art. 13	[§ 14]
Art. 14	[§ 15]
Art. 15	[§ 16]
Art. 16	[§ 17]
Art. 17	[§ 18]
Art. 18	[§ 19]
Art. 19	[§ 20]
Art. 20	[§ 21]
Art. 21	[§ 22]
Art. 22	[§ 23]
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Art. 26	[§ 27]
Art. 27	[§ 28]
Art. 28	[§ 29]
Art. 29	[§ 30]
Art. 30	[§ 31]
Art. 31	[§§ 140, 187]
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Art. 33	[§ 178]

Draft.	Existing Constitution.
Art. 34	[§ 177]
Art. 35	[§ 192]
Art. 36	[§ 161]
Art. 37	[§§ 185, 249]
Art. 38	[§ 176]
Art. 39	[§§ 259, 262]
Art. 40	[§§ 99, 154]
Art. 41	[§§ 33, 152, 259, 261, 180, 238, 130]
Art. 42	[§ 263]
Art. 43	[§§ 34, 244, 35, 138]
Art. 44	[§ 169]
Art. 45	[§§ 169, 169a]
Art. 46	[§§ 41, 41b, 259, 41a, 154]
Art. 47	[§§ 43, 154, 161]
Art. 48	[§§ 44, 154, 161, 171]
Art. 49	[§ 47]
Art. 50	[§ 46]
Art. 51	[§ 48]
Art. 52	[§ 50]
Art. 53	[§§ 168, 168a]
Art. 54	[§§ 53, 55, 185]
Art. 55	[§§ 57, 162, 259]
Art. 56	[§ 58]
Art. 57	[§ 59]
Art. 58	[§ 60]
Art. 59	[§§ 62, 62a]
Art. 60	[§ 63, 64]
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Art. 62	[§§ 166, 183]
Art. 63	[§§ 37, 38]
Art. 64	[§ 191]
Art. 65	[§ 139]
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Art. 67	[§ 235]
Art. 68	[§ 188]
Art. 69	[§ 197]
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Art. 71	[§ 248]
Art. 72	[§ 236]
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Art. 74	[§ 264]
Art. 75	[§ 247]
Art. 76	[§ 198]
Art. 77	[§ 199]
Art. 78	[§§ 200, 201, 202, 203, 204]
Art. 79	[§ 205]
Art. 80	[§ 206]
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Art. 85	[§ 211]
Art. 86	[§ 212]
Art. 87	[§ 213]
Art. 88	[§ 214]
Art. 89	[§ 215]
Art. 90	[§ 216]
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Art. 102	[§ 228]
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Art. 107	[§ 233]
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Art. 110	[§ 257]
Art. 111	[§ 258]
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Art. 117	[§§ 66, 181, 259]
Art. 118	[§§ 67, 154, 161, 259]
Art. 119	[§ 68]
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Art. 123	[§§ 75, 164, 166, 141, 184, 245]
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Art. 137	[§ 243a]
Art. 138	[§§ 164, 259, 260]
Art. 139	[§ 101]
Art. 140	[§§ 102, 246]
Art. 141	[§ 104]
Art. 142	[§ 105]
Art. 143	[§ 127]
Art. 144	[§ 128]
Art. 145	[§ 103]
Art. 146	[§ 242]
Art. 147	[§ 240]
Art. 148	[§§ 146, 147, 117, 118, 148, 149, 119]
Art. 149	[§§ 120, 121, 122, 123]
Art. 150	[§ 124]
Art. 151	[§ 150]
Art. 152	[§ 108]
Art. 153	[§ 109]
Art. 154	[§ 110]
Art. 155	[§ 111]
Art. 156	[new; cf. § 131]
Art. 157	[§ 135]

B. SECTION NUMBERS OF THE EXISTING CONSTITUTION SHOWING THEIR RELATION TO THE DRAFT.

For the text of obsolete, annulled or other matter, omitted from the existing Constitution, see Rearrangement Document No. 3.

Existing Constitution.	Draft.
(§ 1)	Preamble
(§ 2)	Art. 1
(§ 3)	Art. 2
(§ 4)	Annulled by § 158
(§ 5)	Art. 4
(§ 6)	Art. 5
(§ 7)	Art. 6
(§ 8)	Art. 7
(§ 9)	Art. 8
(§ 10)	Art. 9
(§ 11)	Art. 10
(§ 12)	Art. 11
(§ 13)	Art. 12
(§ 14)	Art. 13
(§ 15)	Art. 14
(§ 16)	Art. 15
(§ 17)	Art. 16
(§ 18)	Art. 17
(§ 19)	Art. 18
(§ 20)	Art. 19
(§ 21)	Art. 20
(§ 22)	Art. 21
(§ 23)	Art. 22
(§ 24)	Art. 23
(§ 25)	Art. 24
(§ 26)	Art. 25
(§ 27)	Art. 26
(§ 28)	Art. 27
(§ 29)	Art. 28
(§ 30)	Art. 29
(§ 31)	Art. 30
(§ 32)	Preamble
(§ 33)	Art. 41
(§ 33a)	Art. 40; partly annulled by § 152
(§ 34)	Art. 43
(§ 35)	Art. 43
(§ 36)	Art. 61
(§ 37)	Art. 63
(§ 38)	Art. 63
(§ 39)	Annulled by §§ 160, 169
(§ 40)	Annulled by §§ 160, 169
(§ 41)	Art. 46; partly annulled by §§ 140, 153, 162, 259
(§ 41b)	Art. 46
(§ 41a)	Art. 46; partly annulled by §§ 154, 259
(§ 42)	Obsolete
(§ 43)	Art. 47; partly annulled by §§ 154, 161
(§ 44)	Art. 48; partly annulled by §§ 154, 161, 171
(§ 45)	Annulled by §§ 160b, 169a
(§ 46)	Art. 50
(§ 47)	Art. 49
(§ 48)	Art. 51
(§ 49)	Annulled by §§ 169a, 180
(§ 50)	Art. 52
(§ 51)	Annulled by § 159
(§ 52)	Annulled by § 159
(§ 53)	Art. 54
(§ 54)	Annulled by § 182
(§ 55)	Art. 54; partly annulled by § 160b
(§ 56)	Annulled by § 140
(§ 57)	Art. 55; partly annulled by §§ 162, 259
(§ 58)	Art. 56
(§ 59)	Art. 57
(§ 60)	Art. 58
(§ 61)	Annulled by §§ 168a, 180
(§ 62)	Art. 59
(§ 62a)	Art 59
(§ 63)	Art. 60
(§ 64)	Art. 60
(§ 65)	Art. 116
(§ 66)	Art. 117; partly annulled by §§ 181, 259
(§ 67)	Art. 118; partly annulled by §§ 154, 161, 259
(§ 68)	Art. 119
(§ 69)	Art. 120
(§ 70)	Annulled by § 152
(§ 71)	Art. 121
(§ 72)	Annulled by §§ 241, 242
(§ 73)	Annulled by §§ 241, 242
(§ 74)	Art. 122
(§ 75)	Art. 123; partly annulled by §§ 164, 166
(§ 76)	Annulled by §§ 239, 240
(§ 77)	Annulled by §§ 239, 240
(§ 78)	Annulled by §§ 239, 240
(§ 79)	Annulled by §§ 239, 240
(§ 80)	Annulled by §§ 239, 240
(§ 81)	Annulled by §§ 239, 240
(§ 82)	Annulled by §§ 239, 240
(§ 83)	Annulled by §§ 239, 240
(§ 84)	Art. 125
(§ 85)	Art. 126
(§ 86)	Art. 126
(§ 87)	Art. 127
(§ 88)	Art. 127
(§ 89)	Art. 127
(§ 90)	Art. 128; partly annulled by §§ 161, 259
(§ 91)	Art. 129
(§ 92)	Art. 130
(§ 93)	Art. 131
(§ 94)	Annulled by §§ 160a, 163
(§ 95)	Art. 135
(§ 96)	Annulled by § 163
(§ 97)	Art. 136
(§ 98)	Annulled by § 243a
(§ 99)	Art. 40; partly annulled by §§ 171, 172
(§ 100)	Annulled by §§ 141, 143, 164, 260
(§ 101)	Art. 139
(§ 102)	Arts. 124, 140
(§ 103)	Art. 145
(§ 104)	Art. 141

Existing Constitution.	Draft.
(§ 105)	Art. 142; partly obsolete
(§ 106)	Obsolete
(§ 107)	Obsolete
(§ 108)	Art. 152
(§ 109)	Art. 153
(§ 110)	Art. 154; partly obsolete
(§ 111)	Art. 155
(§ 112)	Annulled by § 149
(§ 113)	Annulled by § 149
(§ 114)	Annulled by § 149
(§ 115)	Annulled by § 146
(§ 116)	Annulled by § 147
(§ 117)	Art. 148
(§ 118)	Art. 148; modified by § 148
(§ 119)	Art. 148
(§ 120)	Art. 149
(§ 121)	Art. 149
(§ 122)	Art. 149; partly annulled by § 174; partly obsolete
(§ 123)	Art. 149
(§ 124)	Art. 150
(§ 125)	Obsolete, and annulled by §§ 160b, 181
(§ 126)	Art. 124
(§ 127)	Art. 143
(§ 128)	Art. 144
(§ 129)	Art. 12
(§ 130)	Art. 41
(§ 131)	Obsolete, cf. Art. 159
(§ 132)	Obsolete
(§ 133)	Obsolete
(§ 134)	Obsolete
(§ 135)	Art. 157
(§ 138)	Art. 43
(§ 139)	Art. 65
(§ 140)	Art. 31; partly annulled by § 179
(§ 141)	Art. 123; partly annulled by § 184
(§ 142)	Annulled by § 164
(§ 143)	Annulled by §§ 239, 240
(§ 144)	Annulled by §§ 239, 240
(§ 145)	Annulled by §§ 239, 240
(§ 146)	Art. 148
(§ 147)	Art. 148
(§ 148)	Art 148
(§ 149)	Art. 148
(§ 150)	Art. 151
(§ 151)	Annulled by § 234
(§ 152)	Art. 41; partly annulled by § 259
(§ 153)	Annulled by § 162
(§ 154)	Arts. 40, 46, 47, 48, 118; obsolete as an entirety
(§ 155)	Obsolete
(§ 156)	Obsolete
(§ 157)	Obsolete
(§ 158)	Art 31
(§ 159)	Annulled by §§ 160, 168
(§ 160)	Annulled by §§ 168, 169
(§ 160a)	Annulled by § 163
(§ 160b)	Obsolete
(§ 161)	Arts. 36, 47, 48, 118, 128
(§ 162)	Art. 55; partly annulled by § 259
(§ 163)	Arts. 131, 132; partly annulled by §§ 172, 259
(§ 163a)	Art. 134
(§ 164)	Art. 138; partly annulled by § 259
(§ 165)	Annulled by §§ 193, 194, 195, 196

Existing Constitution.	Draft.
(§ 166)	Art. 62; partly annulled by § 183
(§ 167)	Art. 32
(§ 168)	Art. 53
(§ 168a)	Art. 53
(§ 169)	Arts. 44, 45
(§ 169a)	Art. 45; partly annulled by § 180
(§ 170)	Annulled by § 173
(§ 171)	Art. 48
(§ 172)	Art. 133
(§ 173)	Obsolete
(§ 174)	Obsolete
(§ 175)	Annulled by § 178
(§ 176)	Art. 38
(§ 177)	Art. 34
(§ 178)	Art. 33
(§ 179)	Obsolete
(§ 180)	Art. 41
(§ 181)	Obsolete
(§ 182)	Obsolete
(§ 183)	Obsolete
(§ 184)	Art. 123
(§ 185)	Arts. 37, 54
(§ 186)	Art. 70
(§ 187)	Art. 31
(§ 188)	Art. 68
(§ 189)	Annulled by § 234
(§ 190)	Art. 66
(§ 191)	Art. 64
(§ 192)	Art. 35
(§ 193)	Art. 3; partly obsolete
(§ 194)	Art. 3
(§ 195)	Art. 3
(§ 196)	Art. 3
(§ 196a)	Obsolete
(§ 197)	Art. 69
(§ 198)	Art. 76
(§ 199)	Art. 77
(§ 200)	Art. 78
(§ 201)	Art. 78
(§ 202)	Art. 78
(§ 203)	Art. 78
(§ 204)	Art. 78
(§ 205)	Art. 79
(§ 206)	Art. 80
(§ 207)	Art. 81
(§ 208)	Art. 82
(§ 209)	Art. 83
(§ 210)	Art. 84
(§ 211)	Art. 85
(§ 212)	Art. 86
(§ 213)	Art. 87
(§ 214)	Art. 88
(§ 215)	Art. 89
(§ 216)	Art. 90
(§ 217)	Art. 91
(§ 218)	Art. 92
(§ 219)	Art 93
(§ 220)	Art. 94
(§ 221)	Art. 95
(§ 222)	Art. 96
(§ 223)	Art. 97
(§ 224)	Art. 98
(§ 225)	Art. 99
(§ 226)	Art. 100
(§ 227)	Art. 101

Existing Constitution.	Draft.
(§ 228)	Art. 102
(§ 229)	Art. 103
(§ 230)	Art. 104
(§ 231)	Art. 105
(§ 232)	Art. 106
(§ 233)	Art. 107
(§ 234)	Obsolete
(§ 235)	Art. 67
(§ 236)	Art. 72
(§ 237)	Art. 73
(§ 238)	Art. 41
(§ 239)	Obsolete
(§ 240)	Art. 147
(§ 241)	Obsolete
(§ 242)	Art. 146
(§ 243)	Obsolete
(§ 243a)	Art. 137
(§ 244)	Art. 43
(§ 245)	Art. 123
(§ 246)	Art. 140
(§ 247)	Art. 75
(§ 248)	Art. 71
(§ 249)	Art. 37
(§ 250)	Art. 112
(§ 251)	Art. 113
(§ 252)	Art. 114
(§ 253)	Art. 115
(§ 254)	Art. 125
(§ 255)	Art. 108
(§ 256)	Art. 109
(§ 257)	Art. 110
(§ 258)	Art. 111
(§ 259)	Arts. 39, 41, 46, 55, 117, 118, 128, 132, 138
(§ 260)	Art. 138
(§ 261)	Art. 41
(§ 262)	Art. 39
(§ 263)	Art. 42
(§ 264)	Art. 74

The following memorandum shows in detail changes made by the proposed rearrangement in the existing Constitution and amendments.

Matters are taken up in the order in which they appear in proposed draft.

Preamble.

The Preamble is divided into three paragraphs as in the Manual of the General Court and in the Constitution as printed in Revised Laws and the Blue Book, though it was originally in one paragraph, and is so printed in the manual prepared for the Convention. No change is made in the first two paragraphs. Into the third paragraph has been incorporated the paragraph at the beginning of "Part the Second". The words incorporated are in italics. The words "of the Commonwealth of Massachusetts" are omitted at the end of the third paragraph, and the word "thereof" substituted to avoid repetition. The change makes for greater simplicity of arrangement and does not affect the construction.

Bill of Rights.

This is numbered in the existing Constitution "Part the First" and entitled "A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts". The words "Part the First" are omitted. The title is retained without change.

Three changes are made in the Bill of Rights by the proposed rearrangement.

First. For the text of Art. 3 is substituted the text of Art. XI of the amendments. The substitution is made in express terms by Art. XI. The paragraph thus constituted is numbered section 1 in Art. 3.

Second. Following this as part of Art. 3 and numbered section 2 is inserted the Anti-Aid Amendment, so called, omitting therefrom all of the first paragraph except the last sentence beginning "No law shall be passed", and omitting also all of section 5, and the words and figures, section 2, section 3, and section 4, but retaining the divisions into paragraphs, and the whole constituting section 2 of Art. 3. This is the only place in the proposed draft where an article is divided with sections, and it has been done in this instance to avoid altering the present numbering of articles in the Bill of Rights.

The other and third change consists of the incorporation into Art. 12, as a paragraph at the end thereof, of Art. VII, ch. VI of the existing Constitution, relating to the writ of *habeas corpus*. It seems plain that the article should be in the Bill of Rights as essentially a declaration of right. It is put into Art. 12 as a paragraph to avoid renumbering the Bill of Rights.

No other changes have been made in the Bill of Rights, and the text, punctuation and arrangement is the same in the proposed draft except as above noted as in the existing Constitution.

Frame of Government.

This the same. There is a slight change of position but nothing that changes the meaning or effect.

Suffrage, Elections, Terms of Office.

This is a new division and title. It brings together the various provisions relating to voters, elections and terms of office which now are scattered through the Constitution and amendments. It would seem that they should be brought together somewhere, and that, as defining and dealing with the electorate, this would seem to be the proper place for them.

The articles are taken up as they are numbered.

Art. 31. This is the same as Art. III of the amendments as amended by Art. XL of the amendments except for the substitution of the words "city or town", in Art. III, for the words "town or district," and the omission in the same article of the words beginning "and who shall have paid" and ending with the words "qualified as above mentioned." With these exceptions Art. 31 is a literal transcription of Arts. III and XL of the amendments. "City" is substituted for "district" because the right to vote depends on residence in a city or town and not a district. The words omitted are expressly annulled by Art. XXXII of the amendments. The words of Art. XL have been inserted in Art. III immediately after the word "guardianship" as expressly directed in Art. XL.

Art. 32. This is Art. XX of the amendments with certain changes: 1st, the word "these" has been substituted for the word "the" before "provisions"; 2nd, the words "This amendment" have been omitted; 3rd, the words "its requisitions" have been omitted and the word "them" substituted; 4th, the words "now has" have been omitted and the word "had" substituted; 5th, the words "at the time this amendment shall take effect" have been omitted and the words "when these provisions were adopted" substituted as more correct. The rest of Art. XX beginning "Nor to any persons" has been omitted as wholly inapplicable to the present situation.

Art. 33. This is Art. XXXI of the amendments which is an amendment of and in effect a substitute for Art. XXVIII. Art. XXVIII, therefore, has been omitted.

Art. 34 is the same as Art. XXX of the amendments.

Art. 35 is the same as Art. XLV of the amendments, except that a comma has been inserted after the word "inhabitants."

Art. 36 is the same as Art. XIV of the amendments.

Art. 37 consists of amendments XXXVIII and LXI. The provision at the end of XXXVIII has been transposed to the end of this article so as to apply to the article as a whole and the provision at the end of Art. LXI has been omitted to avoid repetition. A comma and the word "and" have been inserted after words "prescribed by law."

Art. 38 is the same as Art. XXIX of the amendments except that the last sentence of that amendment beginning "all the provisions" and ending "are hereby annulled" is omitted for the reason that the amendment is fully operative without them.

Art. 39. This article consists, with certain changes, of sections 1 and 4 of the biennial amendment, so called, Art. LXIV. The words "Beginning with" are substituted for the words "The first election to which this article shall apply shall be held on", in section 4, and the word "these" for the words "all the", in the same section. The words "before mentioned", in the same section, are omitted and the words "and until their successors are chosen and qualified", in section 1, in the sentence relating to the terms of Senators and Representatives, are omitted also. The latter words are inconsistent with Art. X of amendments, incorporated into Art. 64 of the proposed draft, which the committee are of opinion it was not intended to repeal or annul, and also inconsistent with the character of a popular assembly like the Legislature. Section 2 of Art. LXIV has been transposed and is the second paragraph in Art. 138 of the proposed draft. Section 3 has been omitted to avoid repetition, the same provision being in Art. X referred to above.

Art. 40. This article is a redraft of Art. VII, section III, chapter II of the existing Constitution, omitting what has been superseded. The article seems to have been marked in the Manual of the General Court as obsolete. It is doubtful whether it should be so regarded. The framers of the Constitution seem to have thought that it was open to question whether, if an election by the two Houses was appointed for a day certain, it could be adjourned from day to day until completed. This is the only article which gives such power of adjournment, and it would seem better to retain it and avoid raising the question. Vacancies in the Senate are provided for by Art. XXIV of the amendments (Art. 48 of the proposed draft) and therefore the provision in regard to them is omitted. Vacancies in the Council are provided for by Art. XXV of the amendments (Art. 134 of the proposed draft,) but no time is fixed

for holding the election to fill the vacancy. The same is true of the Governor and Lieutenant-Governor though the manner of filling vacancies is provided for. These omissions are supplied in the proposed draft, — see Articles 118, 128. In the cases of Secretary, Treasurer, Auditor and Attorney-General the election to fill a vacancy is to be held on the third Wednesday of January. (Art. XVII of the amendments. Art. 138 of the proposed draft.) That is covered by the words in italics in this article "or at any other time if."

The Legislative Department.

The General Court.

This is the same as in the existing Constitution, except that the word "Department" is substituted for the word "Power." "Department" is the word used in the Bill of Rights (Art. XXX) and is more correct than "Power".

Art. 41. The first paragraph is the same as in the existing Constitution, Ch. 1, Art. I.

The second paragraph consists of so much of the first paragraph of Art. X of the amendments and of the second paragraph of Art. I, ch. 1, aforesaid, as is in force with the substitution of "in" for "of", before January and the insertion, to meet the biennial amendment, of the words "in the third year following their election". The parts omitted from Art. X are the whole of that article after the first paragraph, and in the first paragraph the words "instead of the last Wednesday in May", the words beginning "and shall" and ending "the General Court shall", the words beginning "But nothing" and ending "assembling", and the words beginning "The Governor" and ending "in their stead". The words omitted in Art. I, ch. 1, aforesaid, are the words beginning "The legislative body" and ending with "necessary", and the words beginning "be dissolved" and ending "in May". These are omitted because superseded by Art. X aforesaid which expressly provides that all provisions inconsistent with it are annulled. The reason for the omissions from Art. X is that the parts and words omitted have ceased to be operative.

The next paragraph in this article is a literal transcript of Arts. XXXIII and LII of the amendments except that the concluding sentence of Art. XXXIII is omitted as unnecessary.

The concluding paragraph of this article is a transposition of Art. VIII, ch. VI, of the existing Constitution. This seems to be a more logical place for it.

Art. 42. This is the same as Art. LXV of the amendments.

Art. 43. This is a literal transcription of ch. 1, Art. II, of the existing Constitution and Arts. I and LVI of the amendments.

The Senate.

The title in the existing Constitution is "Senate". The article "The" has been added.

Art. 44. This article consists, with certain changes in the amendment, of Art. XXII of the amendments down to and including the words "between the taking of the census", and with the article that follows takes the place of and supersedes Art. I, ch. 1, section 11, of the existing Constitution as amended by Art. XIII of the amendments. The first change is to substitute "inhabitants" for "legal voters", thereby rendering the words "and a census of the inhabitants of each city and town" unnecessary. The next change is the omission of the words "eight hundred fifty-seven" and the substitution therefor of the words "nine hundred and twenty-five", the date according to the amendment of the next decennial State census. The next is the omission of the words "in the year one thousand eight hundred and sixty-five" as unnecessary. And the last is the substitution of the word "such" for "said".

Art. 45. This article is a literal transcript of the text of Amendment XXII, aforesaid, except that the words "biennially for the term of two years" have been inserted before the words "one Senator", to meet the requirements of the biennial amendment, and the last sentence in regard to a quorum has been omitted because annulled by Art. XXXIII of the amendments. The amendment is divided into three paragraphs because that seemed to be a convenient division.

Art. 46. Omitting the property qualification which is abolished by the concluding paragraph in Art. XIII of the amendments, and making changes necessarily required by amendments that have been made, this article is the same as Art. II, section II, ch. I of the existing Constitution. The changes in the first paragraph consist in substituting "Tuesday next after the first Monday in November" for the words "first Monday in April", wherever they occur; in substituting the word "biennially" for

"annually"; in omitting the words "and Councillors"; in inserting the word "such" before "Tuesday"; also in inserting the words "qualified as provided in this Constitution"; in omitting the words "district or plantation"; and in inserting the word "city", so that it will read, "city or town"; and in substituting, "Senator" for "Senators" preceding the words "for the district."

The changes in the second paragraph consist in substituting the words "first Wednesday in January" for the words "last Wednesday in May"; the word "biennially" for "annually"; the word "such" for the word "the" before "Tuesday"; and the omission of the words immediately following signifying the month.

The last paragraph in Art. II, ch. I, aforesaid, has been omitted, — there being no longer any plantations in this Commonwealth.

Art. 47. This is the same as Art. III, ch. I, section II, of the existing Constitution as amended by the biennial amendment, and by the amendment changing the time for convening the Legislature, and by the amendment changing the number necessary to elect from a majority to a plurality. The last part of that article beginning "provided nevertheless" is omitted as no longer in force.

Art. 48. This is the same as Art. IV, ch. I, section II, of the existing Constitution with the substitution by literal transcription of amendment Art. XXIV for so much thereof as relates to the filling of vacancies caused by a failure to elect; by the substitution of the word "in" for "of" before the word January; of "biennially" for "annually"; of "is" for "are"; by the words "highest number" for "a majority"; and by changing the word "Senators" to "Senator."

Art. 49. This is the same as Art. VII, section II, ch. I, aforesaid. It should be noted in this connection that so much of Art. V, section II, ch. I, as relates to a property qualification has been expressly annulled by the concluding paragraph of amendment Art. XIII, and that so much thereof as requires inhabitancy as a qualification has been superseded by a like provision in amendment Art. XXII.

Art. 50. This is the same as Art. VI, section II, ch. I, aforesaid.

Art. 51. This is the same as Art. VIII, section II, ch. I, aforesaid.

The House of Representatives.

The article "The" has been added to the title.

Art. 52. This is the same as in the existing Constitution, ch. I, section III, except that the word "biennially" has been substituted for "annually."

Art. 53. This consists, with certain changes in the amendment, of Art. XXI of the amendments which superseded Art. II, section III, ch. I, of the existing Constitution as amended by Arts. XII and XIII. The effect of Art. XXI was to leave the last two paragraphs of Art. II, aforesaid, in force. The last paragraph, that relating to "The expenses of travelling to the General Assembly", was expressly annulled by Art. XXXVIII of the amendments, leaving in force of Art. II, aforesaid, only the third paragraph, — that relating to the power of the House of Representatives to impose fines in towns neglecting to return members. That has been incorporated as will appear later into Art. 54 of the proposed draft.

The changes above referred to in Art. XXI are first, the substitution of the words in italics for so much of the first paragraph of that article as begins with the words "a census of the legal voters" and ends with the words "the enumeration aforesaid." The substitution is made to avoid repetition. The next change consists in striking out the comma after the words "forty members", in the second paragraph, and in substituting a period and the words "The Representatives" for the word "which" and beginning a new sentence. The next change consists in inserting between the words "each" and "enumeration" the words "such special." The next and last change consists in striking out the last two sentences relating to a quorum, the same having been expressly annulled by Article XXXIII. The amendment has been divided into four paragraphs instead of two, as a matter of convenience.

Art. 54. The first sentence of this article is the same as the first sentence of Art. III, section III, ch. I, aforesaid. The property qualification in that article has been expressly superseded as noted above, Art. 46, by the concluding paragraph of Art. XIII of the amendments. The words in italics are inserted to remove any doubt as to whether a vote by a voting machine would be a written vote, as to which see 178 Mass. 605. The rest of this article is the same as the third paragraph in Art. II, section III, ch. I, of the existing Constitution and has been referred to already in Art. 53 above.

Art. 55. This consists of a redraft of the first section of Art. XV of the amendments so as to make it applicable to Representatives alone, and include biennial elections; and of the last sentence in that article literally transcribed.

ART. 56. This is the same as Art. VI in the chapter entitled "House of Representatives" in the existing Constitution. In this connection it should be noted that Art. IV in that chapter has been omitted as superseded by Art. II of the amendments, and Art. V as superseded by Art. XV of the amendments.

ARTS. 57, 58, 59 and 60 are the same as the corresponding articles in the chapter entitled "House of Representatives" in the existing Constitution (section III, ch. I). It should be noted that Art. IX in that chapter, relating to a quorum, was superseded first by Art. XXI of the amendments and that that was annulled by Art. XXXIII which has been incorporated in Art. 41 of the proposed draft as already noted.

Legislative Powers.

This is a new title and a new subdivision. This arrangement is made as one of logical grouping and convenience, and cannot, it is believed, affect the construction of any of the articles included or of other articles or provisions.

ART. 61. This is the same as Art. III, section I, ch. I, of the existing Constitution.

ART. 62. This is the same as Art. XIX of the amendments as amended by Art. XXXVI, the only effect of the latter being to strike out of the former the words "commissioners of insolvency."

ART. 63. This is the same as Art. IV under the subheading "General Court", in the existing Constitution, except that the word "said" has been omitted in the second line before "General Court".

ART. 64. This is the same as Art. XLIV of the amendments.

ART. 65. This is the same as Art. II of the amendments.

ART. 66. This is the same as Art. XLIII of the amendments.

ART. 67. This is the same as Art. XLIX of the amendments.

ART. 68. This is the same as Art. XLI of the amendments.

ART. 69. This is the same as Art. XLVII of the amendments.

ART. 70. This the same as Art. XXXIX of the amendments except that "General Court" has been substituted for "Legislature". It is to be noted that the amendment provides expressly that it shall be added to "Article ten of part one of the Constitution", as an amendment, but this has been deemed to be a more appropriate place for it.

ART. 71 is the same as Art. LX of the amendments.

ART. 72 is the same as Art. L of the amendments.

ART. 73 is the same as Art. LI of the amendments.

ART. 74 is the same as Art. LXVI of the amendments.

ART. 75 is the same as Art. LIX of the amendments.

The Initiative and Referendum.

Except for a few changes of a perfecting nature which were suggested for the most part by Mr. Walker, this is printed in the proposed draft as it was adopted by the people. Only those articles will be taken up in which changes have been made.

ART. 78. This has been changed by substituting for the words beginning "neither the eighteenth" and ending "hundred and eighteen" the words in italics beginning "provisions of" and ending "Bill of Rights"; also by substituting the word "their" for "its." In the third paragraph of the same article the word "measure" has been substituted for "proposition." In the fourth paragraph of the same article the words "and referendum" should be stricken out as inapplicable. Next, the word "article" is substituted for "section" in the same paragraph.

ART. 79. The word "annual" is inserted before "assembling" in the latter part of the article.

ART. 80. The word "next" is inserted before the word "assembling."

ART. 82. The words "General Courts, successively elected" are substituted for the word "years."

ART. 84. The words "the following" have been inserted before the word "June."

ART. 87. The word "next" before "General Court" is stricken out and the words "next elected" are inserted after the words "General Court." The words in the same article "or a legislative" immediately following the words "initiative amendment" are omitted as unnecessary. Also in the same article the word "such" before "amendment" is struck out and the word "An" is inserted beginning another paragraph.

ART. 88. The words "the following" are inserted before "June" in the sentence, beginning "If the General Court fails." In the following sentence the word "such"

is substituted for "the" before the words "first Wednesday." Next the word "biennial" is inserted between the word "next" and the words "State election."

ART. 89. The word "such" is substituted for the word "the" before "first Wednesday in June" at the beginning of the article.

ART. 94. The semicolon between the words "emergency law" and the words "but if the Governor" is omitted and a period put in its place and a new paragraph is made beginning with the word "But." After the words "at which", in the second line of the paragraph so formed, the words "it is to" are stricken out and the words "a law may" are inserted. Later in the paragraph so formed, towards the end, the word "thereupon" is inserted between the word "shall" and the words "take effect" and the words "without suspension" omitted as well as the word "thereupon" between the words "shall" and "take effect" with which the paragraph concludes. Another new paragraph is made in the same article beginning with the word "No" and omitting the word "but" and striking out the semicolon and inserting a period instead after the words "take effect."

ART. 97. The word "biennial" is inserted twice; first, between the word "next" and the words "State election", and second, between the word "following" and the words "State election." The words "so completed and" are inserted between the words "is" and "filed."

ART. 98. The same changes are made in this article as in the preceding Art. XCVII, with an additional insertion of the word "biennial."

ART. 107. The words "this article of amendment to the Constitution" are stricken out and the words "The provisions of the initiative and referendum" are inserted instead thereof.

This completes The Initiative and Referendum, — Arts. 77 to 107, inclusive, in the proposed draft.

State Budget and Veto of Items by the Governor. Lending Credit of Commonwealth.

ARTS. 108 to 115, inclusive. This subdivision is a consolidation of Arts. LXII and LXIII of the amendments. There is no change in the text or arrangement of either amendment except that the paragraphs in the amendments as adopted were entitled "sections", and the numbering was confined to the respective amendments. That has been changed in the proposed draft to "articles", consecutively numbered. Section 1 of Amendment LXIII has been transposed and constitutes the first paragraph in Art. 125 of the proposed draft, as was pointed out in connection with that article.

The Initiative and Referendum, and The State Budget and Lending the Credit of the Commonwealth are included in the Legislative Department as pertaining to matters of a legislative nature.

THE EXECUTIVE DEPARTMENT.

The Governor.

In the existing Constitution the heading or caption is "Chapter II. Executive Power. Section I. Governor". This has been changed by striking out "Chapter II", inserting the article "The" before "Executive", changing "Power" to "Department" and putting the article "The" before "Governor".

ART. 116 is the same as in the existing Constitution.

ART. 117. This is the same as the first sentence in Art. II, section I, ch. II, of the existing Constitution except that "biennially" has been substituted for "annually". The rest of that article is omitted, the property qualification being abolished by Art. XXXIV of the amendments and the religious test by Art. XII.

ART. 118. This is the same as Art. III, ch. II, section I, of the existing Constitution except that the word "biennially" has been substituted for "annually", "Tuesday next after the first Monday in November" for "first Monday in April", "first Wednesday in January" for "last Wednesday in May", whenever they occur, "such" for "the said", and the sentence beginning "and in case" and ending "published" has been omitted and the words "and the person having the highest number of votes shall be deemed and declared to be elected", with a comma instead of a semicolon, have been substituted therefor. Also the words "a majority of votes" have been omitted and the words "been so elected" inserted, and after the words "House of Representatives" the words "on the first Wednesday in January" have been inserted. The rest of the article is the same as in the existing Constitution. These last changes are made necessary by the amendment providing for election by plurality and by the failure to provide when the election to fill the vacancy in case

of a failure to elect a Governor shall be held, as already pointed out in considering Art. 40 of the proposed draft.

ART. 119 is the same as Art. IV of the section and chapter aforesaid.

ART. 120 is the same as in the existing Constitution except that the article "the" has been inserted before the words "advice" and "council", and the word "General" before "Court" in place of "said", and the words "and to dissolve the same on the day next preceding the last Wednesday in May", and last clause, omitted, — these provisions having been annulled by Art. X of the amendments.

ART. 121 is the same as Art. VI of the chapter and section aforesaid in the existing Constitution.

ART. 122 is the same as Art. VIII with the insertion of the article "the" before the words "advice" and "Council". In this connection it should be noted that Arts. VII and X in the chapter and section aforesaid have been omitted for the reason that they are expressly annulled by Arts. LIII and LIV of the amendments. In the proposed draft these two amendments are coupled together as Arts. 147 and 148 and form a new division entitled "The Militia".

ART. 123. The first paragraph is the same as Art. IX of the section and chapter aforesaid as amended by Arts. XVII and XIX. The effect of these amendments is to make the Attorney-General, sheriffs and registers of probate elective.

The second paragraph consists of the first paragraph of Art. IV of the amendments omitting the last clause beginning "unless sooner removed", and of Arts. LVII and XXXVII of the amendments — Art. XXXVII superseding the omitted clause of Art. IV aforesaid.

ART. 124 is a transposition of Art. IV, ch. VI, and the first sentence of Art. I, ch. III, of the existing Constitution. This seems to be the logical place for these provisions.

ART. 125. The first paragraph is a transposition, as already has been noted in connection with Art. 39 of section 1 of the budget amendment Art. LXIII. The other paragraph is the same as Art. XI, ch. II, section I, of the existing Constitution.

ARTS. 126 and 127 are the same as Arts. XII and XIII, respectively, ch. II, section I, of the existing Constitution.

The Lieutenant-Governor.

The article "The" has been added.

ART. 128. This is the same as in the existing Constitution except that the word "biennially" has been substituted for "annually". The qualifications in regard to religion and property are omitted for the same reason as in the case of the Governor, and the words "the highest number" are substituted for the words "a majority".

ARTS. 129 and 130 are the same as in the existing Constitution.

The Council.

The title in the existing Constitution is "Council and the manner of settling elections by the Legislature". All of this after the word "Council" is omitted as unnecessary, in view of the transposition of Art. VII to constitute Art. 40 in the proposed draft.

ART. 131. This is the same as Art. I, section III, ch. II, of the existing Constitution except that the number of Councillors has been changed from "nine" to "eight", as per amendment Art. XVI.

ART. 132. This article embodies with changes therein so much of Art. XVI of the amendments as begins "Eight Councillors" and ends "election of Governor".

"Annually" in the first line is changed to "biennially." The words "General Court" are substituted for "Legislature". The words beginning "after this amendment" and ending "at its first session", the word "thereafterwards" and the words beginning "provided however" and ending "Councillor districts that" are omitted. The words "of which districts" are inserted after the word "each" instead of the word "district", and the sentence beginning with these words is transposed to follow the word "territory", the words "General Court" being substituted for "Legislature", and the word "and" being inserted before the word "each", and the words "of such eight districts" being inserted between the words "each" and "containing". The rest of the article beginning "No person" is the same as that which follows in the existing Constitution down to and including the words "election of Governor". The effect of Art. XVI of the amendments is to supersede Art. II, section III, ch. II, of the existing Constitution and therefore that is omitted.

ART. 133 is the same as Art. XXV of the amendments which takes the place of and supersedes so much of Art. XVI as relates to the filling of vacancies, and therefore that is omitted.

ART. 134 is the same as the rest of Art. XVI aforesaid beginning with the words "And that there may be", except that the word "biennially" has been inserted between the words "shall" and "as soon as may be", and the word "such" has been inserted instead of "the said."

ART. 135 is the same as Art. III, section III, ch. II, aforesaid. Art. IV of that section and chapter has been omitted as no longer in force.

ART. 136 is the same as Art. V of the section and chapter aforesaid.

ART. 137 is the same as Art. LV of the amendments which expressly annuls Art. VI of the chapter and section aforesaid, and that article is therefore omitted. Art. VII has been redrafted and transposed and is Art. 40 in the proposed draft, having been referred to in that connection.

Secretary, Treasurer, Auditor, Attorney-General.

The title in the existing Constitution is "Secretary, Treasurer, Commissary, etc." The contraction "etc." is omitted. "Commissary," has been omitted as there is no provision for the election of such an officer, — the provision relating thereto, in Art. VI of the amendments, having been expressly annulled by Art. LIII of the amendments. "Auditor" and "Attorney-General" are added because included with "Secretary" and "Treasurer" in Art. XVII of the amendments.

ART. 138 is the same, with certain necessary changes, as Art. XVII of the amendments which superseded Art. I, section IV, ch. II, of the existing Constitution. The words "Receiver-General" are omitted as no longer of any significance. The word "biennially" is substituted for "annually." "Tuesday next after the first Monday in November" is substituted for "on the day in November prescribed for the choice of Governor" as more direct. "Such" has been substituted for "the said." The last paragraph has been transposed from Art. LXIV of the amendments and is the same as section 2 in that amendment. A similar provision is found in this connection in the existing Constitution. (Art. I, sec. IV, ch. II.)

The Judicial Department.

The title in the existing Constitution is "Judiciary Power". The title in the proposed draft has seemed preferable.

ART. 140 consists of so much of Art. I, ch. III, of the existing Constitution as begins with the words "All judicial officers", and of amendment, Art. LVII, literally transcribed. The first sentence of Art. I aforesaid has been transposed and in connection with Art. IV, ch. VI, of the existing Constitution forms Art. 124 of the proposed draft.

ART. 141 is the same as Art. III, ch. III, of the existing Constitution. Art. II of the same chapter has been transposed to the end of this division.

ART. 142 is the same as Art. IV of the chapter aforesaid. Art. V in that chapter has been omitted, — whether rightly or not is in question.

ART. 143 is the same as Art. V, ch. III, of the existing Constitution, having been transposed to this place where it would seem properly to belong.

ART. 144 is the same as Art. V, ch. VI, of the existing Constitution and also has been transposed to this place as the more proper place for it.

ART. 145 is, as already observed, Art. VI, ch. VI, aforesaid, transposed to this place.

THE MILITIA.

This is a new division and title. It consists of Amendments LIII and LIV which are now the only provisions in the Constitution relating to military and naval matters. These amendments expressly annul Arts. VII and X, sec. I, ch. II, as already pointed out, the last two paragraphs of Art. IV and the whole of Art. V of the amendments of the existing Constitution, and these therefore have been omitted. The two amendments could have been incorporated into the subdivision entitled "The Governor", or that entitled "Legislative Powers". But the militia is a subject which in the organization of the government occupies an important place by itself, and therefore it has been deemed best to put the amendments in a division entitled as above.

ARTS. 146 and 147 consist of the amendments relating to military and naval matters referred to above.

OATHS OF OFFICE, INCOMPATIBLE OFFICES, DISQUALIFICATIONS FOR OFFICE.

This title is taken in part from the title of Chapter VI of the existing Constitution. A number of the articles in that chapter have been transposed and others, Art. III, Art. IX and Art. X, have been omitted because obsolete. Therefore, the title of that

chapter would not be applicable to this, and the title adopted is confined to matters included in this chapter.

ART. 148. This article includes so much of Art. I, ch. VI, of the existing Constitution as is in force, and Arts. VI and VII of the amendments with changes required by the consolidation, omitting from Art. VI, aforesaid, the words "shall be of the denomination called Quakers and", and also omitting the words with which that amendment begins, viz.: "Instead of the oath of allegiance prescribed by the Constitution". The fifth paragraph of this article is the same as Art. VII, aforesaid, omitting the words "oaths prescribed in the preceding article, and the oath of office" and substituting therefor the words "above oaths". The sixth and last paragraph is the same as the concluding paragraph of Art. I, ch. VI, aforesaid, all of which excepting this paragraph and the oath of office has been omitted as no longer in force.

ART. 149 is the same as Art. II, ch. VI, except that in the first paragraph the word "such" has been substituted for "the said", and the words "office of justice" for "offices of justices". In the second paragraph the word "Commonwealth" has been substituted for "State", and the word "namely" substituted for the contraction "viz." In the third paragraph the dashes have been omitted and commas inserted, and the words "president, professor, or instructor of Harvard College" have been omitted also, and the words "or officers of the customs including in this description naval officers," and the word "or" has been inserted before "clerk of the inferior court."

ART. 150 is the same as the concluding paragraph of Art. II, ch. VI, aforesaid, except that the words "General Court" are substituted for "Legislature."

ART. 151 is the same as Art. VIII of the amendments except that the word "district" has been substituted for "county" before "attorney", and the word "such", in two places, for the words "the said".

In this connection it should be noted that "chapter IV" of the existing Constitution has been omitted as no longer in force.

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The contraction "etc." has been omitted and the whole has been brought together under the above caption or heading.

ARTS. 152, 153 and 155 are the same as in the existing Constitution.

ART. 154 is the same as the last part of Art. III, ch. V, of the existing Constitution beginning "nothing herein", except that the words "General Court under the provisions of the Constitution adopted in seventeen hundred and eighty", have been substituted for the words "Legislature of the late Province of the Massachusetts Bay". It should be added that this change has been approved by the authorities of the University.

CONTINUANCE AND ENROLLMENT.

ART. 156. This is a new division and title. It adopts in part the language of the act for calling and holding the Convention (Acts of 1916, chapter 98), and is introduced to show that the proposed draft, if adopted, is to be regarded as a continuation of the existing Constitution and amendments so far as the provisions thereof are in force, and that no substantive change in the present meaning and construction or that which has been heretofore given to them is intended.

ART. 157 is the same as Art. XI, ch. VI, of the existing Constitution.

The report was considered forthwith, under a suspension of the rules, moved by Mr. Luce.

Mr. Loring of Beverly moved that the report as shown in document No. 2 be accepted as a rearrangement of the Constitution.

THE DEBATE.

Mr. PILLSBURY of Wellesley: The order under which the Committee on Rearrangement acted provides that the rearranged draft shall be submitted to the people in such form as the Convention may direct, thereby seeming to put upon the Convention at its present session the duty of directing how the submission shall be made. So far as I am aware, it will be sufficient to add to the motion proposed by my friend from Beverly something to this effect, perhaps in these words,

if I remember rightly the concluding words of his motion: "in the same manner as the amendments heretofore adopted by the Convention have been submitted." I move that amendment.

Mr. LORING: I accept the amendment.

Mr. PILLSBURY: It may be unnecessary to explain further, but as I now have the language of the order before me I will read it for the information of the Convention: "Any rearrangement of the Constitution with its amendments, made and adopted by the Convention, shall be submitted to the people for their ratification and adoption in such manner as the Convention shall direct."

Mr. PARKER of Lancaster: I rise only to confirm what the member from Wellesley has suggested. The original motion as made would have been incomplete, since the order of the Convention to the committee contained the phrase that the reference shall be in such manner as the Convention shall prescribe. I trust therefore that the amendment may be adopted.

Mr. HART of Cambridge: May I point out that amendments have been submitted in two different manners, part of them with the text and part without, and I would suggest that the text of the order ought to cover that point.

Mr. CUMMINGS of Fall River: I rose to inquire of the gentleman from Wellesley, hoping to be able to put the inquiry before he took his seat, as to the scope and effect of his amendment. I have to confess that I am not sure that I fully understand what is intended by it. If it is designed to submit to the people for their approval or disapproval the entire document as it leaves this Convention, to be voted upon yes or no, I certainly have no objection to the amendment. If it means anything else than that I hope the gentleman from Wellesley will explain.

Mr. PILLSBURY: It means nothing else; and the doubt of my friend from Fall River is settled, as I take it, by the form of the order which I have read. As I have already said, I moved my amendment to the motion of my friend from Beverly only because his motion did not prescribe any manner of submission, which it would seem to be the duty of the Convention to do. I said when I was up before that the words proposed by me were, so far as I knew, sufficient for the purpose, not having then the reminder of my friend from Cambridge that amendments had been submitted in two different ways, some with the text on the ballot and some without it. To meet that suggestion, with deference to my friend from Cambridge, who may have a better way of meeting it, I suggest adding to the words which I have moved, "without submission of the full text thereof."

The amendment moved by Mr. Pillsbury was amended as suggested.

Mr. MORTON of Fall River: I should like to ask if amendments can be made to this motion at any other stage than this.

The PRESIDENT: If the motion as made is adopted the Chair would rule that there would be no further stage of this matter.

Mr. MORTON: Then I am somewhat reluctant to do so, but I feel obliged to move an amendment to this motion. There is one, but perhaps I should make my motion first.

Mr. Morton moved to amend by inserting the following paragraph after Article 142 on page 68 of Document No. 2:

All causes of marriage, divorce, and alimony, and all appeals from the judges of probate, shall be heard and determined by the Governor and Council, until the Legislature shall, by law, make other provision.

The PRESIDENT: The Chair understands that to be a new Article 143 of the rearranged Constitution, the subsequent Articles to be renumbered accordingly.

Mr. MORTON: Yes.

Mr. LUCE of Waltham: I rise to a point of order.

The PRESIDENT: The member will state his point of order.

Mr. LUCE: If I did not mistake the reading of the section, this contemplates a substantive change in the Constitution.

Mr. MORTON: Oh, no.

Mr. LUCE: And if that be so, solely that the proposal may be treated at another stage of our deliberations, I make the point of order that it is not germane to the present subject under consideration, which is a rearrangement of the existing Constitution.

The PRESIDENT: The Chair does not understand that the point of order is well taken; he does not understand that this is a substantive change in the present Constitution. If the Chair is wrong he will ask the member from Fall River (Mr. Morton) to correct him.

Mr. MORTON: The Chair is exactly right. It is a restoration to the proposed draft of an article which is in the existing Constitution, which was dropped out in the proposed draft.

Mr. WASHBURN of Middleborough: A matter of inquiry. It does, as I understand it, effect a substantive change in the committee's report.

The PRESIDENT: That is not the ground upon which the point of order was taken. The Chair understands that this is a reinsertion in the rearrangement of the Constitution of a paragraph that was omitted by mistake, a paragraph existing in the present Constitution.

Mr. MORTON: I beg pardon. It was not omitted by mistake; it was omitted deliberately.

The PRESIDENT: The Chair understands from the member from Fall River that it is a paragraph in the existing Constitution that was omitted in the rearranged Constitution.

Mr. PILLSBURY of Wellesley: Will my friend from Fall River yield a moment?

Mr. MORTON: Yes.

Mr. PILLSBURY: Omitted because in the opinion of the other members of the committee it was obsolete, — omitted as no longer in force, — only for that reason.

Mr. MORTON: I should like to read for the benefit of the Convention the Article which was omitted by a majority of both the subcommittee and the main committee as obsolete. That was the only ground on which it was omitted, and it is fair to say that the matter was threshed out in both committees, in the subcommittee and also in the main committee, and, against my own contention, a majority in both committees voted to drop the Article as obsolete.

In my judgment that is a grave mistake. I think, and I am more strongly of the impression to-day than ever, that this Article is in force and should remain in the Constitution. Let me read it for the information of all gentlemen present. It is this:

All causes of marriage, divorce, and alimony, and all appeals from the judges of probate, shall be heard and determined by the Governor and Council, until the Legislature shall, by law, make other provision.

The ground on which that was dropped was this: It was said that that provision was inserted only to give the Governor and Council authority to act; and that until the Legislature passed some law, took some action in the matter, this was a sort of bridge to carry over the Governor and Council, and give them authority to act in regard to matters of marriage, divorce and alimony.

In my judgment, that is a wholly erroneous construction. That provision means, it seems to me, if it means anything, the same as if it read thus: That the Legislature, the General Court, shall have the power to enact laws relating to marriage, divorce and alimony, and until they pass such laws the Governor and Council shall have power to act.

That is the whole scope and effect of that provision, as it seems to me. In other words, it is a provision under which the Legislature has to-day, and ever since this Constitution was adopted has had, the power to pass laws in regard to matters of marriage, divorce and alimony, just the same as under the preceding section, which relates to probate courts, they have passed laws relating to the proof of wills, to the administration of estates, and all the various matters which are included in the settlement of estates. That section is a little plainer, a little fuller, than this section; but so far as the scope and effect of the two are concerned, in connection with the matters to which they relate, both are now in full effect, and have been from 1780 down to the present time. If the proposed draft is accepted as it stands, the effect will be to drop out of the existing Constitution a provision under which the Legislature of Massachusetts since 1780 has legislated in regard to matters of marriage, divorce and alimony.

That, it seems to me, is the situation. So far from being obsolete, it is actually in force to-day, and it is a mistake to treat it as obsolete. I was not able to persuade my friends on the committee that this was the sound view. They thought, as the gentleman from Wellesley has intimated, that it had ceased to be operative, that it had ceased to be effective, that when the Legislature passed a law in regard to matters of marriage, divorce and alimony that ended the function of the Legislature in regard to such matter, whereas the only effect of that was to take from the Governor and Council the power to act further in regard to matters of marriage, alimony and divorce.

From 1780 down to to-day references have been made again and again in the decisions of our Commonwealth to this provision. No decision can be found in which it has been held expressly that it was in force, but the assumption has been from the beginning until now that it was, and the courts have referred to it in their decisions again and again as an Article which still had validity.

In the Convention of 1820 there was a Judiciary Committee, consisting of Judge Story, of Mr. Shaw, afterwards Chief Justice, of Mr. Austin, the Attorney-General, and of other eminent members, and this Article, among other things, came before them for their action; and they made a report to the Convention. They recommended various things, to which it is not now necessary to refer, and they reported, — I want the Convention to understand the ins and outs of this whole thing, — that this Article should be dropped because no longer operative. That was the result to which that committee apparently came. There were four other matters on which they reported. Those

other matters were acted upon. This matter was not acted upon by the Convention. You may say, if you choose to, that in the rush of business it was overlooked; but that is hardly possible, — hardly probable, — I think, considering the character of the committee. At any rate, the fact remains that that Convention of 1820, notwithstanding they had before them this report of the committee that this Article was not operative, did not do anything further with it, and the Article remained in the Constitution down to the time when the Convention of 1853 met.

In 1853 the Convention, which, as you all know, drafted substantially a new Constitution, put this in as one of the Articles, showing that they recognized that it still was operative, — in force. The Constitution drafted by that Convention was not adopted, and the old Constitution continued in force. So that the result is that ever since the Constitution was adopted in 1780 this provision has been in it, and the only reason for excluding it is the one that has been suggested by my friend from Wellesley, that it is no longer operative.

Now, when gentlemen of the experience and ability and learning, which the gentlemen who are my associates upon both these committees have, take one view, — a different view from my own, — it leads me to reconsider carefully any views which I myself may have entertained. As the members of the Convention know, there are besides myself two retired Justices of the Supreme Judicial Court of the Commonwealth. I thought I might take the liberty, by virtue of my previous association with them, to apply to them for their judgment concerning the construction of this Article. I consulted Judge Hammond. I have, I think, the right to refer to him; indeed, I told him that I should do so, and Judge Hammond's opinion was unhesitatingly that this was in force, was an operative Article in the existing Constitution. Indeed, he went so far as to say that he did not think there was any judge who would give it any other construction than the one which, after he had expressed himself, I told him, in my opinion, was the construction that should be given to it.

I did not stop there. There is, as you know, another ex-Justice of the Supreme Judicial Court, — Judge Sheldon. I wrote to Judge Sheldon. I explained the matter to him. I was careful not to indicate to Judge Sheldon, any more than I had to Judge Hammond, my own opinion; I was careful not to indicate to Judge Sheldon what Judge Hammond's view or my own view was, although of course it would have made no difference to him. I have a letter in my pocket from Judge Sheldon in which he says that in his opinion the construction that that Article should have is the construction which I have quoted to you as my own. As I have said, he did not know, when he wrote, what my own view of the matter was or what Judge Hammond's view of the matter was.

I feel, therefore, I do not come to the Convention resting altogether upon my own view as to what the construction of this Article is, nor altogether upon my own view that it would be a mistake to omit it from the present proposed draft.

One thing more perhaps might be said, and I beg your pardon if I go for a moment into ancient history. As all lawyers in the Convention know, formerly matters of divorce, marriage and alimony, and matters of the probate of wills, were not heard in the Common Law

Courts. They were heard in what were called the ecclesiastical courts. Crimes, misdemeanors, common cases of tort or contract, the common classes of actions which are before our Superior Court every day, were heard in what were called Common Law Courts.

So, while the Province Charter of 1692 provided for the establishment of Common Law Courts for the trial of offences, of crimes, misdemeanors and all sorts of causes, it provided also for the hearing of matters of the probate of wills as a separate matter from the common law trial of causes; and from 1692 down to the time when our Constitution was adopted, although the charter contained a provision which is in our Constitution to-day, authorizing the establishment of courts, and judicatories, to try pleas, etc., it contained also a provision in regard to probate matters, giving the Governor and Council jurisdiction in regard to them, but was silent in regard to matters of marriage and divorce. The practical result was that from 1692 onward, or from the time of the granting of the Province Charter down to the adoption of the Constitution, matters of marriage and divorce and matters of probate were regarded as separate and distinct from the common law actions; and, as Chief Justice Shaw says in one of his opinions, that condition of things was continued from the adoption of the Constitution of 1780. That is, a distinction was made between matters of marriage, divorce and alimony, and the probate of wills, and matters of the administration of estates on the one hand, and matters relating to the trial of crimes, actions of contract, or what might be called common law actions on the other; and Chief Justice Shaw recognized that as a distinction well established in our Constitution.

So, for these reasons, briefly stated, — I did not expect to have to address the Convention on the matter this afternoon, and therefore am not quite as well prepared as otherwise I should have been, — for these reasons, it seems to me that this Article cannot be treated as obsolete and should be inserted in its proper place in the proposed draft.

Mr. Anderson of Brookline: May I ask the gentleman from Fall River whether he thinks that if the amendment is not adopted the Legislature would not have full power to pass all such laws as may be thought necessary relative to marriage, divorce and alimony?

Mr. Morton: It may be so. Nobody can say just what the full scope of the provision which my friend from Brookline has in mind is; but the fact remains that, notwithstanding that, whenever the courts, so far as my own knowledge goes, have had occasion to refer to any constitutional provision in connection with a matter of marriage, divorce or alimony, they have not referred to that provision which my friend has in mind, but they have referred to this provision which the committee proposes to drop out. That has been the one that invariably has been referred to so far as my own experience and knowledge go; just the same as, when they have referred to probate matters, the preceding section has been the one that they referred to in connection with probate matters and not the general clause which my friend has in mind.

Mr. Hart of Cambridge: I should like to state for the benefit of the members of the Convention where they will find the document that we are discussing. The clause that is omitted is in document No. 1, section 106, as it now stands. The clause does not appear in

the rearrangement, having been left out, but the place where it would appear if it were restored is in document No. 2, page 67 or 68, after Article 142, as it there stands. The omitted Article is printed in document No. 3, No. 106, in bold-faced type, as being omitted.

Mr. LUMMUS of Lynn: I desire to ask the gentleman from Fall River if he has considered this method of reinserting in the Constitution the provision that he thinks valuable, namely: To omit from the existing provision that part pertaining to the powers of the Governor and Council, which I assume he agrees is obviously obsolete, and to put in the rest of that provision in the form of an affirmative statement of the power of the General Court.

Mr. MORTON: I do not think I understand the gentleman from Lynn.

Mr. LUMMUS: I understand that that part of the provision which the gentleman from Fall River desires to reinsert in the Constitution, which relates to the power of the Governor and Council —

Mr. MORTON: Oh, no.

Mr. LUMMUS: — is obsolete —

Mr. MORTON: Yes.

Mr. LUMMUS: — but that the rest of that provision constitutes in effect an affirmative statement of the power of the Legislature over certain matters. My question was whether the gentleman has considered omitting the part which is obviously obsolete and recasting the remainder in the form of an affirmative statement of legislative power.

Mr. MORTON: I have not the slightest objection to the change which the gentleman from Lynn suggests. I put the matter in the form in which I did only to bring it before the Convention as a whole; that is all. I think that the suggestion which is made by the gentleman from Lynn is entirely proper, and that there is a part of that Article which has become obsolete, and perhaps a better way would be to state it as he suggests, in the form of an affirmative proposition giving the Legislature that power.

Mr. GARLAND of Somerville: As a member of the Committee on Rearrangement I feel that I ought to state the views which led me to dissent from the member from Fall River and agree with the majority of the committee. I feel that the words in question ought to be dropped from the rearranged Constitution, first, because they are not in force, and, in the second place, because they are not necessary.

Prior to the adoption of this Constitution in 1780, causes of marriage, divorce and alimony, and appeals from judges of probate, were heard by the Governor and Council. But it is perfectly apparent that after the adoption of the Constitution, which divided the work of government into executive, legislative and judicial, the executive department no longer could perform judicial functions unless there was express provision for that purpose in the Constitution itself. And so I agreed with the majority of the committee that that clause was inserted to enable the Governor and Council to continue to exercise judicial powers until, under the new Constitution, the Legislature had an opportunity to act; that as soon as the Legislature under the provisions of the new Constitution did create courts of appeal for probate, and courts for determining questions of divorce and alimony, that section of the Constitution became *ipso facto* extinct and dead; that it was merely a bridge from the Colonial system to the new system of

government under the Constitution, where no longer could judicial powers be exercised by the executive department of the government.

But in addition to the fact that that section is dead, it is entirely unnecessary, because there is a provision which appears in document No. 1, which I believe is not before most members of the Convention, Article 3, Chapter 1, under "The Legislative Power," which reads as follows:

> The General Court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the Commonwealth, for the hearing, trying, and determining of all manner of crimes, offenses, pleas, processes, plaints, actions, matters, causes, *and things, whatsoever*, arising or happening within the Commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same.

There could be no more full or express authority given to the Legislature than is contained in that provision for the creation of courts of appeal for probate, and courts to hear all matters relating to alimony and divorce.

But I go even further. I contend that even if there had been no express provision authorizing the Legislature to create such courts, the Legislature, in the absence of any inhibition in the Constitution itself, could create such courts as were necessary properly to carry on the machinery of government and the business of the Commonwealth.

And so, for the reasons, first, that that provision is now dead, and, in the second place, that it is unnecessary, both because of the express provision of the Constitution itself and because, in the absence of constitutional inhibition, the Legislature would have had authority without that express provision, that section which the majority of the committee considered to be no longer in force ought to be omitted from this rearrangement of the Constitution.

Mr. CREED of Boston: I should like to ask the gentleman from Somerville a question. If, as he states it, this provision is dead and unnecessary, has he been enabled to discover any reason, from reading, why, in the Convention of 1820, after receiving the report of their committee, composed of eminent jurists, very recently after the Legislature had acted upon it, they failed to strike it out of the Constitution then?

Mr. GARLAND: As I understand it, the report of the Convention is entirely silent upon the reasons that that Convention may have had for taking no further action. I can see absolutely no reason for leaving that provision in the Constitution, because it is no longer in force and it is no longer necessary, since it has served the purpose for which it was there inserted.

The amendment offered by Mr. Morton of Fall River was adopted.

Mr. WASHBURN of Middleborough: I do not pose as a parliamentary sharp, but I am going to appeal to the gentleman from Wellesley (Mr. Pillsbury) to withdraw, if he will, his precise amendment as made in order that the Convention may follow its own precedent. The Convention always, heretofore, has passed a separate order sending to the Committee on Amendment and Codification and the Committee on Rules and Procedure, sitting jointly, any amendment passed by it, with the request that such committees so sitting bring in a form of submission. That form, it seems to me, ought to be considered here

very carefully. The question asked by the gentleman from Cambridge, or, rather, the suggestion made by him, brought out the fact that there are two approved ways of submission, one by putting the amendment on the ballot as a whole, and the other by using descriptive language. I submit that it is manifest that if descriptive language is to be employed here, — and I assume that that may be perhaps the Convention's decision, — that language must be considered very carefully. Therefore if the gentleman from Wellesley will withdraw his amendment, thereafter, providing the motion to accept the committee's report as made by the gentleman from Beverly carries, I shall submit an order reading something like this:

Ordered, That the Committee on Rules and Procedure and the Committee on Amendment and Codification of the Constitution, sitting jointly, report to this Convention an order directing the manner in which the proposed rearrangement of the Constitution as duly passed by the Convention shall be submitted to the people for their ratification and adoption at the State election to be held on November 4th next.

That very closely follows the precedent which we have followed in the past and it seems to me that especially weighty reasons exist for following it in this particular instance.

Mr. Parker of Lancaster: I hope the gentleman from Wellesley will retain all his proprietary rights in the motion which he has submitted to the Convention. He ought not to yield to the suggestion of my honorable friend in the third division (Mr. Washburn of Middleborough). Whatever may be said in favor of submitting to committees the choice of language in which the will of this Convention may find its expression, I do not discuss at this moment. The issue raised by the motion of the gentleman from Wellesley involves in part the immediate determination by the Convention of the point as to whether in submitting this rearranged Constitution to the people it shall be submitted with or without its full text. If the Convention should vote to submit it without its full text, and so necessarily attended by some descriptive phrase, then the formulation of that phrase of definition or description would become a matter of very anxious care, but a matter with which I think the Convention should deal directly, without the aid, admonition or suggestion of a subcommittee. I hope, therefore, the Convention will proceed to vote upon the motion of the gentleman from Wellesley.

Mr. Washburn of Middleborough: May I interrupt the gentleman from Lancaster to point out that the motion as made by the gentleman from Wellesley does provide that the text shall not be printed, and therefore the choice of descriptive language does become a matter of anxious solicitude, as he suggests.

Mr. Parker: But upon the issue of the vote of the Convention depends the question as to whether we shall have need of a committee. We may not adopt the motion presented by the delegate from Wellesley.

Mr. Washburn: I should like to have the original motion, with the amendment as adopted or accepted by the gentleman from Wellesley, read for the information of the Convention.

Mr. Loring's motion was as follows:

That the rearrangement of the Constitution, as shown in document No. 2, be adopted by the Convention and submitted to the people for their ratification.

Mr. Pillsbury's amendment was to add at the end thereof the words:

in the same manner as the amendments heretofore adopted by the Convention have been submitted, without printing on the ballot the full text thereof.

Mr. PILLSBURY: I am between two friends whose desires are in conflict, each of whom I should be glad to please. I do not think it makes any substantial difference whether the one is pleased or the other; and I might say, as the poet said, "How happy could I be with either were t'other dear charmer away." But inasmuch as I am asked to withdraw the amendment for something more formal, and as my disposition would be to yield to the opinion of any member who thinks that something more formal may be necessary, as the words proposed by me are very brief and were proposed in haste out of a desire for speed in view of the possibility of adjourning to-day, and as my friend from Lancaster can immediately renew my amendment if he is so disposed, I think on the whole, Mr. President, that, with the permission of the Convention, I will withdraw it.

The amendment was withdrawn.

Mr. PARKER of Lancaster: I decline to take over the guardianship of my friend's abandoned child. [Laughter.]

Mr. MORRILL of Haverhill: If some of us understand the intention of those who have made motions it is that we immediately proceed to adopt as a whole what is contained in rearrangement document No. 2, without any opportunity for considering the propositions therein contained by sections. If that is not true, I wish the President to correct my statement. I believe, according to the motion, the intention of those who made the motion is that that document as a whole shall be adopted immediately.

The PRESIDENT: The Chair so understands the motion.

Mr. MORRILL: Yesterday three documents, each a quarter of an inch thick, called documents Nos. 1, 2 and 3, arrived at the homes of a good many of the members of this Convention, and when they arrived home at night they found those documents. Some, where they reside in the center of cities, probably received them Saturday. Having received that document last night, and perhaps some of us having glanced it over hurriedly coming in on the train, we are asked to immediately adopt the whole proposition in document No. 2 without having time to go through the three documents, let alone going through another one, called document No. 4, which for the first time was seen by me a few minutes ago here, and probably very few others have seen it as yet. That is known as an alternative arrangement. Document No. 4 is labeled "Alternative Arrangement Submitted to the Subcommittee."

Now, how can we act with full intelligence in the matter with such short opportunity for investigation? In document No. 2, page 23, it says that the selectmen of the several towns shall preside at the meetings for the election of Senators, etc. That is no longer in vogue, not up in the Merrimack Valley, at least, because there are precinct officers who attend to all that.

Should we not have time to investigate further, to consider matters of that kind, which seem to be obsolete? Should we, who have been so careful, and at times so deliberate, the two previous years, all of a sudden develop lightning speed here? I think we should go with calm

deliberation in this matter, and that opportunity should be presented to every delegate to fully comprehend that for which he is voting. That is all I wish to say at this time.

Mr. ANDERSON of Brookline: I confess I do not know what the result of adopting this motion would be. It seems to me that our learned friend, Mr. Pillsbury of Wellesley, inconsistent with his usual course, desiring to please his friends, has not been as lucid as usual. Now, if he will give up the desire to please anybody and tell us exactly what the result of adopting the order as amended by him will be, and whether it does or does not result in adopting the committee's report subject to the amendment carried on the motion of the gentleman from Fall River, and putting it on the ballot next fall for submission to the people in some definite form, I, at least, shall be greatly gratified and shall know which way I ought to vote.

Mr. UNDERHILL of Somerville: I do not know that I can answer the gentleman's question that he has propounded to the gentleman from Wellesley, but I might give the Convention a little information which would be of interest to them, at least. If the amendment of the gentleman from Middleborough (Mr. Washburn) is adopted this matter can go before the Committee on Rules, or a subcommittee, and the form in which it shall be submitted to the voters can be settled at a meeting to be held after adjournment to-day. In the meantime the Committee on Pay-roll, headed by the gentleman from Revere (Mr. Curtis), can meet and dispose of the $35,000 appropriated by the Legislature to cover the expenses of the Convention. Then we can meet to-morrow morning, and if the Convention has any confidence in its Committee on Revision, or, rather, on Form, and has any confidence in its Committee on Rules, and has its usual confidence in the Committee on Pay-roll, we can get through very early in the session to-morrow; and if the Convention would take that attitude upon my suggestion I think that they would find it very much to their advantage.

Mr. ANDERSON of Brookline: The gentleman from Wellesley tells me that he was fortunate enough not to hear what I said. I think I am content with the suggestion of the gentleman from Somerville. All I want is a vote accepting the committee report as amended by the amendment proposed and carried on the motion of the gentleman from Fall River, and a vote to submit it to the people next fall, in the briefest and most intelligible form. My inquiry was whether the gentleman from Wellesley assumed the responsibility of saying that the adoption of the motion of the gentleman from Beverly as amended by him would achieve that result.

Mr. PILLSBURY: I have now withdrawn my amendment, and the question of the effect of the motion of the gentleman from Beverly as proposed to be amended by me is no longer material. I know no reason to doubt that his motion, extended by any provision, in any proper form of words, prescribing the manner in which this rearrangement of the Constitution shall be submitted to the people, will discharge our whole duty, or that when we have adopted such a motion in such a form our whole duty is done.

Mr. BRYANT of Milton: I am a great deal puzzled, possibly I am the only one who is puzzled, about the meaning of Article 156 on page 77. That Article reads:

Upon the ratification and adoption by the people of this rearrangement of the existing Constitution and the amendments hereto, the Constitution shall be deemed and taken to be so rearranged and shall appear in such rearranged form in all future publications thereof. Such rearrangement shall not be deemed or taken to change the meaning or effect of any part of the Constitution or its amendments as theretofore existing or operative.

I do not rise to speak in opposition in any way to the report of the committee, which seems to have been prepared very carefully, and to have involved a very large amount of labor. But after we have adopted this, and after the people have voted on it, what is going to be the Constitution of Massachusetts? Where are we going to find it? Is it in this document? The remarks of the gentleman from Fall River (Mr. Morton) have brought before us very strikingly the difficulty that is going to exist. For example, he has suggested to us an amendment as to a matter of substance, that has been omitted by the committee. It was an important matter, in his opinion, and in the opinion of the Convention, as they gave evidence by adopting his amendment. Now, assume for a moment that his amendment had not been adopted by the Convention, but that this document had been adopted by the people, and suppose somebody had written to you from New York and asked you to send them a copy of the Constitution of Massachusetts. What would you have sent them? Would you have sent them this document? If you had sent them this document and asked them to construe that, you would have omitted an important part of the Constitution of Massachusetts; and unless they took the old Constitution they would not have before them the entire Constitution.

In other words, section 156 says this is the Constitution rearranged, but it must be construed as if it were another document. It must be construed as if the amendment offered by the gentleman from Fall River were in it. In my opinion, if hereafter any question arises as to the meaning of the Constitution of Massachusetts the Supreme Judicial Court, or any lawyer who is careful, will not take document No. 2, but will take the old form to construe it, because this document expressly says that this shall not change the existing Constitution of Massachusetts.

So that I ask again, and I hope the question will be answered for the purpose of the record, at least, after the people have adopted this, where shall we find the Constitution of Massachusetts?

Mr. PARKER of Lancaster: To answer most briefly the latter portion of the inquiry of the gentleman from Milton (Mr. Bryant), I should say to him that no one would attempt, as we conceive the significance of this new instrument, to construe it as the Constitution of this Commonwealth without comparing the original text of the Constitution and amendments with the rearranged text. For the purpose of determining such construction the documents must be examined in comparison one with the other. It is not, as we conceive it, a substituted Constitution, it is a rearranged Constitution, preserving in its phrase all the provisions which are believed to be now operative. If some that are now operative be not found in the new text they are still existing as the cardinal law of the Commonwealth. To determine what is the constitutional law of Massachusetts it would be necessary for the careful investigator whose opinion was sought as to what was the existing constitutional provision to examine both the rearranged

Constitution, which is primarily for the convenience of the observer or whoever cares to examine it to determine its provisions, but for its construction it must be read in association with all the existing texts, both of original Constitution and of amendments.

Mr. Edwin U. Curtis of Boston: It seems to me that the Convention has a very simple thing to do. The order offered by the gentleman from Beverly reads as follows:

> That the rearrangement of the Constitution, as shown in document No. 2, be adopted by the Convention and submitted to the people for their ratification.

That does not say when it shall be submitted and does not say how it shall be submitted. But if that is accepted by the Convention the gentleman from Middleborough (Mr. Washburn) will follow it with an order which shall say how it shall be submitted and when it shall be submitted. So we simply accept the order of the gentleman from Beverly (Mr. Loring) followed by the order of the gentleman from Middleborough, and the Convention will have done the correct thing in my opinion.

Mr. George of Haverhill: I think I am laboring under the same difficulty as the gentleman from Brookline (Mr. Anderson). I cannot vote intelligently on this question until I hear from the gentleman from Cambridge (Mr. Hart). I understand that this fourth document, which I have not seen, the alternative plan, which was late in getting around, is the product of the gentleman from Cambridge. Perhaps I am mistaken, but I should like to know what this alternative plan means. I think the Convention at least ought to know what they are about, even if the people do not when they vote on it.

Mr. Hart of Cambridge: Of course a challenge of that kind is to be answered, and may be answered very simply. Document No. 4 embodies a rearrangement of the Constitution much more radical in its distribution of parts than the document that has been laid before the Convention, not seriously differing in tenor, because it could not, both documents being based upon the same idea, — that here was a text made by the people of Massachusetts, certain parts of that text crossed out by later action of the people of Massachusetts, and yet still standing on the statute-books, a great inconvenience and a nuisance to the legal profession and to the people of the Commonwealth of Massachusetts. That document was prepared in part by two members of the subcommittee, of whom I am one; in part by an expert, the former librarian, Mr. Evans, now in Washington, and when prepared it was submitted to the subcommittee. It proved to be more radical, — not in its text, because there was intended to be no new text. There were some articles that were redrafted, and that is one reason why I did not like it. It proved on discussion in the subcommittee that the judgment of the majority of the subcommittees was in favor of a more conservative arrangement, and those who were most interested in that draft therefore abandoned their own offspring. They felt that the important thing was to agree in the subcommittee upon some plan which was sufficiently fair, straightforward and self-explanatory. They found the form to which we came by mutual agreement, both parties yielding something of extreme desires. They came easily and readily to the form now before you, except that that form subsequently was passed upon by the committee of nineteen in a succession of meetings, and there some changes were made.

Document No. 4 therefore falls out, inasmuch as those who drew it, having elaborated it with a great deal of pains, were satisfied that a document of a different nature was better adapted for the purposes that they had in mind. They therefore loyally supported in the subcommittee, in the main committee, and will support upon this floor, document No. 2, which has been laid before you, not because they do not think they might have made a better Constitution had they been the people of Massachusetts, but because they thought that was a fair, reasonable restatement of the existing Constitution, adding nothing substantially, a great improvement in the reformed order and grouping of the topics, and because they thought that was what would do most good to the Commonwealth of Massachusetts. Therefore certain preferences expressed in document No. 4 were given up absolutely, loyally and frankly given up, and document No. 4 is not before this Convention for discussion, not having been reported as a part of the proceedings of the committee of nineteen.

Mr. ANDERSON of Newton: I understand that this document, document No. 2, is to be engrossed, and I suppose that we ask the people whether they will ratify that engrossed document. I suppose that, even if the Convention should adjourn to-day, the committee which has charge of that matter would see to the engrossment of this document with anxious care; and yet even though they should examine the engrossed document with anxious care, there might be finally some discrepancy between that document and the engrossed Constitution and engrossed amendments which are now with the Secretary of the Commonwealth. I should like to ask this question of the chairman of the committee, as to whether, if there are such discrepancies in the end, discrepancies in wording or in punctuation which may be important, which of these two documents, the original engrossed copy of the Constitution and amendments, or the engrossed copy of the rearrangement, will be the Constitution of the Commonwealth of Massachusetts?

The motion of Mr. Loring prevailed, and, accordingly, the rearrangement of the Constitution, as shown in document No. 2, was adopted by the Convention.

The committee on Rules and Procedure and the committee on Amendment and Codification of the Constitution, sitting jointly, who were directed to report to the Convention an order directing the manner in which the proposed rearrangement of the Constitution as duly adopted by the Convention should be submitted to the people for their ratification and adoption at the State election to be held on November 4, reported the following order which was adopted, to wit: —

Ordered, That the Rearrangement of the Constitution of the Commonwealth, which has been made and adopted by this Convention, shall be submitted to the people for their ratification and adoption by printing the question hereinafter stated upon the official ballots to be prepared and transmitted by the Secretary of the Commonwealth to all polling places established by law within the Commonwealth for the State election to be held on the fourth day of November next, at which places all persons qualified to vote for State officers may give in their vote by ballot for or against such rearrangement in the following form, to wit: —

"To vote on the following, mark a cross X in the square at the right of Yes or No:

Shall the Rearrangement of the Constitution of the Commonwealth, submitted by the Constitutional Convention, be approved and ratified?"

YES.	
NO.	

And ordered, further, That the method prescribed by the provisions of Chapter 835, Acts, 1913, as amended by Chapter 109, General Acts, 1917, and by Chapter 364, General Acts, 1919, for the transmission, examination and tabulation of the returns of votes cast on any question submitted by statute shall apply to the transmission, examination and tabulation of the returns of votes cast for and against such rearrangement. If such rearrangement shall appear to be approved by a majority of the qualified voters voting thereon according to the votes returned, examined and tabulated, as herein provided, it shall be deemed and taken to be ratified and adopted by the people.

Mr. Luce of Waltham offered the following order:

Ordered, That the subcommittee appointed by the chairman of the Special Committee on Rearrangement of Constitution, namely, James M. Morton of Fall River, Albert E. Pillsbury of Wellesley, Augustus P. Loring of Beverly, Herbert Parker of Lancaster and Albert Bushnell Hart of Cambridge, be and hereby is empowered to correct clerical and typographical errors and establish the text of the rearrangement of the Constitution to be submitted to the people, in conformity with that adopted by the Convention.

Mr. LUCE: This order is presented by reason of the fact that we have done away with the usual reference to the Committee on Form and Phraseology, and it might develop, although it is very improbable, that there have been some typographical errors or clerical errors in the copying; and, furthermore, there is occasion to omit from the draft that was before us yesterday certain marks of reference which are not really a part of the Constitution.

The order was adopted.

The rearranged form, as amended and submitted to the people, was as follows:

A CONSTITUTION OR FORM OF GOVERNMENT FOR THE COMMONWEALTH OF MASSACHUSETTS.

PREAMBLE.

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, inhabiting the territory formerly called the Province of Massachusetts Bay, acknowledging, with grateful hearts, the goodness of the Great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peacefully, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do hereby solemnly and mutually agree with each other, to form ourselves into a free, sovereign, and independent body politic, or state, by the name of The Commonwealth of Massachusetts, and do agree upon, ordain, and establish, the following DECLARATION OF RIGHTS, AND FRAME OF GOVERNMENT, as the CONSTITUTION thereof.

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS.

ARTICLE 1. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

ART. 2. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

ART. 3. *Section 1.* As the public worship of GOD and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

Section 2. No law shall be passed prohibiting the free exercise of religion.

All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the commonwealth for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is expended; and no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the commonwealth or any political division thereof for the purpose of founding, maintaining or aiding any school or institution of learning, whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school, or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control, order and superintendence of public officers or public agents authorized by the commonwealth or federal authority or both, except that appropriations may be made for the maintenance and support of the Soldiers' Home in Massachusetts and for free public libraries in any city or town, and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society.

Nothing herein contained shall be construed to prevent the commonwealth, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries or institutions to such persons as may be in whole or in part unable to support or care for themselves.

Nothing herein contained shall be construed to deprive any inmate of a publicly controlled reformatory, penal or charitable institution of the opportunity of religious exercises therein of his own faith; but no inmate of such institution shall be compelled to attend religious services or receive religious instruction against his will, or, if a minor, without the consent of his parent or guardian.

ART. 4. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them expressly delegated to the United States of America.

ART. 5. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

ART. 6. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

ART. 7. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

ART. 8. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

ART. 9. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

ART. 10. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

ART. 11. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

ART. 12. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land. And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious, and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

ART. 13. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

ART. 14. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

ART. 15. In all controversies concerning property, and in all suits between two

or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

ART. 16. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth.

ART. 17. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

ART. 18. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

ART. 19. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

ART. 20. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

ART. 21. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

ART. 22. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

ART. 23. No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

ART. 24. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

ART. 25. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

ART. 26. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

ART. 27. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

ART. 28. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

ART. 29. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

ART. 30. In the government of this commonwealth, 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 it may be a government of laws and not of men.

THE FRAME OF GOVERNMENT.

SUFFRAGE. ELECTIONS. TERMS OF OFFICE.

ART. 31. Every male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, and persons temporarily or permanently disqualified by law because of corrupt practices in respect to elections, who shall have resided within the commonwealth one year, and within the city or town in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, shall have a right to vote in such election of governor, lieutenant-governor, senators, and representatives; and no other person shall be entitled to vote in such election.

ART. 32. No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name: provided, however, that these provisions shall not apply to any person prevented by physical disability from complying with them, nor to any person who had the right to vote when these provisions were adopted.

ART. 33. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town, or because of the non-payment of a poll tax.

ART. 34. No person, otherwise qualified to vote in elections for governor, lieutenant-governor, senators, and representatives, shall, by reason of a change of residence within the commonwealth, be disqualified from voting for said officers in the city or town from which he has removed his residence, until the expiration of six calendar months from the time of such removal.

ART. 35. The general court shall have power to provide by law for voting by qualified voters of the commonwealth who, at the time of an election, are absent from the city or town of which they are inhabitants, in the choice of any officer to be elected or upon any question submitted at such election.

ART. 36. In all elections of civil officers by the people of this commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

ART. 37. Voting machines or other mechanical devices for voting may be used at all elections under such regulations as may be prescribed by law, and the general court shall have authority to provide for compulsory voting at elections; provided that the right of secret voting shall be preserved.

ART. 38. The general court shall have full power and authority to provide for the inhabitants of the towns in this commonwealth more than one place of public meeting within the limits of each town for the election of officers under the constitution, and to prescribe the manner of calling, holding and conducting such meetings.

ART. 39. Beginning with the Tuesday next after the first Monday in November in the year nineteen hundred and twenty, the governor, lieutenant-governor, councillors, secretary, treasurer, attorney-general, auditor, senators and representatives shall be elected biennially, and thereafter elections for the choice of these officers shall be held biennially on the Tuesday next after the first Monday in November. The governor, lieutenant-governor and councillors shall hold their respective offices from the first Wednesday in January succeeding their election to and including the first Wednesday in January in the third year following their election, and until their successors are chosen and qualified. The terms of senators and representatives shall begin with the first Wednesday in January succeeding their election and shall extend to the first Wednesday in January in the third year following their election. The terms of the secretary, treasurer, attorney-general and auditor shall begin with the third Wednesday in January succeeding their election and shall extend to the third Wednesday in January in the third year following their election and until their successors are chosen and qualified.

ART. 40. Elections appointed to be held by the two houses of the legislature on the first Wednesday in January or at any other time, if not completed on the day appointed may be adjourned from day to day until the same shall be completed. Vacancies in the office of governor and lieutenant-governor shall be first filled in the order named and then vacancies in the council.

THE LEGISLATIVE DEPARTMENT.

THE GENERAL COURT.

ART. 41. The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other.

The political year shall begin on the first Wednesday in January, and the general court shall assemble every year on the first Wednesday in January, and at such other times as they shall judge necessary, or when called together by the governor; and shall dissolve and be dissolved on the day next preceding the first Wednesday in January in the third year following their election, without any proclamation or other act of the governor, and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

A majority of the members of each branch of the general court shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and compel the attendance of absent members. By concurrent vote of the two houses, the general court may take a recess or recesses amounting to not more than thirty days; but no such recess shall extend beyond the sixtieth day from the date of their annual assembling.

The enacting style, in making and passing all acts, statutes, and laws, shall be — "Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same."

ART. 42. No person elected to the general court shall during the term for which he was elected be appointed to any office created or the emoluments whereof are increased during such term, nor receive additional salary or compensation for service upon any recess committee or commission except a committee appointed to examine a general revision of the statutes of the commonwealth when submitted to the general court for adoption.

ART. 43. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revisal; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichsoever the same shall have originated; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the commonwealth.

The governor, within five days after any bill or resolve shall have been laid before him, shall have the right to return it to the branch of the general court in which it originated with a recommendation that any amendment or amendments specified by him be made therein. Such bill or resolve shall thereupon be before the general court and subject to amendment and re-enactment. If such bill or resolve is re-enacted in any form it shall again be laid before the governor for his action, but he shall have no right to return the same a second time with a recommendation to amend.

In order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law.

If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

THE SENATE.

ART. 44. A census of the inhabitants of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand nine hundred

and twenty-five; and every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city such enumeration shall specify the number of legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census.

ART. 45. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: provided, however, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district.

Each district shall elect biennially for the term of two years one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth.

ART. 46. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner: there shall be a meeting on the Tuesday next after the first Monday in November, biennially, of the inhabitants of each town in the several counties of this commonwealth; to be called by the selectmen, and warned in due course of law, at least seven days before such Tuesday, for the purpose of electing persons to be senators; and at such meetings every male inhabitant of twenty-one years of age and upwards, qualified as provided in this constitution, shall have a right to give in his vote for the senator for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this state, in that city or town where he dwelleth, or hath his home.

The selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name: and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before the first Wednesday in January biennially; or it shall be delivered into the secretary's office seventeen days at least before the said first Wednesday in January: and the sheriff of each county shall deliver all such certificates by him received into the secretary's office, seventeen days before such first Wednesday.

ART. 47. And that there may be a due convention of senators on the first Wednesday in January annually, the governor with five of the council, for the time being, shall, as soon as may be after each biennial election, examine the returned copies of such records; and after each biennial election fourteen days before such Wednesday he shall issue his summons to such persons as shall appear to be chosen by the highest number of votes to attend on that day, and take their seats accordingly.

ART. 48. The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution; and shall, on the first Wednesday in January biennially, determine and declare who is elected by each district to be senator by the highest number of votes. Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of senators elected.

ART. 49. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

ART. 50. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

ART. 51. The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and maladministration in their offices. But previous to the trial of every impeachment the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further

than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this commonwealth; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

THE HOUSE OF REPRESENTATIVES.

ART. 52. There shall be, in the legislature of this commonwealth, a representation of the people, biennially elected, and founded upon the principle of equality.

ART. 53. The special enumeration of legal voters hereinbefore required in the case of the senate shall determine the apportionment of representatives for the periods between the taking of the census.

The house of representatives shall consist of two hundred and forty members. The representatives shall be apportioned by the legislature, at its first session after the return of each such special enumeration, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts.

The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk, or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives.

Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law.

ART. 54. Every member of the house of representatives shall be chosen by written votes. A vote by a lawfully authorized voting machine or other mechanical device shall be deemed a written vote. The house of representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

ART. 55. The members of the house of representatives shall be chosen biennially as hereinbefore provided on the Tuesday next after the first Monday in November; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

ART. 56. The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them shall be heard and tried by the senate.

ART. 57. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

ART. 58. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

ART. 59. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker; appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the

house, by any disorderly or contemptuous behavior in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house; or who shall assault any of them therefor; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house.

And no member of the house of representatives shall be arrested, or held to bail on mesne process, during his going unto, returning from, or his attending the general court.

ART. 60. The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases: provided, that no imprisonment on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

LEGISLATIVE POWERS.

ART. 61. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, plaints, actions, matters, causes, and things, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same: whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

ART. 62. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe.

ART. 63. And further, full power and authority are hereby given and granted to the general court, from time to time to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling, all civil officers within the said commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

ART. 64. Full power and authority are hereby given and granted to the general court to impose and levy a tax on income in the manner hereinafter provided. Such tax may be at different rates upon income derived from different classes of property, but shall be levied at a uniform rate throughout the commonwealth upon incomes derived from the same class of property. The general court may tax income not derived from property at a lower rate than income derived from property, and may grant reasonable exemptions and abatements. Any class of property the income from which is taxed under the provisions of this article may be exempted from the imposition and levying of proportional and reasonable assessments, rates and taxes as at present authorized by the constitution. This article shall not be construed to limit the power of the general court to impose and levy reasonable duties and excises.

ART. 65. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose. And provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court.

ART. 66. The general court shall have power to authorize the commonwealth to take land and to hold, improve, sub-divide, build upon and sell the same, for the purpose of relieving congestion of population and providing homes for citizens: provided, however, that this article shall not be deemed to authorize the sale of such land or buildings at less than the cost thereof.

ART. 67. The conservation, development and utilization of the agricultural, mineral, forest, water and other natural resources of the commonwealth, are public uses, and the general court shall have power to provide for the taking, upon payment of just compensation therefor, of lands and easements or interests therein, including water and mineral rights, for the purpose of securing and promoting the proper conservation, development, utilization and control thereof and to enact legislation necessary or expedient therefor.

ART. 68. Full power and authority are hereby given and granted to the general court to prescribe for wild or forest lands such methods of taxation as will develop and conserve the forest resources of the commonwealth.

ART. 69. The maintenance and distribution at reasonable rates, during time of war, public exigency, emergency or distress, of a sufficient supply of food and other common necessaries of life and the providing of shelter, are public functions, and the commonwealth and the cities and towns therein may take and may provide the same for their inhabitants in such manner as the general court shall determine.

ART. 70. The general court may by special acts for the purpose of laying out, widening or relocating highways or streets, authorize the taking in fee by the commonwealth, or by a county, city or town, of more land and property than are needed for the actual construction of such highway or street: provided, however, that the land and property authorized to be taken are specified in the act and are no more in extent than would be sufficient for suitable building lots on both sides of such highway or street, and after so much of the land or property has been appropriated for such highway or street as is needed therefor, may authorize the sale of the remainder for value with or without suitable restrictions.

ART. 71. The general court shall have power to limit buildings according to their use or construction to specified districts of cities and towns.

ART. 72. Advertising on public ways, in public places and on private property within public view may be regulated and restricted by law.

ART. 73. The preservation and maintenance of ancient landmarks and other property of historical or antiquarian interest is a public use, and the commonwealth and the cities and towns therein may, upon payment of just compensation, take such property or any interest therein under such regulations as the general court may prescribe.

ART. 74. On or before January first, nineteen hundred twenty-one, the exec-

utive and administrative work of the commonwealth shall be organized in not more than twenty departments, in one of which every executive and administrative office, board and commission, except those officers serving directly under the governor or the council, shall be placed. Such departments shall be under such supervision and regulation as the general court may from time to time prescribe by law.

ART. 75. Every charter, franchise or act of incorporation shall forever remain subject to revocation and amendment.

THE INITIATIVE AND REFERENDUM.

DEFINITION.

ART. 76. Legislative power shall continue to be vested in the general court; but the people reserve to themselves the popular initiative, which is the power of a specified number of voters to submit constitutional amendments and laws to the people for approval or rejection; and the popular referendum, which is the power of a specified number of voters to submit laws, enacted by the general court, to the people for their ratification or rejection.

THE INITIATIVE.

INITIATIVE PETITIONS.

ART. 77. *Contents.* An initiative petition shall set forth the full text of the constitutional amendment or law, hereinafter designated as the measure, which is proposed by the petition.

ART. 78. *Excluded Matters.* No measure that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal, recall or compensation of judges; or to the reversal of a judicial decision; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that makes a specific appropriation of money from the treasury of the commonwealth, shall be proposed by an initiative petition; but if a law approved by the people is not repealed, the general court shall raise by taxation or otherwise and shall appropriate such money as may be necessary to carry such law into effect.

Neither the provisions of this constitution embodied in article three, section two of the declaration of rights, nor this provision for their protection, shall be the subject of an initiative amendment.

No measure inconsistent with any one of the following rights of the individual, as at present declared in the declaration of rights, shall be the subject of an initiative petition: The right to receive compensation for private property appropriated to public use; the right of access to and protection in courts of justice; the right of trial by jury; protection from unreasonable search, unreasonable bail and the law martial; freedom of the press; freedom of speech; freedom of elections; and the right of peaceable assembly.

No part of the constitution specifically excluding any matter from the operation of the popular initiative and referendum shall be the subject of an initiative petition; nor shall this article be the subject of such a petition.

The limitations on the legislative power of the general court in the constitution shall extend to the legislative power of the people as exercised hereunder.

ART. 79. *Mode of Originating.* Such petition shall first be signed by ten qualified voters of the commonwealth and shall then be submitted to the attorney-general, and if he shall certify that the measure is in proper form for submission to the people, and that it is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people within three years of the succeeding first Wednesday in December and that it contains only subjects not excluded from the popular initiative and which are related or which are mutually dependent, it may then be filed with the secretary of the commonwealth. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed measure as such description will appear on the ballot together with the names and residences of the first ten signers. All initiative petitions with the first ten signatures attached, shall be filed with the secretary of the commonwealth not earlier than the first Wednesday of the September before the annual assembling of the general court into which they are to be introduced, and the remainder of the required signatures shall be filed not later than the first Wednesday of the following December.

ART. 80. *Transmission to the General Court.* If an initiative petition, signed by the required number of qualified voters, has been filed as aforesaid, the secretary of the commonwealth shall, upon the next assembling of the general court, transmit it to the clerk of the house of representatives, and the proposed measure shall then be deemed to be introduced and pending.

LEGISLATIVE ACTION. GENERAL PROVISIONS.

ART. 81. *Reference to Committee.* If a measure is introduced into the general court by initiative petition, it shall be referred to a committee thereof, and the petitioners and all parties in interest shall be heard, and the measure shall be considered and reported upon to the general court with the committee's recommendations, and the reasons therefor, in writing. Majority and minority reports shall be signed by the members of said committee.

ART. 82. *Legislative Substitutes.* The general court may, by resolution passed by yea and nay vote, either by the two houses separately, or in the case of a constitutional amendment by a majority of those voting thereon in joint session in each of two general courts successively elected as hereinafter provided, submit to the people a substitute for any measure introduced by initiative petition, such substitute to be designated on the ballot as the legislative substitute for such an initiative measure and to be grouped with it as an alternative therefor.

LEGISLATIVE ACTION ON PROPOSED CONSTITUTIONAL AMENDMENTS.

ART. 83. *Definition.* A proposal for amendment to the constitution introduced into the general court by initiative petition shall be designated an initiative amendment, and an amendment introduced by a member of either house shall be designated a legislative substitute or a legislative amendment.

ART. 84. *Joint Session.* If a proposal for a specific amendment of the constitution is introduced into the general court by initiative petition signed by not less than twenty-five thousand qualified voters, or if in case of a proposal for amendment introduced into the general court by a member of either house, consideration thereof in joint session is called for by vote of either house, such proposal shall, not later than the second Wednesday in the following June, be laid before a joint session of the two houses, at which the president of the senate shall preside; and if the two houses fail to agree upon a time for holding any joint session hereby required, or fail to continue the same from time to time until final action has been taken upon all amendments pending, the governor shall call such joint session or continuance thereof.

ART. 85. *Amendment of Proposed Amendments.* A proposal for an amendment to the constitution introduced by initiative petition shall be voted upon in the form in which it was introduced, unless such amendment is amended by vote of three-fourths of the members voting thereon in joint session, which vote shall be taken by call of the yeas and nays if called for by any member.

ART. 86. *Legislative Action.* Final legislative action in the joint session upon any amendment shall be taken only by call of the yeas and nays, which shall be entered upon the journals of the two houses; and an unfavorable vote at any stage preceding final action shall be verified by call of the yeas and nays, to be entered in like manner. At such joint session a legislative amendment receiving the affirmative votes of a majority of all the members elected, or an initiative amendment receiving the affirmative votes of not less than one-fourth of all the members elected, shall be referred to the general court next to be elected.

ART. 87. *Submission to the People.* If in the general court next elected a legislative amendment shall again be agreed to in joint session by a majority of all the members elected, or if an initiative amendment shall again receive the affirmative votes of at least one-fourth of all the members elected, such fact shall be certified by the clerk of such joint session to the secretary of the commonwealth, who shall submit the amendment to the people at the next biennial state election.

An amendment shall become part of the constitution if approved, in the case of a legislative amendment, by a majority of the voters voting thereon, or if approved, in the case of an initiative amendment or a legislative substitute, by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such amendment.

LEGISLATIVE ACTION ON PROPOSED LAWS.

ART. 88. *Legislative Procedure.* If an initiative petition for a law is introduced into the general court, signed by not less than twenty thousand qualified voters, a vote shall be taken by yeas and nays in both houses before the first Wednesday of the following June upon the enactment of such law in the form in which it stands in such petition. If the general court fails to enact such law before such first Wednesday of June, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit such proposed law to the people at the next biennial state election. If it shall be approved by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such law, it shall become law, and shall take effect in thirty days after such state election or at such time after such election as may be provided in such law.

ART. 89. *Amendment by Petitioners.* If the general court fails to pass a proposed law before such first Wednesday of June, a majority of the first ten signers of the initiative petition therefor shall have the right, subject to certification by the attorney-general filed as hereinafter provided, to amend the measure which is the subject of such petition. An amendment so made shall not invalidate any signature attached to the petition. If the measure so amended, signed by a majority of the first ten signers, is filed with the secretary of the commonwealth before the first Wednesday of the following July, together with a certificate signed by the attorney-general to the effect that the amendment made by such proposers is in his opinion perfecting in its nature and does not materially change the substance of the measure, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit the measure to the people in its amended form.

CONFLICTING AND ALTERNATIVE MEASURES.

ART. 90. If in any judicial proceeding, provisions of constitutional amendments or of laws approved by the people at the same election are held to be in conflict, then the provisions contained in the measure that received the largest number of affirmative votes at such election shall govern.

ART. 91. A constitutional amendment approved at any election shall govern any law approved at the same election.

ART. 92. The general court, by resolution passed as hereinbefore set forth, may provide for grouping and designating upon the ballot as conflicting measures or as alternative measures, only one of which is to be adopted, any two or more proposed constitutional amendments or laws which have been or may be passed or qualified for submission to the people at any one election: provided, that a proposed constitutional amendment and a proposed law shall not be so grouped, and that the ballot shall afford an opportunity to the voter to vote for each of the measures or for only one of the measures, as may be provided in said resolution, or against each of the measures so grouped as conflicting or as alternative. In case more than one of the measures so grouped shall receive the vote required for its approval as herein provided, only that one for which the largest affirmative vote was cast shall be deemed to be approved.

THE REFERENDUM.

WHEN STATUTES SHALL TAKE EFFECT.

ART. 93. No law passed by the general court shall take effect earlier than ninety days after it has become a law, excepting laws declared to be emergency laws and laws which may not be made the subject of a referendum petition, as herein provided.

EMERGENCY MEASURES.

ART. 94. A law declared to be an emergency law shall contain a preamble setting forth the facts constituting the emergency, and shall contain the statement that such law is necessary for the immediate preservation of the public peace, health, safety or convenience. A separate vote shall be taken on the preamble by call of the yeas and nays, which shall be recorded, and unless the preamble is adopted by two-thirds of the members of each house voting thereon, the law shall not be an emergency law.

But if the governor, at any time before the election at which a law may be submitted to the people on referendum, files with the secretary of the commonwealth a statement declaring that in his opinion the immediate preservation of the public peace, health, safety or convenience requires that such law should take effect forthwith and that it is an emergency law and setting forth the facts constituting the emergency, then such law, if not previously suspended as hereinafter provided, shall thereupon take effect, or if such law has been so suspended such suspension shall thereupon terminate and such law shall take effect.

No grant of any franchise or amendment thereof, or renewal or extension thereof for more than one year shall be declared to be an emergency law.

REFERENDUM PETITIONS.

ART. 95. *Contents.* A referendum petition may ask for a referendum to the people upon any law enacted by the general court which is not herein expressly excluded.

ART. 96. *Excluded Matters.* No law that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal or compensation of judges; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that appropriates money for the current or ordinary expenses of the commonwealth or for any of its departments, boards, commissions or institutions shall be the subject of a referendum petition.

ART. 97. *Mode of Petitioning for the Suspension of a Law and a Referendum thereon.* A petition asking for a referendum on a law, and requesting that the operation of such law be suspended, shall first be signed by ten qualified voters and shall then be filed with the secretary of the commonwealth not later than thirty days after the law that is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than fifteen thousand qualified voters of the commonwealth, then the operation of such law shall be suspended, and the secretary of the commonwealth shall submit such law to the people at the next biennial state election, if thirty days intervene between the date when such petition is so completed and filed with the secretary of the commonwealth and the date for holding such state election; if thirty days do not so intervene, then such law shall be submitted to the people at the next following biennial state election, unless in the meantime it shall have been repealed; and if it shall be approved by a majority of the qualified voters voting thereon, such law shall, subject to the provisions of the constitution, take effect in thirty days after such election, or at such time after such election as may be provided in such law; if not so approved such law shall be null and void; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election.

ART. 98. *Petitions for Referendum on an Emergency Law or a Law the Suspension of which is not asked for.* A referendum petition may ask for the repeal of an emergency law or of a law which takes effect because the referendum petition does not contain a request for suspension, as aforesaid. Such petition shall first be signed by ten qualified voters of the commonwealth, and shall then be filed with the secretary of the commonwealth not later than thirty days after the law which is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the

ballot together with the names and residences of the first ten signers. If such petition filed as aforesaid is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than ten thousand qualified voters of the commonwealth protesting against such law and asking for a referendum thereon, then the secretary of the commonwealth shall submit such law to the people at the next biennial state election, if thirty days intervene between the date when such petition is so completed and filed with the secretary of the commonwealth and the date for holding such state election. If thirty days do not so intervene, then it shall be submitted to the people at the next following biennial state election, unless in the meantime it shall have been repealed; and if it shall not be approved by a majority of the qualified voters voting thereon, it shall, at the expiration of thirty days after such election, be thereby repealed: but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election.

General Provisions.

IDENTIFICATION AND CERTIFICATION OF SIGNATURES.

ART. 99. Provision shall be made by law for the proper identification and certification of signatures to the petitions hereinbefore referred to, and for penalties for signing any such petition, or refusing to sign it, for money or other valuable consideration, and for the forgery of signatures thereto. Pending the passage of such legislation all provisions of law relating to the identification and certification of signatures to petitions for the nomination of candidates for state offices or to penalties for the forgery of such signatures shall apply to the signatures to the petitions herein referred to. The general court may provide by law that no co-partnership or corporation shall undertake for hire or reward to circulate petitions, may require individuals who circulate petitions for hire or reward to be licensed, and may make other reasonable regulations to prevent abuses arising from the circulation of petitions for hire or reward.

LIMITATION ON SIGNATURES.

ART. 100. Not more than one-fourth of the certified signatures on any petition shall be those of registered voters of any one county.

FORM OF BALLOT.

ART. 101. Each proposed amendment to the constitution, and each law submitted to the people, shall be described on the ballots by a description to be determined by the attorney-general, subject to such provision as may be made by law, and the secretary of the commonwealth shall give each question a number and cause such question, except as otherwise authorized herein, to be printed on the ballot in the following form:

ART. 102. In the case of an amendment to the constitution: Shall an amendment to the constitution (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved?

YES.	
NO.	

ART. 103. In the case of a law: Shall a law (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved?

YES.	
NO.	

INFORMATION FOR VOTERS.

ART. 104. The secretary of the commonwealth shall cause to be printed and sent to each registered voter in the commonwealth the full text of every measure to be submitted to the people, together with a copy of the legislative committee's majority and minority reports, if there be such, with the names of the majority and minority members thereon, a statement of the votes of the general court on the measure, and a description of the measure as such description will appear on the ballot; and shall, in such manner as may be provided by law, cause to be prepared and sent to the voters other information and arguments for and against the measure.

THE VETO POWER OF THE GOVERNOR.

ART. 105. The veto power of the governor shall not extend to measures approved by the people.

THE GENERAL COURT'S POWER OF REPEAL.

ART. 106. Subject to the veto power of the governor and to the right of referendum by petition as herein provided, the general court may amend or repeal a law approved by the people.

INITIATIVE AND REFERENDUM DECLARED TO BE SELF-EXECUTING.

ART. 107. The provisions of the initiative and referendum are self-executing, but legislation not inconsistent with anything therein contained may be enacted to facilitate the operation of such provisions.

STATE BUDGET AND VETO OF ITEMS BY THE GOVERNOR. — LENDING CREDIT OF COMMONWEALTH.

ART. 108. *The Budget.* Within three weeks after the convening of the general court the governor shall recommend to the general court a budget which shall contain a statement of all proposed expenditures of the commonwealth for the fiscal year, including those already authorized by law, and of all taxes, revenues, loans and other means by which such expenditures shall be defrayed. This shall be arranged in such form as the general court may by law prescribe, or, in default thereof, as the governor shall determine. For the purpose of preparing his budget, the governor shall have power to require any board, commission, officer or department to furnish him with any information which he may deem necessary.

ART. 109. *The General Appropriation Bill.* All appropriations based upon the budget to be paid from taxes or revenues shall be incorporated in a single bill which shall be called the general appropriation bill. The general court may increase, decrease, add or omit items in the budget. The general court may provide for its salaries, mileage, and expenses and for necessary expenditures in anticipation of appropriations, but before final action on the general appropriation bill it shall not enact any other appropriation bill except on recommendation of the governor. The governor may at any time recommend to the general court supplementary budgets which shall be subject to the same procedure as the original budget.

ART. 110. *Special Appropriation Bills.* After final action on the general appropriation bill or on recommendation of the governor, special appropriation bills may be enacted. Such bills shall provide the specific means for defraying the appropriations therein contained.

ART. 111. *Submission to the Governor.* The governor may disapprove or reduce items or parts of items in any bill appropriating money. So much of such bill as he approves shall upon his signing the same become law. As to each item disapproved or reduced, he shall transmit to the house in which the bill originated his reasons for such disapproval or reduction, and the procedure shall then be the same as in the case of a bill disapproved as a whole. In case he shall fail so to transmit his reasons for such disapproval or reduction within five days after the bill shall have been presented to him, such items shall have the force of law unless the general court by adjournment shall prevent such transmission, in which case they shall not be law.

ART. 112. The credit of the commonwealth shall not in any manner be given or loaned to or in aid of any individual, or of any private association, or of any corporation which is privately owned and managed.

ART. 113. The commonwealth may borrow money to repel invasion, suppress insurrection, defend the commonwealth, or to assist the United States in case of war, and may also borrow money in anticipation of receipts from taxes or other sources, such loan to be paid out of the revenue of the year in which it is created.

ART. 114. In addition to the loans which may be contracted as before provided, the commonwealth may borrow money only by a vote, taken by the yeas and nays, of two-thirds of each house of the general court present and voting thereon. The governor shall recommend to the general court the term for which any loan shall be contracted.

ART. 115. Borrowed money shall not be expended for any other purpose than that for which it was borrowed or for the reduction or discharge of the principal of the loan.

THE EXECUTIVE DEPARTMENT.

THE GOVERNOR.

ART. 116. There shall be a supreme executive magistrate, who shall be styled THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be HIS EXCELLENCY.

ART. 117. The governor shall be chosen biennially; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding.

ART. 118. Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth shall, at a meeting to be called for that purpose, on the Tuesday next after the first Monday in November biennially, give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of such list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the first Wednesday in January; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before such first Wednesday in January; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before such day; and the secretary shall lay the same before the senate and the house of representatives on the first Wednesday in January, to be by them examined; and the person having the highest number of votes shall be deemed and declared to be elected, but if no person shall have been so elected, the house of representatives on the first Wednesday in January shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor.

ART. 119. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and the governor with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land.

ART. 120. The governor, with the advice of the council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess; and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the general court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other, the most convenient place within the state.

ART. 121. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment or prorogation, the governor, with the advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

ART. 122. The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of the council; but no charter of pardon, granted by the governor, with the advice of the council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

ART. 123. All judicial officers, the solicitor-general, and coroners, shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

Notaries public shall be appointed by the governor in the same manner as judicial officers are appointed, and shall hold their offices during seven years. Women shall be eligible to appointment as notaries public. Change of name shall render the commission void, but shall not prevent reappointment under the new name. The governor, with the consent of the council, may remove justices of the peace and notaries public.

ART. 124. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the governor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto. The tenure, that all commissioned officers shall by law have in their offices, shall be expressed in their respective commissions.

ART. 125. All money received on account of the commonwealth from any source whatsoever shall be paid into the treasury thereof.

No moneys shall be issued out of the treasury of this commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

ART. 126. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors, adjacent.

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively.

ART. 127. As the public good requires that the governor should not be under the undue influence of any of the members of the general court by a dependence on them for his support, that he should in all cases act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns, and that he should maintain the dignity of the commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

THE LIEUTENANT-GOVERNOR.

ART. 128. There shall be biennially elected a lieutenant-governor of the commonwealth of Massachusetts, whose title shall be HIS HONOR; and who shall be qualified, in point of residence in the commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; and if no one person shall be found to have the highest number of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no person shall have the highest number of the votes of the people to be governor.

ART. 129. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

ART. 130. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which by this constitution the governor is vested with, when personally present.

THE COUNCIL.

ART. 131. There shall be a council for advising the governor in the executive part of the government, to consist of eight persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time.

hold and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land.

ART. 132. Eight councillors shall be biennially chosen by the inhabitants of this commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The general court, at its first session after each decennial state census, shall divide the commonwealth into eight districts of contiguous territory, each of which districts shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the general court, and each of such eight districts containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the elections, shall be the same as are required in the election of governor.

ART. 133. In case of a vacancy in the council, from a failure of election, or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the same by appointment of some eligible person.

ART. 134. And that there may be no delay in the organization of the government on the first Wednesday in January, the governor, with at least five councillors for the time being, shall biennially, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before such first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on such first Wednesday in January, to be by them examined; and in case of the election of either of such officers, the choice shall be by them declared and published; but in case there shall be no election of either of such officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

ART. 135. The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant-governor.

ART. 136. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority.

ART. 137. Whenever the offices of governor and lieutenant-governor shall both be vacant, by reason of death, absence from the commonwealth, or otherwise, then one of the following officers, in the order of succession herein named, namely, the secretary, attorney-general, treasurer, and auditor, shall, during such vacancy, have full power and authority to do and execute all and every such acts, matters and things as the governor or the lieutenant-governor might or could lawfully do or execute, if they, or either of them, were personally present.

SECRETARY. TREASURER. AUDITOR. ATTORNEY-GENERAL.

ART. 138. The secretary, treasurer, auditor, and attorney-general, shall be chosen biennially, on the Tuesday next after the first Monday in November; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of two years from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for such office on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like manner be filled by choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen

or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of such offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment.

No person shall be eligible to election to the office of treasurer for more than three successive terms.

ART. 139. The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

THE JUDICIAL DEPARTMENT.

ART. 140. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature; and provided also that the governor, with the consent of the council, may after due notice and hearing retire them because of advanced age or mental or physical disability. Such retirement shall be subject to any provisions made by law as to pensions or allowances payable to such officers upon their voluntary retirement.

ART. 141. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed or another person appointed, as shall most conduce to the well-being of the commonwealth.

ART. 142. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places.

ART. 143. All causes of marriage, divorce, and alimony, and all appeals from the judges of probate, shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision.

ART. 144. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

ART. 145. All the laws which have heretofore been adopted, used, and approved in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature, such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

ART. 146. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

THE MILITIA.

ART. 147. The general court shall provide by law for the recruitment, equipment, organization, training and discipline of the military and naval forces. The governor shall be the commander-in-chief thereof, and shall have power to assemble the whole or any part of them for training, instruction or parade, and to employ them for the suppression of rebellion, the repelling of invasion, and the enforcement of the laws. He may, as authorized by the general court, prescribe from time to time the organization of the military and naval forces and make regulations for their government.

ART. 148. All military and naval officers shall be selected and appointed and may be removed in such manner as the general court may by law prescribe, but no such officer shall be appointed unless he shall have passed an examination pre-

pared by a competent commission or shall have served one year in either the federal or state militia or in military service. All such officers who are entitled by law to receive commissions shall be commissioned by the governor.

OATHS OF OFFICE. INCOMPATIBLE OFFICES. DISQUALIFICATIONS FOR OFFICE.

ART. 149. The following oaths shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this commonwealth, before he shall enter on the duties of his office, to wit:

"I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, GOD."

"I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as , according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth. So help me, GOD."

Provided, that when any person shall decline taking such oaths, he shall make his affirmation in the foregoing forms, omitting the word "swear" in the first oath, and inserting, instead thereof, the word "affirm," and omitting the words "swear and" in the second oath, and omitting the words "So help me, GOD," in each oath, and subjoining, instead thereof, the words "This I do under the pains and penalties of perjury."

No oath, declaration, or subscription, excepting the above oaths, shall be required of the governor, lieutenant-governor, councillors, senators, or representatives, to qualify them for the duties of their respective offices.

The said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor and councillors, before the president of the senate, in the presence of the two houses of the legislature; and by the senators and representatives before the governor and council for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

ART. 150. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of such court may hold the office of justice of the peace through the state; nor shall they hold any other place or office, or receive any pension or salary from any other state or government or power whatever.

No person shall be capable of holding or exercising at the same time, within this commonwealth, more than one of the following offices, namely: judge of probate, sheriff, register of probate, or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the state at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

No person holding the office of judge of the supreme judicial court, secretary, attorney-general, solicitor-general, treasurer, judge of probate, commissary-general, sheriff, clerk of the house of representatives, register of probate, register of deeds, clerk of the supreme judicial court, or clerk of the inferior court of common pleas, shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in the council; or any councillor shall accept of either of those offices or places.

ART. 151. And no person shall ever be admitted to hold a seat in the general court, or any office of trust or importance under the government of this commonwealth, who shall, in due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

ART. 152. No judge of any court of this commonwealth, (except the court of sessions) and no person holding any office under the authority of the United States, (postmasters excepted) shall, at the same time, hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this commonwealth; and no judge of any court in this commonwealth, (except the court of sessions) nor the attorney-general, solicitor-general, district

attorney, clerk of any court, sheriff, treasurer, register of probate, nor register of deeds, shall continue to hold such office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of such office; and judges of the courts of common pleas shall hold no other office under the government of this commonwealth, the office of justice of the peace and militia offices excepted.

THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE.

ART. 153. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences which qualified them for public employments, both in church and state; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of GOD, the advantage of the Christian religion, and the great benefit of this and the other United States of America, it is declared, that the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy, all the powers, authorities, rights, liberties, privileges, immunities, and franchises, which they now have, or are entitled to have, hold, use, exercise, and enjoy; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

ART. 154. And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies, and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college by some other description, under several charters, successively; it is declared, that all the said gifts, grants, devises, legacies, and conveyances, are hereby forever confirmed unto the president and fellows of Harvard College, and to their successors in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

ART. 155. Nothing herein shall be construed to prevent the general court of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the general court under the provisions of the constitution adopted in seventeen hundred and eighty.

ART. 156. Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments, among the people.

CONTINUANCE AND ENROLLMENT.

ART. 157. Upon the ratification and adoption by the people of this rearrangement of the existing constitution and the amendments thereto, the constitution shall be deemed and taken to be so rearranged and shall appear in such rearranged form in all future publications thereof. Such rearrangement shall not be deemed or taken to change the meaning or effect of any part of the constitution or its amendments as theretofore existing or operative.

ART. 158. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of such laws.

The rearranged form was ratified and adopted by the people Tuesday, November 4, 1919, by a vote of 263,359 to 64,978.

SETTLEMENT OF LABOR DISPUTES.

Mr. John D. W. Bodfish of Barnstable offered the following resolution (No. 428):

Resolved, That it is expedient to amend the Constitution by the adoption of the subjoined

ARTICLE OF AMENDMENT.

The General Court shall, during its session next following the adoption of this amendment, provide for the adjudication of disputes between employers and employees and for the prevention of lock-outs, strikes and other causes of involuntary or unnecessary unemployment, and shall fix penalties; and the General Court may, from time to time thereafter, make such other provisions as may be reasonable or necessary to carry out the purpose of this amendment.

The committee on Rules and Procedure reported, Wednesday, August 13, 1919, that the rule providing for the admission of the resolution ought NOT to be suspended.

The Convention refused to admit the resolution.

THE DEBATE.

Mr. BODFISH of Barnstable: I realized when I made this motion that it was not likely to meet with the approval of the committee on Rules, but a situation has developed which demands our attention. We are in the midst of an industrial war, which rapidly is approaching a crisis. We lately have witnessed the triumphant return of the army which we raised and sent abroad to put down a nation in Europe which sought by force to impose its will upon the rest of the world. Still we foster in our midst organizations of employers and employees which continually are resorting to force to gain their ends. The suffering of the non-combatants in the great war in Europe aroused our sympathy, and we attempted to comfort ourselves by the thought that it was an evil necessarily incident to the condition of war. Yet we complacently look upon the suffering of non-combatants here in the present struggle between employers and employees. That struggle is resulting in constant suffering and injury to aged persons, helpless children, and defenceless mothers, and financial loss and inconvenience to us all. The people have a right to look to this Convention for help, because we are in session, and because we have the surest and quickest means of relief at our command. We ought not to permit our personal interests to prevent us from performing our plain duty, nor to serve as an excuse for shirking our responsibilities. We ought to submit an amendment for the people to vote upon in November, and put an end to this evil condition at the earliest possible moment. My sympathies always have been with labor. My lot was cast with the toilers. I know by experience their hardships and their problems,

yet I cannot follow them in their appeal to force to gain their demands without inquiry as to their merits. It is indeed wrong that any man should eat bread by the sweat of another man's face, but that wrong never will be righted by stopping the wheels of industry, nor by the destruction of property, nor by assassination. Every such resort to force is an attack upon our form of popular government which our grandsires gave their lives to establish and our sires their lives to preserve, and unless we are altogether unworthy of them we shall see to it that such heroic sacrifice as theirs shall not have been in vain. We shall take this Constitution which they have given us, and which is founded upon liberty and not upon license, which was established upon written law approved by the commonsense of the majority and not upon the passing whims or mere caprice of temporary rulers, — we shall take this Constitution, I say, and pass it on to posterity so amended that it shall bring all who dwell within the confines of this Commonwealth under the reign of law and order. We should mark well that man who in the face of recent events still lifts his voice in defence of an appeal to force for the settlement of any controversy in Massachusetts. For whether he appreciates it or not he is aiding and abetting anarchy and helping to spread the spirit of nihilism and disorder. There should be no reason or room for such as he under the stars and stripes, which God forbid should ever shelter wrong.

Mr. Brown of Brockton: I admire the courage of any man who will introduce a resolution at this time for the purpose of trying to awaken this Convention to some recognition of its responsibility in view of the disturbed economic conditions that surround this Commonwealth and this Nation. It is no small voice like mine that points attention to the possibility of what may come.

We are in the eddies of a great economic evolution. It is going to surge to the final solution. It is for the uplift of humanity. It seeks equal and exact justice. Unless this evolution has full opportunity to express itself, — if it is denied expression in an orderly channel by the absence of constitutional provisions which we here may furnish, — then we wittingly or unwittingly are tying down the safety-valve, and an explosion may come. Revolution is the result of an attempt to repress evolution. If it is repressed, those who fomented the revolution are called and known as rebels. If it is not repressed, those who bring revolution to a successful termination and establish a government on their principles find a page in history as great men. That is the history of the past.

I have finished. I, for one, would stay here and try to contribute in some way to produce constitutional provisions whereby even and exact justice in the relations between the producer and the consumer, between capital and labor, could triumph over all obstacles in a peaceable change.

I am sorry that the temper of the Convention is against further deliberation. I recognize it. It is determined to do nothing. This Convention thinks it has done enough. Its members are going home. I only hope that in the future it never may have cause to regret its haste.

Mr. Underhill of Somerville: I am with the principle of this proposition, and had the gentleman and the members of the Convention shown some interest in the bill introduced by me in the Legislature

of last year we might have obviated some of the troubles we have to-day. But, until the public can demand that legislation be formed whereby labor-unions shall be incorporated and made responsible for their acts, and until the time comes that labor-unions when they make a contract have got to keep to that contract, just the same as every individual has to when he makes a contract, it is useless to put such stuff as this upon the statute-books or in the Constitution. There is the remedy, through legislation and through public opinion, and you men here can arouse public opinion, and if you will come up to the Legislature next year, and I am there, I shall do my best to put it into law.



BIENNIAL SESSIONS OF THE GENERAL COURT.

Mr. Samuel W. George of Haverhill offered the following resolution (No. 429):

Resolved, That it is expedient to amend the Constitution by the adoption of the subjoined

ARTICLE OF AMENDMENT.

The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other.

The political year shall begin on the first Wednesday in January, and the General Court shall assemble biennially on the first Wednesday in January following their election, and shall, if in session, stand adjourned without day at twelve o'clock noon on the last Thursday in June next following, and shall dissolve and be dissolved on the day next preceding the first Wednesday in January in the third year following their election, without any proclamation or other act of the Governor, and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

Extraordinary sessions of the General Court may be [illegible]lled at such other times as they shall judge necessary, [illegible] Governor, to consider no business other than [illegible]ecifically stated in the call or proclamation

[illegible]reported, Wednesday, August 13, [illegible] resolution ought NOT to be

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other things that we have introduced here within the last two years were acted upon with the idea that great results were to follow. There was the municipalizing of industries or the business of dealing in the necessaries of life; yet, with the unusual opportunity for cities and towns to furnish necessaries of life, we find that they are not doing it. And I think a great many of those things have failed of their purpose.

Now, after the publication some time ago of the very able report of the commission on the high cost of living, issued in 1910, when sirloin steak was selling for 28 cents per pound and pork chops were selling for 16 cents per pound, it was thought advisable to have an investigation of the high cost of living. I remember very distinctly that one of the features in that report was the reference to the increased cost of government as an important factor in the cost of living. I think that was true. In the year 1909, the year before that report was made, the appropriations of this Commonwealth amounted to around $12,000,000. This year the appropriations or the authorizations amount to $61,000,000. Our increased cost of government has gone up five times, while the increased cost of necessaries of life has gone up about three times. It seems to me that here is an opportunity to do something that will affect the cost of living. For instance, in 1901 we codified the revised laws. We had two volumes containing 227 chapters with 1,915 pages. That was completed in November, 1901. In less than eight months a new Legislature had added 545 laws, and they have been adding from 500 to 700 laws every other six months since, until now they have added 11,160 laws, at a total expense of over $11,160,000 to the taxpayers of the Commonwealth.

Now, we can submit the question of biennial sessions of the Legislature to the people this fall and, if accepted, it will save, in my judgment, from eight to ten million dollars within the next 20 years. Next year we have a Legislature that will cost the Commonwealth a million dollars, and that means that every year thereafter for the next 20 years it will be a million-dollar Legislature. Now I want to ask the members of this Convention if they think there is any substantial reason for having the Legislature of Massachusetts in session every other six months to pass from 500 to 700 new laws.

The PRESIDENT: The time of the member has expired.

Mr. GEORGE: I ask unanimous consent to finish my statement. It will take but a minute or two. [Cries of "Go on."]

Here is a real accomplishment. I am satisfied that if this matter was placed on the ballot the people of Massachusetts would accept it, following the adoption of biennial elections. You will observe by the text of the proposal before us that we have a limit on the sessions of the Legislature. Three-quarters of the States of the Union have a limit on the sessions of their Legislatures. We provide that if the Legislature is in session on the last Thursday of June it adjourns at 12 o'clock without day. It also provides that extra sessions can be called to meet emergencies.

I am not going to ask this Convention to suspend the rules for the purpose of discussing this matter, but I should like to have every member who believes that it is not necessary to pass 500 to 700 new laws every other six months, that cost the State from $800,000 to a million a year, to vote to admit this proposal. We know that these

laws are more or less of a nuisance and, as the gentleman from Beverly has said, when a lawyer sits down to look up a subject he has to wade through immense volumes containing nearly 20,000 pages. Then again we are confronted with another task of codifying and revising the statutes, which will cost several hundred thousand dollars. It might be very interesting to state here that the last revision began in 1896 and ended in 1901 and cost the State $201,000. At that time they had a committee of the Legislature of about 50 members, but I noticed that they paid them $7 a day and the members who failed to perform service did not get any money. The work was done very expeditiously and it was done very economically. Now that is somewhat different from the proposition to pay 60 men $1,000 apiece for doing two months' work.

We all realize that the expense of this Commonwealth is increasing. We all know, as the report on the high cost of living said ten years ago, that the increased cost of government means increased taxation; increased taxation means increased rents; high rents mean that every wage-earner has to pay just so much more out of his weekly wage. When they say that the wage-earners, the men who work, are opposed to biennial sessions, I want to say that many of the wage-earners of this Commonwealth refuse to be humbugged by any such statement. For ten years the Legislature of this Commonwealth has not passed a bill that has added a dollar to the pocket of any wage-earner in this Commonwealth. Moreover they have passed thousands of bills, and have spent millions of dollars that have been assessed onto the property of this Commonwealth and then paid by the tenants, and the tenants are the men who work for wages.

I have said all that I intended to say. Members who think that we ought to continue at the rate of a million dollars a year to run this big industry of making laws that interfere with the rights of people, and burden people with additional taxation, ought to support the Committee and vote no. On the other hand, if they agree with me they ought to vote yes.

TERMS OF OFFICE OF ELECTIVE OFFICERS.

Mr. Edmund G. Sullivan of Salem offered the following resolution (No. 431):

Resolved, That it is expedient to amend the Constitution by the adoption of the subjoined

ARTICLE OF AMENDMENT.

No person shall be eligible to hold an elective State office for more than three successive terms.

The resolution was considered forthwith, under a suspension of the rules, moved by Mr. Luce of Waltham.

The Convention refused to admit the resolution.

THE DEBATE.

Mr. Sullivan of Salem: I am sorry that this resolution is read first. I had another one that I think was much more important, and I wanted it read first. I put this resolution in after looking into the matter and running over the records of some of the men who have been holding public office since before I was born. They always have held one public office or another provided there was any money in it; so that to-day, instead of having men serving for the good that they can do the public and the community, the State and the Nation, there are many of them who are holding public office because it is a job. Some of those I have in mind showed their attitude, in my judgment, in the last Legislature, when they boosted their own salaries $500. They may or may not be worth it. But it seems to me that if, when our State Constitution was adopted, it was a good policy to limit a State Treasurer to not more than five successive terms of one year, now, with biennial elections, which give a lot of professional politicians a chance to get more firmly entrenched in office, — it seems to me that, with biennial elections, three successive terms in the same office for any man is enough. That will give him six years. Then he can lay off a term; and if the man who succeeds him has proven a better man he can continue in office for his six years; if he does not prove a better man the first man has a chance to go back again. But we all know, those of us who have had any experience in politics, that once a man gets in it is almost impossible to get him out. If this resolution is adopted he has got to get out. As the gentleman from Waltham says, it is a very simple resolution, — we all can understand it. Of course, I can see the smiles on some of the old-time faces here, — men who have been in the Legislature for years, and I admit the resolution hits them, but I think it will do them good; they would make more money in private life than they do in politics.

Mr. Luce of Waltham: I do not desire to address myself in the slightest to the subject-matter of the proposal, but rather to call to the attention of this Convention two or three considerations bearing

upon the broad question of whether it is expedient for us to undertake to address ourselves either to old or to new proposals for the amendment of the Constitution. Yesterday there were able to be present about two-thirds of the delegates. It is altogether improbable that a majority of the delegates, necessary for a quorum, would find it practicable to stay here for any length of time. If we undertook to face these particular proposals, we should be confronted by the necessity, called for by fair play, of listening to every other proposal that might be made. There is no doubt that many gentlemen here feel very keenly that this or the other change might be made to great advantage in our Constitution. I confess I share that desire in certain particulars. But in view of all the circumstances, for one, I am quite willing to sacrifice my own inclinations, and, for the common convenience and for the public welfare, am willing to consider the work of this Convention finished.

It should be borne in mind that one of our accomplishments has been to furnish the people of the Commonwealth an easier way of amending the Constitution. Previously it was very difficult to secure amendments. Now it is possible with some degree of freedom to remedy such evils as may arise, through the procedure we have devised.

Furthermore, it is to be borne in mind that we received our commission from the people more than two years ago. Much water has flowed under the bridge since we were elected. It is by no means certain that as a body we to-day reflect the temper of the people of Massachusetts. It would be somewhat dangerous to assume that a Constitutional Convention might sit during a long period and still hold that it adequately embodied the will of the people of Massachusetts.

To these practical and these theoretical considerations I ask your serious attention, and urge you to take the ground that we believe we have done our duty to the best of our ability, that our work is over, and that now we will return into the body of the citizens.

Mr. CREAMER of Lynn: May I suggest to the members of the Convention the desirability of not taking any hard and fast attitude on this question of the admission for consideration of new constitutional amendments? I believe that this Convention can be trusted to decide, certainly by a two-thirds vote, each individual instance by itself. I can conceive of new constitutional amendments that it might be extremely advantageous to the people of this Commonwealth that we should submit to the voters this fall. This is a period of industrial discontent. Times are not normal. As the member from Waltham has said truly, much water has flowed under the bridge since we got our commission from the people. Many changes have occurred. It seems to me that it is desirable that some of them should be considered by us. The fact that we got our mandate from the people in 1917 is of little consequence, because whatever action we take the people will have to pass upon finally; and if we submit to the people new constitutional amendments they have the power to reject them if they see fit. We cannot take any conclusive action on any subject, such as legislative bodies can take.

For that reason, sir, I hope that this Convention will not vote simply to submit a recodification of the Constitution and stop. I am

aware that it will be inconvenient for many of us to stay here any great length of time, and I think that fact alone would prevent the Convention from giving consideration to new proposed constitutional amendments not generally acceptable to the Convention itself. I sincerely hope that on this constitutional amendment, — this proposed constitutional amendment, — submitted by the member from Salem, the Convention will consider it on its merits. Personally I think it has much merit.

Mr. Sullivan of Salem: I dislike to take the floor again, but I noticed that my friend from Waltham (Mr. Luce) did not appeal to the judgment of the members of the Convention. He appealed to their selfish interests by saying that if the rules were suspended we might be here two weeks. What if we are here two weeks? As near as I can get at it this morning, an ample appropriation was made for our expenses, and the Committee on Pay-roll and Contingent Expenses are going to put in an order that we get $50 each, plus mileage. Who here has got the face to go and take $50 for what we will do here in the two days? I think if we are going to take the $50, — there does not seem to be any other way out of it, it has been appropriated, — we might stay here at least for the balance of this week and do some real work for our money.

Then, the gentleman from Waltham spoke of the easy way to amend the Constitution, — through the initiative and referendum, I presume, although he did not mention it by name. I am wondering if the gentleman from Waltham ever expects to see me use that instrument, which I tried so hard to defeat and throw out during the 1917 session. I am not particularly fussy about this resolution. I am leaving it, absolutely on its own merits. It is simple. I do not want the Convention to decide any business on an appeal to its selfish instincts made by the gentleman from Waltham, but rather on its merits. If we want to have an oligarchy of office-holders running us forever, why, let things go as they are. Look at the last Legislature. Practically two-thirds of them have been here for years. Let us fix it so that there will be more new ones each year, to keep us abreast of the times and the "water flowing under the bridge," the gentleman from Waltham mentioned.

RECESS COMMITTEES OF THE GENERAL COURT.

Mr. Edmund G. Sullivan of Salem offered the following resolution (No. 432):

Resolved, That it is expedient to amend the Constitution by the adoption of the subjoined

ARTICLE OF AMENDMENT.

Article LXV of the Amendments of the Constitution is hereby amended by striking out the words "except a committee appointed to examine a general revision of the statutes of the Commonwealth when submitted to the General Court for adoption".

The resolution was considered forthwith, under a suspension of the rule, moved by Mr. Luce of Waltham.

The Convention refused, by a vote of 14 to 147, to admit the resolution.

THE DEBATE.

Mr. SULLIVAN of Salem: You will recall in our fight last year (1918 session), with regard to recess committees, that at the earnest request of the gentleman from Wellesley (Mr. Pillsbury) we put in a clause that there should be no paid recess committees "except those that might be appointed to codify the statutes every ten, fifteen or twenty years." At the time I voted for that amendment of his with considerable misgiving, but yielded my own judgment in the matter to some of those who I thought had had greater experience. Now, you all have followed the doings of the 1919 Legislature, I think, more or less closely. I think that all of us have been somewhat taken aback at the way certain members of the Legislature, in both the House and the Senate, tried to use that loophole as a means of creating a recess committee of sixty or seventy-five men at $1,000 apiece, simply to get round the amendment we already had submitted to the people and which they adopted at the last State election. Never before had a recess committee been suggested of any such size as 75 to codify the laws; it was just a piece of political graft, pure and simple; and finally it was killed, in my judgment, only by an aroused public opinion, that, in turn, was aroused by an alert press. The press perhaps might not have been aroused to the steal had it not been for the fact that one of the Senators attacked the press; and there is no doubt, I think, as nearly as I can find out from the people of my district, — and I see a great many of them every week from all over the district, — that they would like to see, as a result of this recess committee scandal in the 1919 Legislature, something done that would forever close up that loophole, so that we would not have any such spectacle as we had here this year. I hope the rule will be suspended and the amendment submitted to the people. It is as simple as can be. There is no long argument, there are no words to be changed or

anything else. Just close up that loophole that the legislators have got now.

Mr. Underhill of Somerville: The gentleman from Salem is a little bit mixed in his understanding of what occurred in the last Legislature regarding the appointment of a recess committee to codify the laws. It is true that one branch of the Legislature had before it a proposition for the appointment of a large committee to recodify the laws. But when the matter came before the House and even a smaller committee, — I think 30 or 33, — was asked for, the House almost unanimously turned the proposition down. There were not enough voting for the proposition to secure a roll-call on it. I believe ten or a dozen would cover all the members of the House who voted for a recess committee to codify the laws. I know that the committee on Ways and Means, of which I was a member, voted adversely on the proposition, and the House sustained their report overwhelmingly. I believe there were one or two voices raised in support in the House and there were two men, — men in whom the public and myself have the greatest confidence, — who were sincere and honest in their belief that a committee was required to recodify the laws in proper way and shape. I do not know but what they were right. At the same time, it seemed to be a bad time to appoint a recess committee, just after so much had been said about it. I do not think that the attitude of the newspapers had much influence over the members of the House. I think their attitude from the first of the year was against the appointment of paid recess committees.

Mr. Loring of Beverly: I was in the Senate last year and I advocated a recess committee to codify the laws, and I advocated a large committee, and the amount that was to be paid, in my opinion, was not unreasonable.

I should like to explain to this body why such a committee would have been necessary, if the laws were to be codified by the first of January, when I think the codification should have been completed and adopted.

The commission to codify the laws were, by their own confession, six months in arrears in their work. They should have reported so that a recess committee could have codified the laws this summer, but the commission claimed that they could not report until October 15, leaving but two and a half months for the committees of the Legislature to examine the work of the commission and report, a work which usually is spread over an entire summer. Hence the necessity of a large committee. Twenty years ago the committee consisted of fifty-one members, and had six months in which to do their work. The committee proposed this year was one of sixty members to do fifty per cent more work in less than half the time. There are two hundred and twenty-six chapters to be codified, and each subcommittee must consist of three members, — one to follow the text, one to handle the original books, and one to serve as secretary. You can see, then, that twenty subcommittees would have an average of eleven and one-half chapters each, so that in my opinion it was absolutely necessary to have a large committee if the work was to be done and to be reported on the first of January, so that the codification could be printed in 1920.

Now the result of the defeat of the measure to appoint a recess

committee to codify the laws has been that the laws will go uncodified for another year, to the great detriment of the courts, the bar and everybody else. Any lawyer in this body knows the difficulty there is in sitting down with the statutes to-day and looking perhaps in the 1918 statutes and trying to find out what the statute law is. It is almost impossible; at any rate it takes hours to do it. If a client comes in and asks you a simple question about the labor laws or some of those other laws that have been changed so continuously, it takes several hours of study to answer intelligently. Therefore it seems to me that the prompt codification of the laws was not only desirable but absolutely necessary. Moreover, there would have been a great saving of expense had this been submitted to the Legislature the first of January, and the customary extra session of the Legislature to codify the laws would have been wholly avoided. If this committee of sixty had been appointed the Commonwealth would have saved at least $100,000 over what it will have to expend now to codify the laws next year. I do not think the matter was understood by the press, or if it was understood they wilfully misrepresented it. I think the gentleman from Salem wholly misunderstands the situation. The committee ought to have been appointed, and it would have saved the Commonwealth money if it had been appointed.

Mr. Sullivan of Salem: I think the gentleman from Somerville (Mr. Underhill) gave the whole thing away when he said that the House did not feel as though they ought to "provide any recess committees so soon after all the discussion that we had had in the 1918 session of the Constitutional Convention." That is just it. They want to let it blow over a couple of years, and then, when they get frozen in with a biennial election, they can go to it on the first year of their biennial term. When they come up for election two years after that, why, they hope the people will have forgotten all about it. I am sorry that we had so much vindication of the Senate and the Legislature by the member in the second division (Mr. Loring). That is not what we wanted. He has used up about all the time and we will not have a chance to discuss this proposal properly.

The gentleman from Beverly (Mr. Loring) says that there is "no way to codify the laws except by a committee of legislators." Oh, of course there is. They can go to work and provide for a special outside commission on which none of the legislators shall serve or, at least, not get any extra money for such service. Furthermore, would the legislators really do the work themselves, or would they leave it, as has been done in the past years, to the outside experts and to the assistants of various kinds that they can pull in here? I say no.

INTERRUPTION OF PUBLIC SERVICE.

Mr. Albert E. Pillsbury of Wellesley offered the following resolution (No. 433):

Resolved, That it is expedient to amend the Constitution by the adoption of the subjoined

ARTICLE OF AMENDMENT.

Any combination of persons, or any action by such combination or otherwise, tending to interrupt or impair any public service or the operation of any public utility, shall be unlawful. The provisions of this article may be enforced by any appropriate legislation.

The resolution was considered forthwith, under a suspension of the rule, moved by the same gentleman.

The Convention refused, by a vote of 120 to 105, by a call of the yeas and nays (two-thirds of the members present not having voted in the affirmative), to admit the resolution.

THE DEBATE.

Mr. PILLSBURY of Wellesley: I rise for the purpose of moving the amendment to the Constitution of which I have a draft here, and I move the suspension of the rule for that purpose. I can now hardly expect the rule to be suspended, but I can at least relieve my own mind and conscience of a responsibility which every member of the Convention shares, and I may say one or two things which ought to be said here for the information of posterity, if not for the benefit of our constituency to-day.

It was never more evident than it is at this moment that the Convention was assembled for the purpose of forcing the initiative and referendum upon the people of Massachusetts, and pretty much everything else has been and must be sacrificed to that Minotaur.

Mr. Walker of Brookline addressed the Chair.

The PRESIDENT: Does the member yield?

Mr. PILLSBURY: No, Mr. President. Time presses.

The PRESIDENT: The member refuses to yield.

Mr. WALKER: I rise to a point of order.

The PRESIDENT: The member will state his point of order.

Mr. WALKER: I should like to have the resolution read that the gentleman is addressing his remarks to.

The PRESIDENT: There is no motion before the House. The point of order is well taken.

Mr. PILLSBURY: I have moved the suspension of the rule for the introduction of a resolution. I do not suppose the reading of the resolution is essential to that motion, but I was about to read it when I was interrupted, and with the permission of the Chair I will read it now.

Mr. Pillsbury read the resolution.

Mr. Pillsbury: If the Convention will indulge me for a moment probably I shall not have occasion to trouble it again. I was about to say when interrupted that the initiative and referendum has been forced upon the people of Massachusetts, — a community embracing 775,889 qualified voters, 626,050 of whom are registered voters, at an election at which 428,741 of them went to the polls, — by a plurality of 8,543, in a total vote on this measure of 332,749, all of which plurality was cast in the city of Boston, the State outside Boston having recorded a plurality of 15,833 votes against it, and it cannot be doubted that this thing was done by the influence of a single Boston newspaper notoriously owned and controlled by a non-resident and a foreigner to this Commonwealth. And now, the initiative and referendum being safely tucked into the Constitution, and for fear that something might happen to it if the door is opened to anything, the Convention must turn its back upon the new emergencies arisen since we were last here, and upon its opportunity and duty to do something of real value for the people of the Commonwealth, and scuttle away at the earliest possible moment with its mileage in its pocket if it cannot get anything more. These are unpleasant facts, but such is the present situation.

My friend from Haverhill (Mr. George) is right. We ought to have biennial sessions, of vastly more consequence, between the two, than biennial elections, and we still have the opportunity and we have recent lessons which ought to convince any open-minded man that the change ought to be made, and made now. My friend from Barnstable (Mr. Bodfish) is right. There is hardly anything of more consequence to the people of this industrial State than provision for compulsory arbitration, if it can put an end as it may to this destructive warfare between labor and capital, and the Commonwealth ought to have some relief in that line at the hands of this Convention. But most of all, it ought to have and must have absolute protection in its public service and public utilities. Such interruption of these as we have seen and now are seeing, whatever the circumstances or the occasion, is intolerable, and it is for this reason and in view of the situation that confronts us to-day, that I propose the resolution which I shall move if the rule is suspended.

The American people are living to-day under a tyranny compared to which the rule of George III and his Parliament was benevolence itself. The organized working-man, euphemistically so called, has taken us by the throat and has us at his mercy. He will not allow us, except on his own terms, to enjoy our common rights, not even our right to live, for we cannot live without food, and we cannot have food without railroad transportation, and this and every other public service is now being conducted at the sufferance of organized labor, in the face of an impotent government and a helpless people, — a people professing to be competent to govern themselves.

I turn aside for a moment to congratulate the police commissioner of Boston (Mr. Edwin U. Curtis), that he does not propose to allow the police service in Boston to be held up so long as he is at the head of it. [Applause.]

It is a great public misfortune, it is a discredit to this Convention, not to say to the Commonwealth of Massachusetts, which the Convention is supposed to represent, if it cannot rise to the level of its duty

and opportunity and take some action for which the existing emergency calls aloud. I cannot say that I am surprised or disappointed at the attitude of the majority, in view of its origin and history, but the conditions under which we have reassembled at this session appear to call imperatively for some such action as I have proposed.

Mr. Brown of Brockton: If that resolution should be admitted would it be subject to amendment?

The President: The Chair so rules.

Mr. Brown: Well, if there is any time left, it is not but a little. I for one am going to vote with the gentleman from Wellesley (Mr. Pillsbury). I agree with him that we want to do something; but not what he wants. Conditions are chaotic. This Convention should not separate without trying to do more than it has done.

The necessity of more deliberation is shown by the applause that broke out here about the police trouble. Is there a valid objection to a policeman joining the Masonic fraternity? There is no more disabling a policeman for duty by an obligation to a labor-union than there is in the obligation to the Masonic fraternity or other benevolent and fraternal oganizations. Some here may think so. I have made the only answer I can make in the short time that I have. But it shows the causes of disturbed condition are the misunderstandings of undesirable facts and the Convention should remain in session and take up this question of relations between the people and the State. Do something, because it is needed.

Are you tired of hearing everybody except myself? [Laughter.]

I am pleading as strongly as I can plead that this Convention allow some of these questions to be debated in the belief that through the overshadowing influence of the Divine power which our forefathers invoked when they formulated our Constitution, there may be found some humble instrument to give this Convention something that may command the favorable attention, not only of this Commonwealth but of this entire Nation.

I hope we will suspend the rule to let in some of these resolutions and that in the consideration of them the right thing may be found. [Applause.]

Mr. Dennis D. Driscoll of Boston: I regret very much the words uttered by the gentleman in the first division (Mr. Pillsbury), as it looks like a threat and a challenge to the organized wage workers and these words may be used or made in arguments by somebody, and I trust that the gentleman in the first division (Mr. Pillsbury) will withdraw these words before they are printed in the Proceedings of the Constitutional Convention.

Do they claim that freedom does not exist in our State or in our Country, holding out to any man the rights of free will and liberty? Do they deny him the right to become a member of organized labor? It is a serious utterance to be printed in the Proceedings of the Constitutional Convention, — that of denying the right of any man, no matter what his occupation may be, of joining a labor organization; and I trust that the gentleman in the first division will give this matter his deep consideration before it is printed in the Proceedings of this Convention.

I have objections to suspending rules for any one bill or resolution unless we suspend them for all.

I do not believe that the delegates to this body came here just for their mileage and then to go home. I believe they came here because the people sent them here and if they were not voted an appropriation from the Legislature, then it is the fault of the Legislature.

Yes, when they talk about the high cost of living, let me say to the delegates to this Convention that the men who have got the money can get the best of food and they do get it, and the wage-earner who has not got that income which enables him to get the best, cannot enjoy the luxuries enjoyed by others, nor can he educate his children, nor do justice to his family. These conditions may be reasons for the activity of the *bona fide* wage-earners of our State and country. It is a realized fact that when hunger is felt and the stomachs of the family are wanting food, then it is the aim of the wage-earner to supply the means whereby this want may be satisfied.

I trust that the resolution introduced by the gentleman in the first division will meet with the same fate as others. I want to announce that after this afternoon, I am willing to give as much of my time to this Convention as any delegate in the discussion of the questions of public utilities to bring about a solution of the subject before us, and I trust that the action of the delegates to this Convention will be the same as it was on Biennial Sessions and Compulsory Arbitration, for if you admit one, you should admit them all. All I ask for is, if this resolution is admitted, that you give an opportunity to the labor organizations in this Commonwealth to be heard on this subject. Give us a chance and the time to discuss it.

Again I repeat that I trust that Mr. Pillsbury will withdraw his statement from the Proceedings of the Constitutional Convention.

I request that the resolutions presented to-day should meet with defeat, the same as the other resolutions presented here this morning.

Mr. Moriarty of Boston: I am surprised at this late day to hear any man come in here and make these remarks upon the floor. I can come in here with clean hands, because the night that the Boston Elevated Railway men voted to go on strike I pleaded with them to stay in their positions. But what does the gentleman in the first division (Mr. Pillsbury) feel now? That they are going after the company that he represents, — the Boston Consolidated Gas Company. They have been after everybody else.

In regard to the policemen of the city of Boston, are we living in an age now when any one man, because he is appointed at the head of a department, can say that those men shall not go into an organization to better their condition? That is just what the police commissioner of Boston has said. He has said that they will be allowed to go into the Grand Army of the Republic, into the Spanish War Veterans, or into the American Legion. What does that mean? Does that mean that he has the right of taking away the individual liberty of the man who wears the uniform of the Boston police department? I want to say that no pledge that any Boston policeman has taken to become a member of the American Federation of Labor in one iota hurts the oath that he has taken to become a member of the police department, — to protect the life and limb and property of a citizen of Boston. And I want to say to the police commissioner of the city of Boston that if he wants to start something, then somebody else will do the

finishing. [Applause and hisses.] You may hiss. I take it from the source from which it comes.

The gentleman in the first division (Mr. Pillsbury) said that labor had the community by the throat, but interests have had labor and everybody else by the throat and there was no hollering by the associates of the member in the first division. There was no hollering by the interests when the Commonwealth of Massachusetts in the Legislature of 1918 agreed to legalize gambling by taking the Boston Elevated Railway. That was a piece of junk, and that should have gone into bankruptcy, but the Legislature of the Commonwealth of Massachusetts legalized gambling by taking it over, raising the stock, when it did take it over, from $27 to $76 a share. There was no hollering by the interests and by the associates of the man in the first division (Mr. Pillsbury) on that step.

Mr. Edwin U. Curtis of Boston: I ask unanimous consent to speak for one moment.

The President: Mr. Curtis of Boston asks unanimous consent to speak for one minute. Is there any objection? The Chair hears no objection. Mr. Curtis of Boston.

Mr. Curtis: I do not think this is the time or place to discuss matters relating to the Boston police department, but I wish it distinctly understood that because I refrain from discussing them I do not fear to discuss them at the proper time and place; neither am I afraid that I have not taken the right stand, and I propose to stand right where I am on this issue. [Prolonged applause, many delegates rising.]

Mr. Moriarty: May I ask one minute for one statement?

The President: Mr. Moriarty of Boston asks unanimous consent to make a statement. Is there any objection? The Chair hears no objection. Mr. Moriarty of Boston.

Mr. Moriarty: I agree with the member in the first division (Mr. Edwin U. Curtis) that this is no place for that. It was no thought of mine to have brought it in, but I could not sit here idly after it had been brought in and let it go without being challenged. In conclusion let me say that I shall be willing to meet the commissioner in any public place, or on any public platform, to discuss in public the matter of the policemen becoming members of the American Federation of Labor.

In making the motion to adjourn *sine die* Mr. Luce of Waltham said:

Mr. Luce of Waltham: If by repeating the words spoken at the closing hours of the last session we could strengthen in any way our expression of regard for you, I am sure that every member of the Convention would be glad to attempt it. But now, in these last minutes, when there remains only the final motion, I beg the indulgence of the Convention simply long enough to say that while departing with feelings of regard and respect for our presiding officer, and of thankfulness for all those who have served the Convention so usefully, our chief gratitude, if seems to me, should be for the opportunity we have had to try to be of service to the Commonwealth. We have perfected our Constitution in language; we have given it shape and form as best we could; and now, as we return to the people, there

remains the duty of sharing in making the Constitution the guardian of liberty, the ægis of freedom. Conscious that this duty is yet to be performed, grateful for that opportunity that has come to us, hopeful that we have been of real service to Massachusetts and to mankind, we come to the last of the motions, the motion to adjourn *sine die*, and that motion I now make.

The Convention adjourned *sine die* Wednesday, August 13, 1919.

CODIFICATION OF THE CONSTITUTION.

On the 10th of July, 1917, Mr. Hart of Cambridge (speaking to a motion relating to adjournment) said: —

The committee on Amendment and Codification has just returned with its report an order which was introduced originally June 19 with reference to a great question, a crucial question, a question which lies at the bottom of the deliberations and the results of every committee of this body, namely, the question whether the work of this Convention when completed is to take the form of a number of amendments, each dealing with a narrow field of the constitutional work, or whether there is to be also a readjustment of the existing fifty-six articles of the Constitution and forty-four amendments, making one hundred propositions, which everybody knows are now arranged helter-skelter. Considerable parts have no legal force whatever; some of them have had no force for nearly one hundred years; certain parts supersede other parts without any mention of that fact. Now, the issue which this Constitutional Convention must meet sooner or later, and might better meet earlier, is whether its final work is to include a codification of the existing Constitution and amendments into a consistent whole in addition to separate amendments. Upon that question the committee on Amendment and Codification has reached its own judgment, which is expressed in this order.

This order provides for the codification of the existing Constitution, without going further. Of course the committee has a special right to bring forward such an order, because the codification, the arrangement of such a form, — that is, of the existing Constitution and amendments, — would appear to fall within its province, as is shown by the reference to that committee of all the proposals, so far as I know, that bear upon that subject. But we have a right to know the mind of the Convention upon the question, which cannot be decided by any committee. No matter what the committee does in that respect, the ultimate judgment must come from the Convention.

Furthermore, no discussion and no settlement of the question of what you might call the codification of what is now in existence, can possibly take place without involving two other very important questions: First, shall there be a larger readjustment, shall there be a main Constitution which shall include details not to be found in any of the separate amendments? The committee on Amendment and Codification has not undertaken that task, and does not ask the Convention to authorize that task; nevertheless, no one knows what is the opinion of the majority of the Convention upon that subject. In the second place, the question must arise, and will be brought out by any general debate upon this subject, whether any form of codification, either of the old Constitution plus the amendments, or of the old Constitution plus the amendments, plus also detailed changes of various kinds, which

might be put into a complete Constitution, shall be made. Beyond that lies the question whether, instead of a codification through the medium of this Convention, there ought to be a codification after the Convention adjourns, in any one of several methods submitted. One is a codification by the Chief Justice, — a proposition to that effect has been presented to the committee on Amendment and Codification; another a codification by a commission; and a third, a question which nobody in the world can face properly except this whole body, is a proposition that this Convention, under some form or authority, shall reassemble, in order to complete the work of codification and to incorporate the amendments which may be carried. Now, I submit that that is a weight which no committee can possibly carry, and if it should attempt to do so it would be overridden by the Convention. Here, then, is a network of subjects for discussion by the Convention, outside the deliberations of committees.

We are able to utilize two parts of the day. The committees have been meeting in the morning, and the Convention in the afternoon, and the work has advanced. I hope very much that this Convention will adjourn to meet not later than next Thursday or to to-morrow, in order to offer an opportunity to the members to face this general question of the rights, the duties and the intentions of the Convention and as soon as may be to come to a decision; every committee represented here is affected by the decision of the Convention. If we are to have simply a number of separate amendments, all the committees should frame their amendments accordingly. If there is to be any sort of codification, this Convention might as well determine that question now as at any future time.

No action was taken at the time on the question raised by Mr. Hart.

On the 17th day of July, the committee on Amendment and Codification of the Constitution reported that the order relative to submitting to the people the present Constitution with such changes in phraseology, etc., as may be deemed necessary and also such separate additional amendments as may be passed, ought to be adopted in the following new draft: —

Ordered, 1. That the work of the Massachusetts Constitutional Convention shall take the form of a main Constitution and of a series of separate amendments, to be designated by the Convention.

Ordered, 2. That the main Constitution shall be based upon the present Constitution and the amendments now in force, which shall be consolidated and arranged, as amended, in proper subdivisions under appropriate titles, omitting all articles, clauses and words not in force, and making no other changes in the provisions, and no substantive changes in the language thereof.

Ordered, 3. That the main Constitution, consolidated and arranged as aforesaid, and the separate amendments shall be submitted to a vote of the people in such form that the main Constitution and each of the separate amendments shall be voted upon separately.

Ordered, 4. That, in case the main Constitution should not be adopted, those separate amendments that shall be adopted each for itself shall become amendments and parts of the present Constitution.

Mr. Francis J. Horgan of Boston offered a substitute order as follows: —

Ordered, 1. That the work of the Massachusetts Constitutional Convention shall take the form of a main Constitution.

Ordered, 2. That the main Constitution shall be based upon the present Constitution, the amendments thereof now in force as well as upon such amendments thereof as shall be submitted by this Convention to and approved by the people at the next general election which shall be consolidated and arranged, as amended, in proper subdivisions under appropriate titles, omitting all articles, clauses and words not in

force, and making no other changes in the provisions, and no substantive change in the language thereof.

Ordered, 3. That the following question shall be submitted to the people at the same time that amendments shall be voted upon by them, namely: Shall the Constitutional Convention of 1917 reconvene and proceed to consolidate and arrange the Constitution of Massachusetts as it may be amended by vote of the people into one whole and harmonious instrument without making any change in the intent thereof?

Ordered, 4. That, in case the people vote "No" upon said question, those separate amendments that may be adopted each for itself shall become amendments and parts of the present Constitution.

Ordered, 5. That, in case the people vote "Yes" upon said question, the delegates to this Convention shall reconvene within ten days after the general election for the purpose of consolidating and arranging the Constitution and for such other purposes as to the Convention may seem meet and proper.

THE DEBATE.

Mr. Horgan of Boston: It is with some temerity that I have offered this substitute order, because I believe that the mind of the Convention is not prepared to consider either the original or the substitute order; but I feel also that if any action is to be taken at this early date by this Convention the substitute order is preferable to the original order. But, sensing the opinion of the Convention as I have, and believing that it is premature to take action upon either proposition at the present time, I move that the further consideration of this matter be laid upon the table.

Mr. Hart of Cambridge: The substitute order fairly presents the question of one of several possible substitutes for the original order which now is before you. That order was introduced for the first time June 18 and the next day was referred to the committee on Amendment and Codification, from which it has proceeded with three dissents, one of the dissenters being the author of the substitute motion. The substitute here proposed involves a reconvention in the strict sense of that word; that is, that a Convention elected for a particular purpose at a particular time and endowed with particular powers and functions shall not make use of all those powers but shall ask the people for a further mandate upon which there must be a definite vote of the people, thereby practically constituting a second Convention made up of the same members, — a Convention which shall receive such powers as shall be indicated in the form of the proposition submitted to the people. Am I correct in stating that as the general purposes of the substitute motion? That being the case, we are confronted fairly with the issue as to what other methods there are of dealing with this subject, and we all see with perfect clearness what the essential difficulty is. In the first place, the Convention has to face the question of an old Constitution, more than a century old, phrased in fifty-six articles, to which forty-four articles of amendment have been added, — a hundred articles, phrased in a miscellaneous sort of way, some of them treading upon the heels of others, some of those articles obsolete since the adoption of the Federal Constitution; others amended, those amendments subsequently amended again. That is, the present text of the Constitution of Massachusetts is in a very imperfect condition. To perfect that text is one of the duties to which many people, and I presume the majority of the voters if they thought of it at all, supposed this Convention was going to address

itself; that one of our first duties was not to dissolve until we had given an opportunity to the people of this Commonwealth to take ground upon the question whether they desired the codification of the present, it would be disrespectful to say hotch potch, I will say confusion, of a Constitution. One method of procedure would be, then, simply to codify the present Constitution as a part of the work of this Convention.

The Presiding Officer: The Chair will state that the gentleman's time has expired. On this particular motion ten minutes' debate is allowed, three minutes to each member, and the gentleman's time has expired. The question is on laying on the table.

Mr. Thompson of Haverhill: As a member of that committee which was considering this matter and as one of the three dissenters, I was of the opinion that this was a matter which should be considered later in the session of the Convention. If we were going to write a book or do any notable work it seems to me that we would not begin to lay out our contents and our indices before we found out what the material was which we were going to put into it. That is just about the situation here. The committee on Amendment and Codification, it seems to me, will have the bulk of its work later on. Just how many amendments we shall have and just how much this Convention wants to change the original document we do not know at the present time, and I believe that both the substitute and the original order should be laid on the table and discussed at some later time. I do not believe that it is a proper time to take up this matter until we know just how much new matter is going to be put into the Constitution and just how many questions are going to be put before the people.

Mr. Richardson of Newton: The statement has been made and so far has gone unchallenged that the mind of the Convention is not ripe to consider this matter. Now I submit, — and in submitting this view, I submit, I contend, the view of the great majority of the committee on Amendment and Codification, which has given this matter its most careful consideration, — that the proposition which the Hart order asks to have the Convention consider and either accept or reject at the present time is a most simple one, and that it ought to be so considered and either accepted or rejected now. It raises two distinct questions: First, are amendments to be submitted to the people separately? — a question which this Convention never yet has fairly decided. Second: Shall this Convention submit to the people as a part of its work a codification of the existing Constitution and its amendments, with all new matter left out? At some time I shall have something to say, perhaps, upon the merits of that question, but this is a motion to lay upon the table, and I submit that that plain question is a question which is capable of being decided now and should be decided now, for the future guidance of the Convention and of its committees in adopting new matter; whether this Convention is to submit to the people a codification of the existing Constitution with its amendments, — no more, no new matter, and no less, — but simply a revision to bring the existing Constitution down to date. Then we will take care later of whatever amendments may be submitted to the people and adopted. Several different ways have been proposed for that. But the first question is: Shall this Convention codify the existing Constitution? And that

is a matter which it is proper to pass upon now, in the opinion of the great majority of our committee.

Mr. SULLIVAN of Lawrence: As one of the members of that committee I desire to say just a word supplementing the remarks of the last speaker. Surely no member of this Convention doubts that this is an important matter. Now we are asked to lay it on the table without any debate upon the merits of the question. Perhaps it might be desirable not to decide this matter finally now; perhaps it ought to be laid upon the table; perhaps it ought to be recommitted; perhaps it ought to be committed to the committee on Rules. But it seems to me that the Convention ought to deliberate upon the main question to some extent now and afford some light to the committee which, I suppose, at some time will have to make a final report on it. This motion may be renewed at some later time this afternoon, or the Convention may determine that some more appropriate motion ought to pass. I suggest to the members of the Convention that they ought at least to hear some of the arguments upon the main question and also to help the committee themselves. Therefore I ask the Convention not to adopt the motion to lay upon the table which now is before it.

Mr. HORGAN: I desire to add just one word, and that is this: That the purpose of the motion to lay upon the table is not to postpone action upon the order indefinitely, but to await such action as may be indicated by the temper of this Convention on possible amendments before determining whether the Constitution as it now exists ought to be rearranged or whether the Constitution as it may possibly be supplemented by additional amendments ought to be amended. It was for that reason that the motion to lay upon the table was offered.

Mr. HART: Whatever the purpose of this motion may be, the effect will be to prevent a discussion of the question by those who are interested in this proposition, who have given time and thought to it, who believe that there are arguments for the Convention acting upon this question of general principle that at this time it is essential for the Convention to know where it steers. The effect of the motion to lay upon the table, of which I regret I had no notice until five minutes ago, is to prevent a discussion of the question by those who wish to discuss it, by those who are interested, by those who believe that something can be done. Its effect is to prevent a fair and square presentation of the difficulties, the various modes of escaping from those difficulties, of asking the Convention whether it is ready at this time to take ground in behalf of and upon a question which it absolutely must decide sooner or later. We cannot adjourn without making up our minds to codify the present Constitution or to go farther and add new provisions to the main Constitution. We have not definitely voted in terms that we are going to submit separate amendments, though apparently the Convention is morally committed to that idea in a vague way. If that is what we are going to do, why should we not say so now and why should not our constituents be made acquainted with that fact?

The motion to lay on the table prevailed. The next day [July 18], without debate, the matter was recommitted to the committee on Amendment and Codification.

Mr. Francis N. Balch of Boston offered the following amendment to the foregoing report of the committee: —

Ordered, That the committee on Amendment and Codification of the Constitution be instructed to consider the advisability of making one of the groups into which amendments for submission to the people are to be divided, consist of proposals of minor perfecting amendments of non-controversial character; said group to be designated accordingly when submitted.

Mr. Balch (speaking to an announcement that on the following day the docket of the Committee of the Whole would be called) said: —

I hope the Convention will consider one small point of procedure before it goes through this docket to make final disposition of very numerous matters, apparently at first without intending to give them very much consideration. It was the case before the committee on which I served, and I have been told it was the case before other committees, that very numerous, — at any rate several, — petty points in which the Constitution would be clearly improved were let go because it was not thought desirable to complicate discussions of large matters with these small matters. As an instance of that kind of thing, most of the members of the Convention probably will be surprised to learn that at present, under the Constitution, if a judge should be appointed to the Supreme Judicial Court who was already a notary public and he forgot to resign his notary publicship, his appointment as a justice of the Supreme Judicial Court would be illegal, while it would be valid if he was a justice of the peace. It is a mere historical accident, arising because the office of notary public had not been created at the time that part of the Constitution was written. My thought is that unless something is done about it a number of these petty matters on which probably there would be no difference of opinion whatever are going to simply slip by us. With that thought in mind I tried yesterday to get before the Convention an order calling the attention of the committee on Amendment and Codification to the matter, and directing them to consider the advisability of making one of the groups into which the submissions to the people were to be divided consist of minor perfecting amendments of non-controversial character, the group to be designated in that way. I do not know whether the committee will adopt that suggestion or not; I am inclined to believe that it will. If it does we easily might make a mistake in acting on this docket in Committee of the Whole of letting slip by us inadvertently the chance to very clearly improve the existing Constitution in minor ways. I trust the chairmen of committees will bear that point in mind and save us from making that mistake while there is yet time.

REARRANGEMENT OF THE CONSTITUTION.

On the 20th of August, 1918, the following order was considered: —

Ordered, That a special committee on Rearrangement of the Constitution, to consist of the President and eighteen other members of the Convention to be appointed by the President, shall, after the submission to the people of all the amendments proposed by the Convention, arrange the Constitution, as amended, under appropriate titles and in proper parts, chapters, sections and articles, omitting all sections, articles, clauses and words not in force, and making no substantive change in the provisions thereof. And printed copies of the report of such committee, containing the draft and arrangement so made as aforesaid, and showing in detail any and all omissions and any and all alterations in punctuation and phraseology, shall be mailed to each delegate of the Convention; and

Ordered, further, That, when the Convention closes its present session, it shall adjourn, subject to call by the President or Secretary, to meet not later than within twenty days after the prorogation of the General Court of 1919, for the purpose of taking action upon such report. Any rearrangement of the Constitution with its amendments, made and adopted by the Convention, shall be submitted to the people for their ratification and adoption in such manner as the Convention shall direct.

THE DEBATE.

Mr. Washburn of Middleborough: I trust the Convention will not be alarmed. I do not propose to seize this chance in the closing hours of the session to make a long-winded speech, but here is an order of some importance which plainly demands a little careful explanation. The duty devolves upon me of making it within, I hope, wholly reasonable limits.

On one thing, I suppose, we all can agree. We may take pride in the thought that our Constitution never has ceased to be a model in substance, but we must admit that it long ago ceased to be a model in form. Most States, whether their alterations have been frequent or infrequent, have made new and complete revisions of their fundamental law at occasional intervals. Outside of Massachusetts very few State Constitutions are burdened to any extent with obsolete matter. What the facts are here in this respect we have had occasion to learn only too well during the two summers we have been sitting in this chamber. We always have revised by piecemeal; we never have succeeded in revising in any other way. The system has its advantages, no doubt, but this State too long has been the one conspicuous example of the chief objection to such a method. I think it would be an ineffaceable blot upon an otherwise creditable record if we should fail at this convenient season to take some steps to bring order out of the existing confusion.

We must not forget that ours was the longest of the original Constitutions. During the last 138 years it has been amended 47 times. In other words, we have had amendments to the main text, amendments to the amendments, and, in some cases, even, amendments to the amendments to the amendments, all printed as addenda to the original document. A distinguished foreign critic of our institutions, like Lord Bryce, did not fail to note and to comment on the fact that

some of our provisions had been recast many times. If the average citizen is able today to find out only with painful and laborious effort what the organic law is, what is likely to be his plight after next November when we shall have submitted more than 20 new amendments? Some of them are going to be adopted; three already have been. Some are likely to make such a dent in the framework of the original structure that its putative father, if he could see it, no longer would be able to recognize his offspring. At best you will have a perplexing and bewildering tangle of cross references and obsolete matter.

We are dealing not with a contingency, but with a certainty. Our duty then, to the State, as well as to ourselves, would seem to be plain. How can we best perform it?

We have several alternatives. We can turn the job over to the Chief Justice of the Supreme Judicial Court and seek to get authority from the people to enable the court to proclaim its codification when completed. We can do that, and if we do it we shall do what they did in Maine some years ago, — only no Constitutional Convention was being held there at the time. The two cases are therefore quite unlike. I do not know how such a plan would impress the court, but it seems to me to have one very serious objection, an objection which might well give us pause. The tribunal which construes the law, if it can be conveniently avoided, ought not to be charged with the task of phrasing it. That very easily might lead to serious complications and great embarrassment.

Then there is something else we can do. We can provide for a commission to be appointed by the Governor, perhaps. But who is to check the work of the commission? Who is to proclaim it when finished? The Legislature? The Legislature has no power whatever to touch a single line of the instrument which defines the limit and the scope of its authority. To be sure, here again we can ask for a delegation of authority, but the people might be reluctant to grant it. The outcome is uncertain.

What remains? Manifestly, to do the work ourselves. And why not? The need for it is really here. The responsibility is at our door, and nowhere else. Why refuse on any pretext to meet it? We have ample authority. Our power to reconvene after the next annual election is precisely the power under which we reconvened after the last annual election. All this will not be challenged seriously.

How then is the Convention to proceed, granting that we are to proceed at all? In the end, I submit, a committee will have to be appointed, because the Convention sitting in Committee of the Whole cannot do work of this kind to the best advantage. It would be futile to ask this Convention to reconvene and mark time while the committee went about its business. And besides, it would involve a useless sacrifice of time. There is no suggestion anywhere that the Legislature appropriate another cent of salary to enable us to come back here and spend a third summer. Nobody wants that. I dismiss this objection, therefore. But it has seemed to the committee, — and we canvassed every angle of the situation, — that it would be entirely feasible to provide for a Special Committee on Rearrangement, to meet after the people have voted in November, because, of course,

until then, neither the Convention nor a committee of the Convention can get any proper perspective of what needs to be done.

We have not asked that any standing committees be designated, and we have not asked that two or more standing committees, sitting jointly, be designated. Either of those courses would be a wholly proper one to pursue. We have preferred deliberately to place the power with the President, for under the order there it does rest, to enable him to select a committee from the entire membership of the Convention; and we purposely have made it sufficiently large to be thoroughly representative. The Convention has among its membership the ability to do this highly important work and do it well. Not to utilize this ability in the face of a plain duty easily might be construed as a confession of incompetence.

To sum up in just a word, if we are to accept this responsibility, as I hope we are, then the plan suggested would seem to involve the least inconvenience. It is along the line of least resistance. I am unwilling to believe that any delegate taking a pride in the work we have been doing, as every one of us does, will object to take the time to come back here two or three days next summer, — it would be in the nature of a brief reunion, — to enable us to pass upon the work of the committee. In this way we shall have the satisfaction which comes from the knowledge that we have left no duty undone. In this way we shall adjourn with the full assurance that presently there will be submitted to the voters for their approval a form of Constitution properly articulated and rid of the blemish that so long has disfigured it.

Mr. Underhill of Somerville: I should like to ask the gentleman if he or his committee considered placing this revision in the hands of the Secretary of the Commonwealth, the Auditor of the Commonwealth, the Treasurer and Receiver-General and the Attorney-General, and if so, what objections were offered in the committee to such a procedure.

Mr. Washburn of Middleborough: We considered and canvassed almost every conceivable plan, for we felt strongly that something ought to be done. The plan the gentleman suggests, among others, was discussed. It seemed to us, however, that this task of codification was properly the work of the Convention and it would be better done here by the Convention or a committee of it than anywhere else. It is not work for which the Secretary of the Commonwealth has any special official training. It is both legal and technical; it is not work that the office of Auditor even remotely touches. It is otherwise with the Attorney-General, of course, but this official has his full share of burdens and it did seem to us that a special committee without compensation could best accomplish the work.

The order was adopted.

ELIGIBILITY TO MEMBERSHIP.

In response to a request from the Joint Committee on Constitutional Amendments of the General Court of 1917, the Attorney-General replied as follows: —

DEPARTMENT OF THE ATTORNEY-GENERAL,
BOSTON, Feb. 19, 1917.

Joint Committee on Constitutional Amendments, State House.

GENTLEMEN: — I beg to acknowledge receipt of your letter of the 6th inst., in which you request my opinion upon the following questions: —

1. Are any or all of the officers mentioned in House Bill No. 795 now ineligible to membership in the Constitutional Convention provided for by Chapter 98 of the General Acts of the year 1916?
2. If any or all of said officers are ineligible, is it within the power of the Legislature to make such officers eligible to membership in the Convention?

The officers mentioned in this bill are the members of the General Court, the Governor, Lieutenant-Governor, Councillors, the Justices of the Supreme Judicial and of the Superior Courts, the justices of all other courts in this Commonwealth, any officer of the Commonwealth elected by vote of all the people, and Senators and Representatives from this Commonwealth in the Congress of the United States.

Mass. Const., pt. 2nd, c. VI, art. II, provides that —

No Governor, Lieutenant-Governor, or Judge of the Supreme Judicial Court, shall hold any other office or place, under the authority of this Commonwealth, except such as by this Constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace through the State; nor shall they hold any other place or office, or receive any pension or salary from any other State or government or power whatever.

If the Convention called to revise, alter or amend the Constitution pursuant to the vote of the people at the last annual election, under Gen. St. 1916, c. 98, is authorized by the provisions of our present Constitution, the position of a delegate to the Convention is a "place under the authority of the Commonwealth," and it follows that the Governor, Lieutenant-Governor and Judges of the Supreme Judicial Court would be violating the provisions of the Constitution by sitting in said Convention.

It has been asserted by many, and seems to have been the opinion of the Justices of the Supreme Judicial Court in an opinion to the Legislature (reported in 6 Cush. 573), that Article IX of the Amendments to the Constitution, providing a method for the adoption of specific and particular amendments to our Constitution, excluded by implication any authorization to the people to revise or change it by the convention method, and this view is not unsupported by other authority. *Opinion of the Justices*, 14 R. I., 649.

The Preamble to our Constitution recites that —

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life; and whenever these great objects are not obtained the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness.

Article VII of the Bill of Rights in our Constitution is as follows: —

Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

This incontestable, unalienable and indefeasible right, which indeed is the essence of a republican form of government, cannot, in my judgment, be taken away except by plain and unmistakable language. That the people of one generation can de-

prive the people of a succeeding generation of their unalienable right to reform, alter or totally change their form of government, except in a restricted manner, when their protection, safety, prosperity and happiness require it, is repugnant to our theory of government, that the right to govern depends upon the consent of the governed. It seems to me a much more reasonable, if not a necessary, construction of the Constitution to hold that Article IX of the Amendments provides only a manner of amending the Constitution in addition to other methods that may be adopted by the people of changing their form of government, under the fundamental right guaranteed by the Bill of Rights, whenever "their protection, safety, prosperity, and happiness" require it.

This view is strengthened by an examination of the debates in the Convention of 1821, which framed this article of amendment for submission to the people. Mr. Webster, in discussing this article at that time, said that he knew of no principle that could prevent a majority, even a bare majority, of the people from altering the Constitution, and that the object of the mode proposed for making amendments in it was to prevent the people from being called upon to make trivial amendments or any amendments except when a real evil existed. Debates in Convention of 1820 (ed. 1853), 407. Jameson, Const. Conventions, §§ 571-575.

Accordingly, I am of the opinion that the Convention will be held under the authority of the Commonwealth, that the position of a delegate to said Convention is a place under the authority of the Commonwealth, and that therefore the Governor, Lieutenant-Governor and Judges of the Supreme Judicial Court cannot sit therein as delegates without violating the provisions of Mass. Const. pt. 2nd, c. VI, art. II. It is unnecessary, however, to determine whether the position of a delegate is a place under the authority of the Commonwealth, as it will be noted that the prohibition contained in Mass. Const., pt. 2nd, c. VI, art. II, is not limited to places under the authority of the Commonwealth, but includes all places, at least of a public nature, and thus I am of the opinion that whatever view is adopted as to the nature of the Convention, the Governor, Lieutenant-Governor and Judges of the Supreme Judicial Court, while occupying their respective offices, cannot properly sit as delegates therein.

Your specific question is as to their eligibility. Doubtless they are eligible to be candidates, and may hold the position of delegate subject to the provisions of Gen. St. 1916, c. 98, § 6, that the delegates "shall be the judges of the returns and elections of their own members."

It was held by the Supreme Judicial Court in the case of *Commonwealth* v. *Hawkes*, 123 Mass. 525, that a person holding the office of judge might lawfully hold a seat in the Legislature, the acceptance of such seat, however, being a resignation of his office as judge.

Accordingly, it would seem that while the Governor, Lieutenant-Governor and Justices of the Supreme Judicial Court might lawfully hold a seat in the Convention if elected thereto, the acceptance of such seat would operate as a resignation of their office or would render them liable to impeachment. In arriving at this conclusion I have not overlooked the fact that His Honor William Phillips, then Lieutenant-Governor, and Honorable Isaac Parker, then Chief Justice, and Honorable Samuel S. Wilde, a Justice of the Supreme Judicial Court, sat as delegates in the Constitutional Convention of 1820. Their right to do so does not appear to have been then questioned.

The only provision in the Constitution that can be construed as a prohibition to the Judges of the Superior and other courts of the Commonwealth sitting as delegates in the Convention is contained in Article VIII of the Amendments, which provides that —

> Judges of the courts of common pleas shall hold no other office under the government of this Commonwealth, the office of justice of the peace and militia offices excepted.

There is some question whether the phrase "courts of common pleas" refers to the courts which were established at the time of the adoption of this amendment under that name, or whether it has a much broader meaning, including all courts having jurisdiction of common pleas.

Bouvier defines "common pleas" as —

> The name of a court having jurisdiction generally of civil actions.
> Such pleas or actions are brought by private persons against private persons, or by the government when the cause of action is of a civil nature. In England, whence we derived this phrase, common pleas are so called to distinguish them from pleas of the Crown.

I think it unnecessary to consider this question, as I have come to the conclusion, with some hesitation, that the position of delegate in the Convention is not an office

of the Commonwealth, within the meaning of this amendment. It is to be observed that the phrase here is "office under the government of this Commonwealth," whereas the phrase contained in the provision relative to the Judges of the Supreme Judicial Court is "office or place under the authority of this Commonwealth." The language used in connection with the Judges of the Supreme Judicial Court is much more comprehensive than that used in relation to the judges of the courts of common pleas.

In some jurisdictions a clear distinction has been made between "office" and "place" under the government. *Worthy* v. *Barrett*, 63 N.C. 199. In that case it was said that a member of the Legislature was not an officer although he held a place of trust and profit. On the other hand, in *Morrill* v. *Haines*, 2 N. H., 246, it was held that a member of the Legislature was an officer of the State. No case has occurred in this Commonwealth where this question has been decided. In the case of *Fitchburg R.R. Co.* v. *Grand Junction R.R. etc. Co.*, 1 Allen, 552, the question was raised, but the court, in arriving at its conclusions, found it unnecessary to determine the point and expressly left it open.

Whatever may be said in relation to a member of the Legislature, he at least takes part in the execution of one of the powers of government, whereas a delegate in the Convention acts substantially as one of a committee of the people, whose power is restricted to making a report to the people.

The whole purpose of the Convention is to take under consideration the propriety of revising or altering the present Constitution, and to report back to the people such revision, alteration or amendment as it may propose. Its powers are similar to that of a committee, its work is entirely preliminary, and it has no power to do any act which of itself has any final effect.

It is my view that the word "office," as used in Article VIII of the Amendments, refers to a position the incumbent of which exercises some power of government, and not to the position of a person selected to act in an advisory capacity in framing a scheme or change of government to be submitted to the people for adoption or rejection. See in this connection *Attorney-General* v. *Tillinghast*, 203 Mass. 539, at p. 543.

Accordingly, I am of the opinion that there is nothing in our Constitution which renders the office of justice of any court of the Commonwealth, other than the Supreme Judicial Court, incompatible with the position of delegate to the Constitutional Convention, or which in any way affects his eligibility to such position.

As to the other officers referred to in your inquiry, the only provision of the Constitution which might be said to apply thereto is clause 2 of Article II of chapter VI of part second, which reads as follows: —

> . . . and never more than any two offices, which are to be held by appointment of the Governor, or the Governor and Council, or the Senate, or the House of Representatives, or by the election of the people of the State at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

This would apply, if at all, only to such delegates as were elected at large. Even then I am of the opinion that this clause would have no application, since what I have before said in relation to an "office" as distinguished from a "place" applies with equal force to this provision of the Constitution.

The only statutory provision which in any way applies to the questions propounded by you is R. L., c. 18, § 11, which prohibits any person from receiving more than one salary at the same time from the treasury of the Commonwealth.

I am informed that House Bill No. 26, which provides that this section shall not apply to the position of delegate to the Convention, has been favorably reported by your committee. There is, of course, no constitutional objection to the enactment of this bill, and if enacted into law I am of the opinion that there is nothing in the Constitution or laws of the Commonwealth which in any way interferes with such officers sitting as delegates in the Constitutional Convention.

As to your second question, since the offices of Governor, Lieutenant-Governor and Justice of the Supreme Judicial Court are incompatible with the position of delegate in the Convention, by reason of the provisions of the Constitution itself, it is obvious that the Legislature has no power to remove the incompatibility. The other officers mentioned in your bill are, in my opinion, already eligible to seats as delegates in the Convention, at least if House Bill No. 26 is enacted into law, so there seems to be no occasion for the enactment into law of any of the provisions of House Bill No. 795.

Very truly yours,

HENRY C. ATTWILL,
Attorney-General.

CONSTITUTIONAL POWERS OF THE GENERAL COURT.

The following order was adopted by the Senate, March 26, 1917:

WHEREAS, There is pending before the General Court a certain bill, numbered House, 797, which would amend section six of chapter ninety-eight of the General Acts of the year nineteen hundred and sixteen, a copy whereof is submitted herewith, and

WHEREAS, There exist grave question and uncertainty as to the constitutional powers of the General Court to enact the said bill, it is

ORDERED, That the Senate require the opinions of the Honorable the Justices of the Supreme Judicial Court upon the following important questions of law:

First. Has the General Court the constitutional power to enact legislation in amendment of chapter ninety-eight of the General Acts of the year nineteen hundred and sixteen in any manner not specifically affecting the issue submitted under said bill to the voters and decided by them in the affirmative, namely, whether there should be a Convention to revise, alter or amend the Constitution of the Commonwealth?

Second. Has the General Court, under the power whereby legislation was enacted enabling women to vote for the nomination and election of members of school-committees or otherwise the right to enact legislation enabling women to vote on the acceptance or rejection of the revisions, alterations or amendments of the Constitution of the Commonwealth which may hereafter be adopted by the Constitutional Convention and submitted to the people under the provisions of chapter ninety-eight of the General Acts of the year nineteen hundred and sixteen?

Third. Has the General Court constitutional power to define the word "people" as used in section six of said chapter ninety-eight?

Fourth. Would such definition be binding upon the Constitutional Convention, if enacted?

Fifth. Will any proposed revisions, alterations or amendments of the Constitution of the Commonwealth submitted under the terms of said section six, by the Constitutional Convention to the people, have effect if accepted by the people, as part of the Constitution of the Commonwealth?

Sixth. Would such proposed revisions, alterations and amendments have effect as part of the Constitution of the Commonwealth if submitted to and accepted by a constituency, either greater or less than the entire body of those persons qualified to vote under the provisions of the present Constitution of the Commonwealth?

Seventh. Are the provisions of section six of chapter ninety-eight of the Acts of the year nineteen hundred and sixteen which purport to give to the Constitutional Convention power to submit its proposed revisions, alterations or amendments of the Constitution of the Commonwealth to the people, with the effect that if accepted by the people said revisions, alterations and amendments shall become part of the Constitution of the Commonwealth, which power said House Bill No. 797 seeks to amend, within the constitutional power of the General Court to enact?

In view of the importance of the above questions, the Honorable the Justices of the Supreme Judicial Court are respectfully requested to receive such briefs or written arguments as may be presented by order of the Senate bearing on the above questions.

In response, the Justices of the Supreme Judicial Court submitted the following opinion:

To the Honorable the Senate of the Commonwealth of Massachusetts:

We, the Justices of the Supreme Judicial Court, have considered the questions upon which our opinion is required by the order of March 26th, 1917, a copy of which is hereto annexed, and respectfully submit this opinion: —

The first four questions, some cast in general and others in specific forms of expression, are construed as intended to ask in substance whether the General Court has the power to amend General Acts 1916, c. 98, as proposed by the accompanying House Bill No. 797. General Acts 1916, c. 98, provides for the holding of a Con-

vention to revise, alter or amend the Constitution of the Commonwealth if a majority of those voting on the question vote in favor. It is common knowledge that proclamation has been made to the effect that a majority of the votes cast were in favor of holding the Convention. It is enacted in section six of that act that "any such revision, alterations or amendments when made and adopted by the said Convention, shall be submitted to the people for their ratification and adoption, in such manner as the Convention shall direct; and if ratified and adopted by the people in the manner directed by the Convention, the Constitution shall be deemed and taken to be revised, altered or amended accordingly." House Bill No. 797 purports to enact that "all women entitled to register to vote for school-committee shall be regarded as people within the meaning of the word" "people" as used in section 6 of the act.

The validity and the powers of this Convention are not necessarily involved in these questions. Without discussing that subject, we are of opinion that, assuming the validity of General Acts 1916, c. 98, it is plain that the passage of the proposed bill is wholly beyond the power of the Legislature. If the Convention to revise and alter the Constitution is held under the Constitution, it is because the people of the Commonwealth have under the Constitution the right to alter their frame of government according to orderly methods as provided by law, and through the medium of an act of the Legislature.

The word "people" may have somewhat varying significations dependent upon the connection in which it is used. In some connections in the Constitution it is confined to citizens and means the same as citizens. It excludes aliens. It includes men, women and children. It comprehends not only the sane, competent, law abiding and educated, but also those who are wholly or in part dependents and charges upon society by reason of immaturity, mental or moral deficiency or lack of the common essentials of education. All these persons are secured by the fundamental guarantees of the Constitution in life, liberty and property and the pursuit of happiness, except as these may be limited for the protection of society. It is declared in the Preamble to our Constitution that "The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good." In this sense "people" comprises many who, by reason of want of years, of capacity or of the educational requirements of Article XX of the Amendments of the Constitution, can have no voice in government and who yet are entitled to all the immunities and protection established by the Constitution. "People" in this aspect is coextensive with the body politic. But it is obvious that "people" cannot be used with this broad meaning in a political signification. The "people" in this connection means that part of the entire body of inhabitants who under the Constitution are entrusted with the exercise of the sovereign power and the conduct of the government. The "people" in the Constitution in a practical sense means those who under the existing Constitution possess the right to exercise the elective franchise and who, while that instrument remains in force unchanged, will be the sole organs through which the will of the body politic can be expressed. "People for political purposes must be considered synonymous with qualified voters." *Blair* v. *Ridgely*, 41 Mo. 63, 176, 177. *Boyd* v. *Thayer*, 143 U. S. 135, 158–161. Cooley's Constitutional Limitations, 7th Ed. 57, 58. See vol. II Works of James Wilson (Andrews Ed.) 6.

The Constitution of Massachusetts in its original form defined the qualifications of the electorate. Chapter 1, Section II, Article II; Chapter 1, Section III, Article IV.. These qualifications have been modified by Articles III, XVII, XX, XXVIII, XXXI and XXXII of the Amendments. The words of the Constitution as it now stands are: "Every male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, who shall have resided within the Commonwealth one year, and within the town or district in which he may claim a right to vote six months next preceding any election . . . shall have a right to vote" for Governor and other officers. Although these provisions in express terms relate only to the qualifications of voters for the elective officers therein named, it is a necessary and imperative implication that these electors and these only can be treated as qualified to vote to change the Constitution. The words "qualified voters" as used in Article IX of the Amendments, wherein are the provisions for amendments to the Constitution, mean the voters qualified according to the requirements of the Constitution. It is an essential and inevitable limitation upon the power vested in the legislative body of a State established by a written Constitution that it cannot provide for the revision or change of the frame of government except in a lawful and orderly method and by the body of electors determined

according to the terms of that frame of government. The "people" who have a right to vote upon any essential aspect of that revision and change, either for members of the Convention or the acceptance or rejection of its work, are the people who have a right to vote for State officers and upon State questions, namely, the voters as described by the Constitution itself. It is elementary that the existing Constitution continues in full force and effect until changed or destroyed by act of the sovereign people. It seems indisputable that there is no power under the Constitution, except the sovereign people acting in accordance with their self-imposed, limiting methods of procedure, to enlarge the electorate so as to include as voters persons not eligible to vote upon amendments to the existing Constitution. This is necessarily so, whatever may be the power of the Legislature to define words for the purpose of its own legitimate enactments. The Legislature can proceed only under the Constitution. It would be contrary to its duty to that Constitution to provide for its revision or alteration by a body of electors, whose qualifications were different from those ascertained by the terms of that Constitution. The power of the Legislature to enact that women may be members of or vote for local or other subordinate boards of officers (See *Opinions of Justices*, 115 Mass. 602; 136 Mass. 578) is of a different character. The existence of that power touching officers created by the Legislature affords no basis for argument that like power exists to change the electorate established by the Constitution for State affairs. It follows from what has been said that the first four questions must be answered in the negative.

The fifth and sixth questions relate directly to the effect of the work of the Convention provided it should be accepted by the people. However pertinent these questions might have been if they had been asked before the enactment of General Acts 1916, c. 98, they now do not refer to any pending proposed legislation, and also they request an interpretation of an existing statute. Either of these grounds has been said in numerous opinions of the Justices to be sufficient to require them to decline to express an opinion as not being within the scope of the duty imposed on them by the Constitution. *Opinion of Justices*, 122 Mass. 600; 148 Mass. 623; 150 Mass. 598; 208 Mass. 614; 217 Mass. 607. Since we already have answered that in any event the Legislature has no power to enact the proposed House Bill numbered 797, the seventh question is subject to the same considerations.

Therefore, so far as questions Fifth, Sixth and Seventh have not been answered in effect by what has been said already, we are constrained to ask to be excused from answering them.

Arthur P. Rugg.
William Caleb Loring.
Henry K. Braley.
Charles A. DeCourcy.
John C. Crosby.
Edward P. Pierce.
James B. Carroll.

April 16, 1917.

CONSTITUTIONALITY OF THE CONVENTION.

Mr. Frank P. Bennett of Saugus offered the following order June 25, 1917:

Whereas, The War for the Union was fought by the Northern States upon the theory that the American Constitution was a permanent contract, unalterable except upon terms expressed in the contract itself; therefore be it

Ordered, That the Justices of the Supreme Judicial Court are requested to explain as promptly as possible to the Convention why the Constitution of The Commonwealth of Massachusetts is not a similarly permanent contract, to be amended only upon the terms provided therein; and

Whereas, It is a recognized principle of legislation that the statute of latest date repeals all previous acts or parts of acts inconsistent therewith; therefore be it

Ordered, That the Justices are requested further to explain whether or not Amendment IX, providing for a two-thirds vote in two successive Legislatures as a condition precedent to any amendment of our Constitution, forfeits or surrenders or repeals any previous method of amendment; and be it further

Ordered, That the Justices are requested to state whether an inherent right exists and has always existed on the part of a bare majority of the citizens voting at any election duly called for the purpose to disregard all existing provisions for more than a majority vote in changing any portion of the Constitution, — in other words, have the people of The Commonwealth of Massachusetts any right under the existing Constitution to provide for such deliberations and safeguards as shall protect a minority of its citizens against hasty and tyrannous action by a temporary majority in amending the Constitution?

THE DEBATE.

Mr. Bennett of Saugus: I have read that previous to the Convention of 1853 there was very bitter difference of opinion as to whether a Convention could be called in that way, and it was compromised with the understanding that when the Convention was held and after the people had adopted the amendments some one of them should go to the judges and get an opinion as to whether that was a proper method of calling a Constitutional Convention. The amendments were all voted down by the people, and there never was anything to go to the judges.

The Constitution of the United States (Article V) provides:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress.

The United States Constitution, therefore, puts amendments proposed by a Constitutional Convention on precisely the same basis as other constitutional amendments, — those taken up specifically by themselves, by Congress.

We seem to be acting upon a theory that there are two methods of amending the Constitution, which are quite different. One is by a Constitutional Convention called by a mere majority of the Legislature and of the people and acting, I think it is said, under the Bill of Rights.

I want to ask members here to bear with me. I am not a lawyer, and I am not a learned educator, but I claim to be pretty near an average man, and I am very much bewildered by all this. If I understand the Bill of Rights, it does not bestow any right or bestow any power. I do not know as I understand it, but that is my understanding. It is like the Ten Commandments, not law because they are in the Bible, not law because they are recognized by the church, but that they existed since the mountains were brought forth and since the earth and the world were formed, and they simply are expressed by the church and expressed in the Bible. Now, I understand the same of the Bill of Rights. It simply expresses inherent rights, and it is argued that the inherent right of one-millionth of one per cent more than fifty per cent of the people voting thereon shall authorize a Constitutional Convention. Very well. And it is argued further that that may be done by over-riding all rules, all constitutional provisions and all other methods, no matter when they may have been adopted. Very well. If that is true, here is a question which puzzles and confuses me: To what extent may the Legislature obstruct the free expression of the people? To what extent may they provide that we shall not have constitutional amendments? To what extent may they provide for that?

I am on the Suffrage Committee. If it be true that the majority of the people voting may vote at any time to amend the Constitution, then what right have I as a member of the Suffrage Committee to go on and say they shall not do it because I will not submit it to them? Does that right exist, and how far does it exist?

Now let us apply it to the so-called anti-sectarian amendment. There are certain persons who fear that certain other persons getting in the majority will divide up the school money for sectarian educational purposes. If that be so, and if a mere majority can revise the Constitution at any time, why, that amendment is not worth the paper it is written on. It is of no value at all, because if those who believe in sectarian educational institutions are in the majority in the State they may control the Legislature and they may make an amendment at any time, and of what value is this anti-amendment over which so much discussion is raised? I cannot understand that point.

Take the question of the initiative and referendum. Why, if this interpretation of the Constitution is correct, the initiative and referendum is a conservative measure, — it is a decidedly conservative measure.

I already have referred to the matter of woman suffrage. On the other hand, take the matter of municipal coal yards, of the State dealing in the necessities of life. That has been coming up here for years, and there was a year when I was in the Legislature, I think it was 1903, when the demand for it was very strong. It has been decided apparently, as far as I know, by the Supreme Judicial Court, that the taxes of this Commonwealth may be used to create paupers, that is, by granting aid. The taxes of the Commonwealth may be used freely to create pauperism, but they may not be used to give self-respecting assistance by enabling the necessary supplies of life to be sold at a moderate cost. When that proposition has been brought in here it has been killed, because it required a two-thirds vote. Therefore what I desire to know is how far the Legislature, a Consti-

tutional Convention, a committee of the Constitutional Convention or of the Legislature, may obstruct the free expression of opinion.

As an average man, not a lawyer or a college professor, I am unable to understand, — and this I suppose is simple, — why the Elks, the Masons, the Knights of Columbus, or what not, may have by-laws which are to be changed easily and a Constitution which provides that a two-thirds or three-quarters vote is necessary and which may require a year's notice, and this greater society, this greater association, may not in a similar manner tie its hands in regard to amendments and in regard to revision. I am unable to understand that, and I never have found it adequately explained.

I think I have made myself plain. If we have that inherent right to amend the Constitution by a bare majority at any time, then have we the right, and how far have we the right, to obstruct the action, or possible action, of the public upon those matters?

I bought a book some years ago which made a profound impression on my mind. It was by Auguste Sabatier, and it dealt with the three phases of Christian belief: The infallible church, the infallible Bible, and the revelation of the spirit. That is, many had emerged from the belief in the infallible church, many had emerged from the belief in the infallible Bible, and they believed that God speaks directly to the devout human soul to-day as much as he ever did in the time of Moses and the prophets. I think the accurate practical interpretation of that is that we will try and find a use for all three of those: The authority of the church, the authority of the Bible and the authority of direct revelation to every human soul, which may not be adequate, because the mind and heart are not always ready to interpret it truly.

As far as the Constitution of the Commonwealth or of any State is concerned, it passes through something very much like that. We have that old saying which is used so much in political speeches:

> What constitutes a State?
> Not high-raised battlement or moated gate,
> Not starred and spangled courts,
> No — men, high-minded men,
> These constitute a State.

In the final analysis the Constitution of this State or of any State is the consensus of the moral and civic consciousness of the people. You may have a written Constitution in a South American State, you may have a written Constitution in Mongolia, and it will not serve unless it is supported by the moral and civic consciousness of the people. The purpose of a Constitution is to conform as fully as possible to the moral and civic conscience.

Now, I think we ought to have an understanding on this subject, and I have not found a man who understood it. I have had several distinguished gentlemen come to me about this order and say that we had better not pass this order, because the Supreme Judicial Court would not answer it. Another distinguished gentleman, who was an Attorney-General also of this Commonwealth, told me that when he first became a member of the Legislature and he went to the Chief Justice, knowing him very well, and asked him whether he could get an opinion of the Supreme Court, the Justice said: "The Great and General Court," as we all know, "can require the opinion of the Justices of the Supreme Judicial Court. The Great and General

Court is the highest court in the Commonwealth. It can require the opinion of the Justices of the Supreme Judicial Court." That matter is left uncertain here, but I am quite sure that with the extraordinary power given this Convention, if the Legislature can require the opinion of the Justices this Constitutional Convention can require it; but I do not say require, I say request.

I hope that we shall decide now, or soon, first, whether a bare majority, one millionth more than fifty per cent, can amend this Constitution, and, if they can do so, how far the Legislature or a committee can obstruct that public action.

Mr. PARKER of Lancaster: It is earnestly to be hoped that the resolution and order now pending will not be adopted by this Convention, since I think it is manifest that the several orders proceed upon a manifest misconception of the origin, the authority and the status of this Convention, and upon a like deplorable misconception of the advisory capacity and functions of the Supreme Judicial Court. I do not assume to be either critic or even interpreter of the phraseology of the preambles to these pending orders, nor do I venture to differ with the distinguished presenter of this order (Mr. Bennett) with respect to his analysis of the history of our governmental institutions. Though I do not share with him in any doubt respecting the authority of this Convention to proceed to the discharge of the duties which the people have plainly laid upon us, I do hope that in this first emanation to the outside world of our deliberations or conclusions we shall not display a manifest ignorance or disregard of the existing Constitution. What confidence will the people have in our recommendations respecting amendments if at the very outset of our labors we make it apparent to the public that we do not know what the present Constitution is, or what its provisions are?

The advisory power of the Supreme Judicial Court is defined by existent, long existent, recitals in our Constitution, carefully providing that this great tribunal shall neither be asked, nor shall it volunteer *ex parte*, to offer advice to any of the departments of the government. The appeal for the advice of this tribunal here suggested would be as futile as it is unnecessary, and would compel the unwelcome declaration of the Supreme Judicial Court, in replying to our request, that it had no power even to entertain it. The provision of the Constitution to which I advert is I hope familiar to most of us. It is definite, it is positive, and it is restrictive. It is contained in Chapter III of our existing Constitution, under Article II, under the heading Judiciary Power. I read:

> Each branch of the Legislature, as well as the Governor and Council, shall have authority to require the opinions of the Justices of the Supreme Judicial Court, upon important questions of law, and upon solemn occasions.

To these departments of government, and to these alone, may the Supreme Judicial Court offer, upon request or requirement, its advisory suggestions. Nothing could be more regrettable, nothing has been more carefully provided against by this provision of the Constitution, than that the court should be harassed by frequent and perhaps immaterial and incompetent inquiries, or that the court should be assumed to be a tribunal gratuitously offering its opinions on *ex parte* presentations of even important questions.

Whatever doubts may be entertained with respect to the original

authority of this Convention, or whether we have a right to proceed, or are a lawfully constituted assembly, at least this is true: We hold the commission of the people of this Commonwealth. We are here assembled upon the assumption, and the rightful assumption, that the people had authority to give their commission to us. Let us then proceed, soberly, industriously, responsively, to discharge the duties that the people have laid upon us. Let us not hesitate in hypochondriac doubt as to whether we are alive. Let us proceed upon the assumption that we are alive, solve our own problems; and if there be problems which we cannot solve, let them come by the procedure lawfully established to the final adjudication of the Supreme Judicial Court; but let us go about our business upon the assumption that we are alive, not moribund. [Applause.]

Mr. Bennett: My distinguished and learned friend refers to hypochondriac doubts, and I cannot help thinking that under some circumstances instead of referring to them as hypochondriac doubts he would have referred to them as an honest desire on the part of an honest inquirer. Now, the gentleman specifies certain conditions under which the Supreme Judicial Court may be required to give its opinion. Well, what would happen if we asked the Supreme Judicial Court for this opinion and it refused to give it? What harm would be done? If we ask the Supreme Judicial Court's opinion on this subject and it refuses to give it what harm would be done? I ask that. There are some differences of opinion on some of those subjects, which I am not going into to-day, but I should like to know what injury would be done to this case if the opinion of the Supreme Judicial Court was asked and it refused to give it.

On the other hand, if the opinion of the Supreme Judicial Court was asked and it gave it, then what harm would be done? Why, I am inclined to think a good deal of harm would be done to some. I do not know how far the distinguished gentleman, formerly Attorney-General (Mr. Parker), is willing to go in this matter, but I should like to ask him as a lawyer and former Attorney-General, sitting in this Convention, to state to this Convention how far he thinks we have the right to obstruct the free submission to the people of desired amendments? If you grant the principle of obstruction by a committee of this Convention, or by the Legislature, then you grant the principle of obstruction, — you grant the whole case; because if the Legislature has the right to obstruct a free expression of a desire for a constitutional amendment for one time, it may many times, — it may for a generation.

Therefore I confess I should like to understand about that. I should like to understand what harm would be done. That is the way principles are established in this Commonwealth. We ask in an honest spirit of inquiry. We ask for more than we ought to have sometimes. Sometimes we ask for what we ought to have and we do not get it, and then we keep on asking, and by and by it comes around. I am unable to see why a request for this information is not in the line of progress. I am especially unable to understand, and I should like to understand, if there is an inherent right of a majority to pass a constitutional amendment at any time, where and how far committees, Legislatures, Constitutional Conventions, have a right to obstruct the free expression of the people as to whether they desire a constitutional amendment or not. I should like to have the distinguished gentleman

who has spoken against the adoption of this order answer those two questions for me.

Mr. PARKER: As I understand the questions of my honorable colleague, they are addressed to me, first, as seeking the expression of a personal opinion of my own upon a possibly complicated question of law. I do not hold my own opinions as of such value as to volunteer them for the consideration of this Convention. I say to the gentleman however, that, at the appropriate time, and when the subject is competently before this Convention, if it shall become so, I shall contribute what I may by way of suggestion or reason to dissolve the doubt which the honorable gentleman entertains with respect to the construction of possibly conflicting provisions of our statutory or constitutional law. But I do not conceive this to be the time or the occasion to discuss that question of original authority for the convocation of this Convention or its right to proceed. I am addressing myself to the propositions embodied in these orders, suggesting that this Convention, with an absurd solemnity of procedure, shall ask the opinion of the Supreme Judicial Court upon questions which the Constitution forbids it to entertain.

The gentleman propounds another question to me, which is whether I should think any harm would come if the Convention shall propound this question and the Supreme Judicial Court shall reply, as it will be forced to reply, that we have totally mistaken its function and our rights. I confess there would be to me a sense of conscious humiliation and shame to be so gravely rebuked by the Supreme Judicial Court. I should hold myself to have been participant in a trivial procedure if I had vexed the Court by inquiries which it had no power to solve for us. I should hold myself to have been derelict in my own duty if I had not first used my own reason, acted upon the responsibilities resting upon me, before I had sent futile appeals to a tribunal that cannot help us in our own travail. That is the reason that I make this answer to my honorable friend, the delegate in the fourth division (Mr. Bennett), and say that to my mind there would be humiliation in adopting this futile course; and if this statement does not make that humiliation visible to him I have no power by which I can broaden his horizon.

Mr. BENNETT: I should like to have the gentleman tell us where it says that the Supreme Judicial Court shall not do this. There is nothing in the Constitution that says they shall not do it. The Constitution expressly says that they shall, upon requisition of the Legislature. Where does it say that we do not inherit the powers of this Legislature, whose rules we have adopted, whose procedure we are following, and whose functions we are taking? Why not? What are the functions of this Constitutional Convention but a portion of the functions of the Legislature?

I fail to receive any answer to this question which, as an unlearned man, bewilders and confuses me, — that under certain conditions a mere majority may adopt a constitutional amendment, and under certain conditions the Legislature may obstruct and forbid that forever and ever. I fail to hear any answer to that question and I do not believe the gentleman is right. I do not believe he is right for a minute. This is the way of dodging this proposition. I do not accuse the gentleman of concocting this, but I have heard of it in other

directions, — that the inopportune opinion of the Supreme Judicial Court in regard to the power of committees here to obstruct popular action could not be met directly, and therefore it is met, as those matters have been so many times in the past, by a statement that the action itself is trivial or unconstitutional. How many times have gentlemen here who have served in the Legislature found their progressive plans destroyed by some such legal interpretation as this! How long, how many years, on all those questions of dealing in the necessities of life, was action forbidden and prevented by the two-thirds requirement in the present Constitution! I am satisfied that there is something of importance in this inquiry, — something of very deep and very high importance in this inquiry, — and I am satisfied that in the very near future, if not in this very Convention, either on an amendment to repeal that present two-thirds provision or on some other amendment, the Convention will give its consensus upon this subject.

The order was rejected July 17, 1917.

VACANCIES.

Mr. Brown of Brockton offered the following order October 26, 1917:

Ordered, That the committee on Elections consider and report on the question of recommending that William C. Drohan of Brockton, who received the third highest number of votes cast in the primary and at the election of delegates to this Convention from the Tenth Plymouth Representative District, be seated in this Convention to fill the vacancy now existing in said district, provided that the said Drohan does not receive any compensation other than mileage, and such compensation, if any, as may be voted in addition to the salary already paid out on account of the vacant membership in said district.

The order was debated on the next day.

THE DEBATE.

Mr. Underhill of Somerville: I should like to ask the gentleman from Brockton the particular purpose of trying to increase the membership of this already unwieldy body at this time.

Mr. Brown of Brockton: I am rather surprised at the question. I supposed that, this being a reference to the committee, it would go there, for the committee to discover what the gentleman from Somerville has discovered. To answer him in a direct manner, I say that I am asking to have it sent there to have my district have the representation to which it is entitled, there being no reason why it should not be represented provided that you can find a way. I have asked to have it go to a committee, providing that there shall be no expense on the State, the delegate's salary having been voted already.

Mr. Underhill: I am not particularly insistent upon taking this matter up previous to a report from the committee on Elections. I thought possibly we might save some time of that committee, at least, if we discussed the matter now. We are not here as representatives of districts, we are here representing the Commonwealth of Massachusetts and the people of Massachusetts to consider revision of the Constitution, and no matter concerns any particular district any more than another particular district.

Mr. Brown: I should like to ask the gentleman why, if that be true, all these members were not elected at large, to represent the whole State, instead of representing districts.

Mr. Underhill: Simply because of the unwieldy machinery that would entail. We have had other deaths in this body. We have men who, although they are not dead, never will return to this body, through illness which probably will result fatally. We have others who have been taken away by more imperative duties. There is absolutely no reason why any such order as this should be introduced, for there are enough members of the Convention to carry on the legitimate business of the Convention, and I for one am opposed to a further extension of the membership.

Mr. Brown: I should hold as a fundamental in the very Constitution that there should be no taxation without representation. I deny

the right to tax my district, to call upon it to pay out for the Convention when there is no representation from that district for that purpose. You already have paid the salary. That we do not ask for. You are about to enter into a new session, so far as compensation is concerned. For that reason I think we are entitled to representation. The largest part of the work is yet to be done by this Convention next summer. The office is vacant. It is vacant because of death. No one holds a title to it. In every other district, so long as a man is alive he holds title. If he has gone to war he holds title, his title has not expired, he has not resigned. If there be any other district in which a vacancy has occurred by death it is for that district to look out for itself. I am not taking care of that district, I am only taking care of my own. When this Convention was kind enough to vote to the family of Mr. Russell the salary which it very much needed, I think my district was perfectly content that it should be settled in that way. But now that is past and gone, and there comes this opportunity. I believe this Convention, — I know it is in fact, — is the judge of the qualifications of its members. It is for this Convention to say whether that vacancy shall be filled, and in what way it shall be filled, or to deny us the representation from the district. If it creates any precedent, I do not see wherein the precedent is a bad one. If there be no difference of opinion as to what was the relative standing of the individuals, why, then it removes the possibility as to whether or not the people intended that there should be such a representation, or a possibility of it. That is to say, the man who received the third highest number of votes in both the primary and the election might fairly be presumed to be the choice of the district, because he came near being the choice. I would hope the Convention might send this to a committee, to see if the committee thought favorably of it. Is it not a mere matter of justice to the district and to the State itself?

Mr. Dean of Fall River: I am a member of that committee. I hope this will not go to that committee. There is only one way to deal with questions of this kind, and that is to apply for a new election where a vacancy exists. That is a matter for the Legislature to take up. It is a double or treble district, and is represented by the gentleman from Brockton just now; it is not a case of a district with no representation. But even if it has no representation the way to handle this matter is for the Legislature to make such provision as they see fit for a special election. There is only one way to find out who represents the district, and that is by the vote of the people. I trust this will not go to the committee on Elections.

Mr. Cook of Fitchburg: I object to the passage of any such order as this purports to be. I wish to remind this Convention that my colleague is in France serving his country. If orders of this kind are coming successfully before this Convention, then I serve notice that I shall introduce a like order, that Fitchburg may have its proper representation.

Mr. Sullivan of Salem: I move the following as a substitute for the order of the gentleman from Brockton (Mr. Brown):

That the General Court of 1918 be requested to take such action as may be necessary to fill, by special election, any vacancies that may exist in the membership of this Convention on March 15, 1918.

Mr. Washburn of Middleborough: I am very much opposed, as one delegate, to referring this matter to the General Court. If anybody is to send out precepts for an election to fill vacancies, I think this is the function of this Convention itself. In the Convention of 1853 there was a vacancy in the town of Berlin, and that Convention consumed I think days, — that is the impression one would get from reading the debates, — in determining the way and manner in which the vacancy should be filled. I think it clearly does not belong to the General Court, and for that reason I hope the amendment offered by the gentleman from Salem will not prevail.

Mr. Sullivan of Salem: I should like to ask the delegate from Middleborough (Mr. Washburn) if he can give us the basis for the authority that he thinks we have to order special elections and cover the expenses of special elections.

Mr. Washburn: That whole matter was considered very carefully in the Convention of 1853, and I would refer the delegate from Salem to the debates.

Mr. Sullivan: My reading of the law under which the Convention of 1853 was called indicates that it was an entirely different law from that upon which the people voted last fall and under which this Convention is being held. I cannot see where we have the authority. If this Convention has the authority to call a special election and pay the bills of a special election I should like to know just where we get that authority. If we have the authority I am perfectly willing for the Convention to handle the question rather than the General Court.

Mr. Pillsbury of Wellesley: I think we are making a poor use of the time of the Convention in discussing any aspect of an order for which I cannot see the slightest foundation; but I am entirely in accord with my friend from Middleborough (Mr. Washburn) that the Legislature is not to be asked to fill our vacancies. If it has that power it plainly follows that if vacancies occur and the Legislature should not see fit to fill them, the Convention might be depleted to the point of no quorum. I have no doubt whatever that the power to fill vacancies belongs to the Convention and not to the Legislature, and while I regret to differ from my friend from Salem, I hope that his amendment will not be adopted, as the Convention cannot afford to put itself in that position.

Mr. Brown: The circumstances are entirely different. The members will recall that election in Berlin and the circumstances attending it. There was a member elected from that town and he was elected also from another place, and the question arose because of the vacancy thus created. He was a prominent light in the forces controlling that Convention. It was not a vacancy that was caused by death, therefore I think this case is different. Nor is this Convention now as then apt to be divided in such a way that one vote might create a difference of opinion as to who might fill a vacancy. It occurred to me that this was the cheapest way to fill any vacancy. If the gentleman from Fitchburg who rose (Mr. Cook) wishes to deprive a man of the honor of membership here because he is on the battlefield in France, why, let him so present it to the Convention. I would not deny the right of representation here to any district. I think representation is a fundamental right, and that the vacancy should be filled in some way. I think that my district perhaps might think that

if they were going to a very large expense to the State they might forego it. I should think any district might. But it is not a bad precedent that you should enter into a district and, when it seems to be clear that the will of the people has once been expressed, take advantage of that will. I am against sending it to the Legislature, anyway.

Mr. UNDERHILL: I have no more sympathy with the order of the gentleman from Salem (Mr. Sullivan) than I have with the order of the gentleman from Brockton (Mr. Brown). The best way out of this difficulty is to kill both orders.

The amendment and the order were both rejected.

Mr. Arthur N. Harriman of New Bedford, on November 1, 1917, offered the following order, which was adopted: —

Ordered, That the committees on Elections and Rules and Procedure, sitting jointly, are hereby requested to consider, and report before the proposed recess until next year, as to the advisability of making provision for filling vacancies in the membership of the Convention, caused either by death or resignation, now existing or which may occur before the Convention reconvenes in 1918.

The committees on Elections and Rules and Procedure, sitting jointly, reported that it was inadvisable at the present time for the Convention to take action in this matter. (Mr. Dean of Fall River, of the committee on Elections, and Messrs. Luce of Waltham and Powers of Newton, of the committee on Rules and Procedure, dissenting.)

The report was considered November 28, 1917.

Mr. Dean of Fall River moved to amend the report by the substitution of the following order: —

Ordered, That vacancies in the Convention, caused by the resignation or death of any of its members, shall be filled as follows: —

(a) If such vacancy shall be of a member elected at large, the remaining members elected at large shall select a person to fill such vacancy.

(b) If such vacancy shall be of a member elected from a congressional district, the remaining members from the congressional district shall select a person to fill such vacancy.

(c) If such vacancy shall be of a member elected from a legislative district, the remaining members elected from legislative districts in the same county shall select a person to fill such vacancy; provided, however, that the member chosen shall be resident of the legislative district in which the vacancy occurs. In filling such vacancies the counties of Dukes County, Nantucket and Barnstable shall be treated as one county.

The appointment to fill a vacancy shall be made by the members of the respective groups, or by a majority of them, and shall be in writing. Such written appointments shall become a part of the records of the Convention.

THE DEBATE.

Mr. DEAN of Fall River: Some weeks ago the gentleman from New Bedford in the first division (Mr. Harriman) presented an order calling upon the committee on Rules and the committee on Elections to consider the advisability of making some provision for filling vacancies in the membership of the Convention. Those two committees met, and a minority of the two committees favored some action, while the majority favored doing nothing at this time. There are really two questions: One whether we want to make any provision, whether there is any need of making provision for filling vacancies, and then,

if there is, what ought to be done. Now in regard to the first question: I think we ought to bear in mind that at this time we have a somewhat unusual situation, which is not faced generally by a Constitutional Convention. I refer, of course, to the fact that a great many of our members, and probably more of them before we meet again, will be found in the service. The fact that the country is now at war and that some of our men have been drafted, that others have voluntarily gone into the service, has left us with a considerable number of vacancies, and it seems advisable to some of us that if anything is to be done looking to the filling of these vacancies it ought to be done now. There is also another group that should be considered here. I understand there are some members of this Convention who, having expected that the session of the Convention would be short, now feel that their own affairs and private business will require their attention, so that they cannot longer sit. It seems to me that it is highly proper for those men, feeling that their private affairs must get attention, to resign and leave the way open for men to take their seats who can be in attendance here.

In the first place, this fourth division of the government, this Convention, has power to fill vacancies. Speaking of this matter a month ago I assumed that these vacancies would be filled by the Legislature. The distinguished member from Wellesley (Mr. Pillsbury) at that time called my attention to the fact that this Convention had the power to act in this matter, and that called to my attention the question whether it was better for the Convention itself to make such provision as it desired or to leave it to the Legislature. The Legislature might provide for a special election, and then undoubtedly we would accept whoever might be elected, but the final decision rests in this Convention. It clearly has an implied power to make provision for the filling of these vacancies. In view of that fact, and in view of the fact that provisions by the Legislature, or even this Convention, for special elections, would mean a considerable expenditure and a considerable delay, the gentleman from Waltham (Mr. Luce) and myself have prepared an order which we offer as a substitute.

I might say that this order is based in part upon what was done in Pennsylvania in 1872 and 1873. You will see it provides that the members of the Convention itself, the different groups in the Convention, shall fill vacancies which may occur in any particular group; that is, delegates at large will fill vacancies which occur in that group, a congressional delegation will fill a vacancy which occurs in that group. Then the more difficult question came in regard to how to deal with vacancies in the districts, and we provided that the person who was to fill the vacancy should comply with the provisions of the original act and live in the district, but his selection should be made by the other district delegates from the same county. The advantage of this provision, as I see it, is that it does not require a special election, does not require the expenditure of any additional money, and furthermore, if we do this now we stop the Legislature or we stop the members living in these districts going to the Legislature and asking them to make provision for the filling of vacancies.

I have pointed out that it means economy, — it means the expenditure of no more money. I also believe that certainly no man would accept a position as delegate to this Convention unless he was vitally

interested in what will probably be the most interesting part of our work, — I refer to the constructive work which is ahead of us next summer, — and we would get men who would be of real service in considering these questions. I trust that the substitute order will prevail.

Mr. LUMMUS of Lynn: I see nothing that can be gained by the adoption of this order now that could not be gained by its adoption when we reconvene next June. The actual selection of the men under the method proposed by the gentleman from Fall River would take very little time then. To pass this order in the last moments of the present session, when we all are anxious to get home, would be to act upon a very inadequate consideration of this important matter.

In the first place, there is a very grave question, it seems to me, whether this Convention has any authority to become a self-perpetuating body. The only thing in the act authorizing this Convention (St. 1916, c. 98) which was passed by the Legislature and adopted by the people, that may be thought to authorize any such thing is the provision that the Convention "shall be the judges of the returns and election of their own members." Obviously that contemplated merely the decision whether one man or another was elected; and as I look at it, without very much reflection, for us to turn ourselves into a self-perpetuating body might well be deemed an act in excess of our authority. No Convention in the history of Massachusetts ever has assumed any such power. It is true that in the Convention of 1853, when certain vacancies occurred, the Convention provided for the filling of its vacancies. (Debates, I, 87, 90, 99, 103, 185–188, 340.) In those days the representatives in the General Court and the delegates to the Constitutional Convention represented towns and were selected in town-meeting. It is true that the Convention of 1853 sent a notice to certain towns that if they should choose to send delegates in the place of those who had resigned the new members would be received, and new members were received; but those new members were selected by the towns through the regular course of popular election in town-meeting.

I submit that this order raises a question which ought not to be determined by us casually in a few moments. It ought to be gravely considered, because we do not wish to be deemed by the people of Massachusetts to be usurping the power which belongs to them to select delegates to a Constitutional Convention.

There are, I think, at the present time but two vacancies; it is true that there may be more. If the Convention is to fill the vacancies in the method proposed, and is to take the grave responsibility that the member from Fall River (Mr. Dean) desires the Convention to take, its action can be taken just as well when we meet in June. If, as I fear, that method is wholly improper and a usurpation of authority, surely we do not wish to commit ourselves to it hastily at this time.

Mr. HARRIMAN of New Bedford: This order was introduced at my request. I realize in addressing this Convention that it may appear undemocratic, and yet I feel that as this Convention will meet again, it is important that every representative shall be here more regularly than he has been during the discussions which already have taken place. There are many things that are of as vital interest to the

welfare of this Commonwealth as the initiative and referendum. I have stood here and I have said that the initiative and referendum will not go to the extent that its friends have claimed that it will go. It will not do what its opponents have said. It does not destroy representative government. There are things in the future in our calendar which must be attended to, and I believe that the most feasible way for this Convention to do is to provide for the recommendation which comes from the gentleman from Fall River (Mr. Dean). I believe that it is advisable. I believe there is common sense in it. There has not been raised an argument, — one will be raised, perhaps, — that the men will not be representative. I believe, for instance, that if a man is to be chosen by the delegates at large the remaining members would choose a man who represented the type of the man who was deceased. I believe they would be honorable in doing it. If, for instance, in a district where a labor man unfortunately might die, because, like everyone else, he is human, let me say that I believe that the other delegates would choose a man of like standing.

I believe this is the way to do this. I think that the districts should be represented, and the people should be fully represented here, and I believe this Convention is in as good a position to say that it can do it as any other body now or in the future.

Mr. Brown of Brockton: As one representing a district in which there is a vacancy I protest against the proposed method of filling it, outlined in the order of the gentleman from Fall River (Mr. Dean). There is no county representation here at the present time. There was no county representation contemplated in the bill. Why, therefore, if we are going to fill a vacancy at all, do we introduce a new method of electing a delegate by the remaining delegates from the county? I certainly should object to the county of Plymouth filling the vacancy in Brockton. Brockton is large enough to fill its own vacancy. If there should be any other method I might suggest bringing in the name of every man who ran in the district, and let the Convention take its choice, as being more democratic than allowing a few people to fill the vacancy. I hope the measure will not prevail.

Mr. Ross of New Bedford: This matter was referred to the committees on Rules and Procedure and Elections, sitting jointly. Those two committees met, and the minority of the two committees favored some action, while the majority favored doing nothing at this time. Really it is a question of whether we want to make any provision for filling vacancies or not. We have but two or three vacancies and the Legislature, upon assembling, could provide readily for filling the same. Personally I feel that in view of the large number of delegates in the Convention and the few vacancies, no harm would result if the whole question was ignored. In view of the protest of my friend and confrère, Mr. Harriman, against limiting debate, I want to say that he is one of the gentlemen I referred to some time ago as not having any coal nor the wherewithal to purchase it. His family is in that condition and he ought to be there with them. I, for once, am going to agree with the gentleman in the third division from Lynn (Mr. Lummus) that it is about time we went home.

Mr. Luce of Waltham: In the first place we ought to decide whether we will fill vacancies at all or not. The practical situation is that they are not likely to be filled unless we act now. It had seemed

to me that we ought to fill the present vacancies and such as may occur, for the benefit of the Commonwealth, in order that we may have here as adequate a representation as possible of the people of the Commonwealth next summer. If we are to fill the vacancies then a method must be devised. This was the Pennsylvania method in substance; therefore there is a precedent for it.

I can but in a few words answer the gentleman from Lynn (Mr. Lummus). We have adequate powers in the matter, because it is inherent in all legislative bodies to fill their vacancies in such manner as they may prescribe. It is a condition and not a theory that confronts us. To fill a vacancy in the delegation at large by election will cost between $50,000 and $100,000, and nobody at this juncture would urge that upon the Commonwealth. To fill a vacancy in the congressional delegation by election would cost from $5,000 to $10,000, and nobody in this juncture would urge that method of filling a vacancy. To fill a vacancy in a representative district by election would cost somewhere from $200 to $2,000, and does anybody desire that expense to be incurred? Therefore, throwing theory to the winds and facing practical considerations, if we do want vacancies filled, what is the best way to do it?

Will there be many vacancies? I know of one gentleman who already has left or who is intending at once to leave the State to conduct his occupation in a remote part of the country. I know of another gentleman who has sold his house in this Commonwealth and bought one in another Commonwealth. There are already ten or fifteen of our members with the colors. If the draft comes again, as it is feared, there may be from thirty to fifty with the colors before the Convention next meets. Furthermore, there are gentlemen here who never contemplated such a sacrifice of time as this Convention has entailed and promises to entail. It may very well be that some of them would prefer to make way for somebody else, who might undertake the duty and perform it to the benefit of the Commonwealth. We are through with factional disturbance. We no longer are confronted with the drawing of factional lines. We have before us the gravest of work of a constructive nature, in which we ought to have the contribution of all the men that we can secure to help us.

It has been said that this Convention is too large. Sir, once I had the opportunity of sitting next to George S. Boutwell, in the closing years of his life, a man who had experience with legislative bodies in this Commonwealth, when they ran up to 500, 600, or 700 members, and when they were reduced, and also had long experience with Congress. I asked him: "Mr. Boutwell, which in your judgment is the better legislative body, the large or the small?" After due reflection he answered: "The large body." He thought the large body reflected the temper, the feelings, the public opinion of the Commonwealth, in a way that a small body does not. For that reason, it seems to me we are justified, for the benefit of the Commonwealth, in attempting to secure a large representation.

This method of doing it is unusual in legislative bodies; it is, however, the custom in smaller bodies. My own city of Waltham has just adopted a form of charter which provides that a vacancy in the council shall be filled by the remaining members. It is the custom in school boards. It is the custom in many other of the minor law-

making bodies. There is a precedent for it. There is justification for it in practical considerations. It would be possible if this order should be adopted to secure the attendance of some men who could contribute very largely to the wisdom and to the judgment of this Convention. I admit the gentleman from Brockton (Mr. Brown) is right, that theoretically vacancies ought to be filled by election in the district. I admit he is absolutely sound in that proposition. But, sir, at this time, when we get from every hand appeals not to spend money where it can be avoided, should we not take this practical solution of the problem?

Mr. Youngman of Boston: Are we not tired of these remote precedents on trivial questions? We have two vacancies to fill. That is all and they can wait. I believe that there are more important things, vastly more important things waiting our attention outside of this Convention hall, and we ought to get there pretty quick. I think the situation is something like that the little girl in the hospital at Lucknow during the Indian Mutiny experienced when she wanted to convey to those people that there was something outside, beyond the walls, that they ought to attend to. She said: "I hear the bagpipes. The Campbells are coming." Now the German General Staff are in Petrograd. The armies that are marching to their martial music are marching to destroy our liberties, and it is about time that these men from the community, the picked men of these communities in Massachusetts, get out and get on that larger job of the whole Nation.

Mr. George of Haverhill: I am fully aware that the members of this Convention have one object in mind, and that is to finish the work of this session and go home. Therefore I am not going to take ten minutes to discuss this proposition. Nobody is suffering. There is no demand for immediate action. It is to-day as it has been for the last six months. Every city and town in the Commonwealth has been represented. We have sixteen delegates representing the State at large; therefore they represent every town in the State. We also have our district delegates by Congressional districts, not only representing the Congressional districts but representing every city and town in those districts. Then we have a delegate from every representative district, and, as I understand it, there is no district in the Commonwealth that is unrepresented. Now, why should we worry about what will happen between now and next June? It seems to me it would be unfortunate if we should adopt an order here that would in effect tell the people of the Commonwealth who elected us that from now on we intend to fill all vacancies, and the people are not to have anything to say about it. I think that would be most unfortunate. We can accept the report of the committee, and when we meet next June we can govern ourselves according to the conditions that then exist.

Mr. Pillsbury of Wellesley: I wish only to state briefly the reasons for which I concurred in the report of the committee, which I think ought to be adopted.

First, there is no present exigency and no situation now existing which calls for any action upon the subject.

Second, it will be quite time enough to act when such a situation arises, as it possibly may have arisen when we come back here next

spring, if the Legislature has not taken care of it already, as I think it highly probable that it will. And a single remark upon that reason. I have no doubt of the power of this Convention to provide for the filling of its own vacancies. Neither have I any doubt that if there is pressure for the filling of any vacancy the Legislature will be asked to make provision for filling it, that we are likely to find it filled when we get back here, and that there will be no sufficient reason why we should not admit any member or members who come here under that authority.

Third, while I do not doubt the power of the Convention to provide for the filling of vacancies, I am not so convinced that it has power to fill them itself, with men of its own choice, and I am sure that this would not be a popular or an advisable method of procedure, though all the advantages of convenience and economy may be in favor of it. I am one of the men in this Convention who really believe that the people have some rights [applause], and it appears to me that an indisputable right of the people is to be free from the control of factions, groups or bodies, and to fill their own vacancies in their own Convention. [Applause.]

The amendment was rejected and the report of the committee was adopted.

ABSENCES FROM THE CONVENTION.

The following orders were offered by Mr. Asa P. French of Randolph: —

Ordered, That on and after Wednesday, August 1, there shall be a roll-call of the Convention at the beginning of each session and a record kept of the absentees.

Ordered, That a committee of five on Leave of Absence be appointed by the President, to which applications on the part of members for leave of absence shall be referred, considered and reported, with its recommendations, to the Convention; and unless excused by the Convention such applicants shall be required to attend.

The subject was discussed August 1, 1917, as follows: —

THE DEBATE.

Mr. French of Randolph: In speaking very briefly on this order, and the other which I introduced yesterday, may I without offence, remind the delegates, and myself as one of them, that, when each of us offered himself as a candidate for membership in this Convention, it was with the implied promise that we would devote our time and our attention to the important work of the Convention, and would strictly subordinate, and if necessary sacrifice to it, our personal affairs and our personal convenience, and so arrange our public affairs, if any, that the two would not seriously conflict.

It is impossible, I think, to escape the conviction that some of the members of the Convention, at least, have regarded this obligation lightly. Yesterday, at the first roll-call there were sixty-six who did not respond to their names, and at the second roll-call there were sixty-five who did not respond. That this is not fair to the rest of us is a matter of minor consideration. That it is not fair to the constituencies who are unrepresented by the absentees is quite another thing, and is a matter which the orders which I have introduced presupposes we have a right to control and remedy. In every other similar Convention, to the record of which I have had access, there has been great strictness with regard to leave of absence. In the Convention of 1853 the roll was called at the beginning of each session of the Convention, and there was a committee on leave of absence, consisting of seven members, to whom every request for such leave was submitted, reported to the Convention, and acted upon by that body. During that Convention there were forty-three such applications considered by the committee and acted upon by the Convention, the reasons ordinarily being either the illness of a member or illness or death in his immediate family. In one of the earlier Conventions, — I have forgotten now which one it was, — two lawyers were refused leave of absence to try an important case which was pending in the western part of the State.

It seems to me that it is our duty to enforce with the same strictness the presence of members in this Convention. In the last Convention in New York, in 1914, the rule to which I have referred prevailed,

and each member desiring to be excused for any purpose was obliged to make his request known to a committee of the Convention and have it acted upon by the Convention.

Mr. Luce of Waltham: In contemplating an admirable purpose, I suspect the gentleman from Randolph in the second division (Mr. French) has not taken into account some difficulties. If my computation is correct, taking the Committee of the Whole, after eight days of deliberation we have disposed of about forty documents of the three hundred that were presented to us. In other words, we are averaging about five a day, and if this average should continue there will be fifty-two days more of deliberation, and several days more to finish up the work. Now, a roll-call takes us about twenty minutes. The passage of this order, requiring between 50 and 60 roll-calls, will consume nearly twenty hours, which is more than the Convention is now devoting each week to its labors. Therefore the passage of this order will extend the duration of this Convention by something more than a week, and I submit, sir, that the game is hardly worth the candle, — that the good to be accomplished will not be offset by bringing us to this hall a week, and perhaps a week and a half, more than otherwise would be the case.

Yesterday a roll-call disclosed the attendance of two hundred and fifty members. That, I think any one acquainted with deliberative bodies will say, was an astonishing exhibit. That on one of the hottest days of the year nearly five-sixths of the membership should be in attendance, is a tribute to the honesty and sincerity of purpose of our members and their diligence in application to their business that hardly can be matched in the records of American deliberative bodies. It may be that later in the Convention we shall become somewhat more lax in the performance of our duties, but certainly thus far there has been disclosed no negligence and no indifference, to my mind, calling upon us to go through the perfunctory process of calling the roll each morning, to the extension of our deliberations by more than a week of time.

I would suggest, sir, that undoubtedly the end that the gentleman has in mind may be accomplished by holding over the members *in terrorem*, so to speak, the possibility that he or somebody else occasionally will rise at the opening of the session and ask for a call of the roll. This would accomplish all the purpose desired, in my own judgment, and would prevent us from extending our deliberations to the time that I have specified.

While I am on my feet permit me to say a word about the matter of leave of absence. We have a rule already in the matter of leave of absence. Time was when the enforcement of attendance was a custom throughout all the country. You may find fines freely applied in the Plymouth Colony, in the Massachusetts Bay Colony, in Virginia, where so many pounds of tobacco were taken from every member who failed to present himself; and through the Colonial days there was a constant attempt for many, many years to enforce attendance after this method. In recent times that has been virtually abandoned, and where the rule persists it is a matter of form rather than a matter of substance. For men have come to the conclusion that it is useless to try to enforce the performance of duty upon their neighbors, and that if conscience does not suffice to lead men to perform their duty

it is idle to waste time by the use of other methods. And, therefore, inasmuch as the common sense of all the legislative bodies of the land has abandoned a practice that never was effective, I trust we will not think it necessary at this stage of progress to revive a thing that generally has been abandoned.

Mr. Avery of Holyoke: I come from the western part of the State, and as I have become acquainted with the members of the Convention and have watched the deliberations of the Convention, it has impressed itself upon my mind that we have here as fine a deliberative body as this country could afford. We are not a collection of school boys. We ought not to be continually investigated and spied upon; and if we cannot trust our consciences and our honor in the simple and single manner of being here at every possible moment we can, then how can we trust ourselves to do wisely and honestly the things that we have to do in other ways as members of this Convention? The introduction of this order is itself a reflection upon this Convention, although it was not so intended; and I hope that this Convention, of all the Conventions that have convened in this State and attempted to revise its Constitution, will refuse to impose upon itself any such rule or regulation as this.

Mr. Parker of Lancaster: To-day, in the ardor of this atmosphere, I entertain little hope that this Convention will abstain from continuing in the heroic martyrdom to which it has been consigned by the stirring appeal of my honored friend from Worcester (Mr. Washburn). I see no reason why we should not continue in that course which we deliberately by vote imposed upon ourselves yesterday. I could wish that we might claim, as suggested by my friend the delegate from Worcester, that we were sharing in some measure in the really heroic courage of kinsmen and countrymen of ours, who, upon sun-scorched fields, in camps, or upon the battle line, are engaged in upholding the honor and good name and glory of our country. I fear we cannot claim to be entitled to distinction like that, even if we shall continue in the arduous labors which we rather obstinately have determined to pursue during these heated days.

I did not subscribe wholly to the suggestion that the example of Congress in Washington should be emulated by us. There are those of us who believe that much of their industry is misdirected, and if they would attend promptly to the duties manifestly before them and return to the serene composure of their homes, the country itself would share in something of that serenity. Nor am I wholly in accord with those strenuous, stalwart souls of our membership, who have urged upon us and have imposed their somewhat arbitrary will upon us, insisting that precipitancy and haste is an essential quality of deliberate determination. They appear to be of opinion that the only activity that is really efficient in public life is that activity which keeps one constantly upon the run, — perhaps running for public office in some instances. [Laughter.] I subscribe to none of these several reasons which suggest that the sacrifice of personal comfort that we are making here entitles us to the grateful recognition of our countrymen. I am of opinion that perspiration is not the best evidence of patriotism.

But I concur in the other suggestions, though I do so regretfully since they are in conflict with the motion of my honored friend from

Randolph (Mr. French). I do not believe that the inquisitorial test of the calling of the roll of membership is either wise or a deserved menace to the consciences of this assembly, nor do I believe that the time occupied in that inquisitorial inquiry is warranted by reason of the duties that still press upon us. I apprehend, however, if we continue in our obstinate determination to prosecute our deliberations in this tropical heat, it will develop rather more of profuse, — I might almost say profligate, — oratorical vegetation than real contribution to the causes which we here are charged to deliver ourselves of. I trust, therefore, that, summoning such resolution and fortitude as we possess, we will continue diligent, persistent, industrious, in dealing with all the several measures that await our attention. I apprehend, however, from the forecasting of the weather that threatens us, that the day shortly will come when the question will not be whether the Convention shall stand adjourned, but whether it shall be dissolved. [Laughter.]

The orders were rejected.

Mr. Sullivan of Salem offered the following motion, November 1, 1917:

That the committee on Rules and Procedure be requested to take such steps as may be necessary to protect the members of this Convention from the scandalous attacks which have appeared from time to time in the Boston American, particularly in the issue of November 1, 1917, an article on page 9 of which bears the title "Slackers Give Foes Chance to Hit I. and R.", a copy of which is attached hereto.

THE DEBATE.

Mr. O'Connell of Boston: May I have the whole article read?

The President: The Chair rules that the article is not a part of the motion and cannot be read unless the Convention votes to have it read.

Mr. Sullivan of Salem: In the first place, I am not attacked in this newspaper article. The Boston American never has attacked me, except that I think it jokingly called me the "Cheer leader of the anti I. and R's." or something of that sort. But this article contains many errors. They have listed the names of men who are seriously sick as being absent and slackers. They have listed the names of men who have been given leave of absence by vote of this Convention to attend to some of their war duties or for other public purposes. For instance, to read a few of them, here is Mr. George W. Anderson, who has been given a leave of absence to enter the public service at Washington as a member of the Interstate Commerce Commission. Here is Mr. John W. Cummings of Fall River, one of the best and most regular attendants we have had at this Convention who now is having serious trouble with his hearing and is under the doctor's care. Here is Mr. Foss of Springfield, who yesterday in his profession as a doctor saved a human life. All of these men or most of them, mind you, would vote for the I. and R. Here is Augustus W. Perry of Boston, who we all know was out earlier in the session, having been injured in an accident, but who now is in the United States Navy. Mr. Sweeney of Attleboro, who is under the care of a trained nurse and has been voted a leave of absence. Here is the worst one of the whole

list, Henry J. Wheelock of Fitchburg, — the idea of calling him a slacker, — a man who at this time is in the trenches in France. I think if the members of this Convention have got any red blood in their veins and want to show the public that they are not under the domination of the yellow journal that prints that sort of stuff, they will vote for this motion. [Applause.]

Mr. THOMPSON of Beverly: I should like to ask the previous speaker just one question. I should like to ask him if he has left the cow-bells off. If he has, or if he has not, why has he not included the Boston Record in that motion?

Mr. SULLIVAN: I do not think the question calls for an answer, it apparently being intended as a joke, while I am serious about my motion.

Mr. LOMASNEY of Boston: I trust the Convention will restrain itself. What is the use of our making fools of ourselves? I use the word advisedly. The gentleman means all right, but he is young. [Laughter.] He is enthusiastic; he is a good worker; and he has worked hard for his side. When he is twenty-five years older if he is not called anything worse than a slacker if he continues in public life, he will be a wonder. [Laughter and applause.] Why, what did they say about the Father of our Country, George Washington? What did they say about Andrew Jackson? What did they say about the martyred Lincoln? Let us pause. What is the liberty of the press for? I have been accused in the press of almost everything except murder and arson, but they never proved anything on me. [Laughter and applause.] I was indicted in this county once by a district attorney at the request of some politicians who thought they could drive me out of the city, when I was working for a very small salary; but I am here and so is he, and most of those who put up that job on me are dead and buried.

The liberty of the press is sacred. They may make mistakes. I wish we had an uncontrolled press. If we had, things would not be going on the way they are. "Slackers"? Why, is it not foolish to pass this motion? What do we do if we pass it? I appreciate the gentleman's spirit; he is brave; as I said before, he is young. Somebody got hold of him and stirred up his fighting blood, and Sullivan, we all know, is a fighting name —

Mr. SULLIVAN: I wish to correct the gentleman from Boston. Nobody got hold of me. The minute I read that article in the American I went ahead on my own volition.

Mr. LOMASNEY: There are three names connected with the fighting race, — Kelly, Burke and Shea; but Sullivan also belongs there. And do not let this Convention, because some member is called a slacker, start in to restrain the press of the State and invite upon ourselves certain criticism that they well can justify.

Now there are other gentlemen. Why should they not criticize George W. Anderson if he does not come here and attend to his duty? Why should they not criticize these other public men if they get their money without being here? How can any man walk up to the treasury and take pay for doing work of a delegate, that he has taken an oath to perform, without being here at least half of the time? It is time that attention was called to their negligence. If the men of brains in this Convention gave the time here to the State and to the public

service that they give to their private affairs, we should not have been here so long. See what occurred when the gentleman from Fall River (Mr. Justice Morton) gave us his views on the taxation part of the education resolution. Did not the cloud raised by Mr. Cummings disappear? He is the oldest member of this body but he sits here patiently every day, giving his time to the State.

Why could not Whipple, Choate, Anderson, and all these other big men do as he does? If they could not, why did they accept the position and not do the work? If they do not want to do their duty why do they not resign like men? [Applause.] I hope that the delegates will realize that the Constitution guarantees the freedom of the press, and that no jury, not even in old Essex County, would indict a man for criminal libel for using the word "slacker" or give him any substantial damages in a civil action unless he proved them pretty conclusively. I trust the gentleman will not insist on his motion, and I move the matter be indefinitely postponed.

Mr. Sullivan of Salem: I entirely agree, having attended all but one afternoon session of this Convention and not having missed a roll-call, that something should be done not only to have some of the big men, whom the gentleman from ward 5 (Mr. Lomasney) named, but also some of the men of humbler station forced to attend this Convention. I would agree entirely with any order he would put in to that effect, either that they attend or make them resign. But I do distinguish, — getting back to the main proposition, — I do distinguish between what is called the freedom of the press or the liberty of the press and the license that this publication represents. And I again ask any man who has got any red blood in his veins to vote for this motion and not bow down to the Hearst interests. We all know what they are doing in New York. If we want them to have a chance to do the same thing in Massachusetts, vote down the motion; but if we have any red blood in our veins, adopt it.

Mr. O'Connell of Boston: I should like to ask the gentleman from Salem if he does not think that list is correct as far as many of the names in it are concerned?

Mr. Sullivan: I know that the list is not correct, except for a very few names, and if the gentleman from Boston had read the list he would know it was not correct.

Mr. O'Connell: I believe that that list ought to be amended. I know there are some names on that list that ought to be on it, but I do believe, as the gentleman has pointed out, that there are some names concerning which there are mistakes. As the gentleman from ward 5 has pointed out, there have been eminent members in this Convention who deliberately have absented themselves from it while you and I have come here day after day at great personal sacrifice, and when we know that these men have been around in the courts and on the street and attended to their own private business within earshot of this room. Something ought to be done to make them attend, and the term "slackers" as applied to them is absolutely correct. And I for one, who am sacrificing my time to the injury of my business and my family and my children, resent the manner in which those men absent themselves from this Convention and I applaud any paper which calls the attention of the people of this

Commonwealth to the manner in which they are not attending to their duties. [Applause.]

Mr. UNDERHILL of Somerville: This motion has served its purpose in bringing before the Convention and the public the unfair, the unjust and the un-American tactics of the yellow sheet known as the Boston American. As the gentleman from Boston has suggested, it might now be indefinitely postponed. It has brought about another thing, however, which is more important, perhaps; that is, it has brought particularly to the attention of the people of this Commonwealth that 300 men are sitting here in a Convention when they ought to be out about their public, patriotic business of the Commonwealth and the Nation.

Mr. WALKER: I should like to ask the gentleman if he does not consider the work of this Convention public, patriotic business?

Mr. UNDERHILL: Under present conditions, no, I do not. Under present conditions I believe that every man, whether he is of the draft age or whether he is fifty, sixty or seventy, ought to be out doing all he possibly can to help his country in this emergency; and I do not believe we are helping our country by sitting here and discussing this question.

Mr. KNOTTS of Somerville: I should like to ask the gentleman whether that will be his view also of the incoming Legislature of Massachusetts. [Laughter.]

Mr. UNDERHILL: My colleague of Somerville has many duties, — I suppose they are patriotic, I know they are religious, — that have kept him away from this Convention quite a considerable time. I have been here at every session. The Legislature is a necessary evil. It is provided for by law and it is necessary to have the Legislature in order that we may carry on the war. [Laughter.]

Mr. PILLSBURY of Wellesley: I am very glad to be able to follow on this occasion the admonition of the distinguished leader of the Convention who sits for ward 5 in the third division [applause], although there is no question here of the liberty of the press. I have no doubt that my feelings upon this matter are precisely the same as those of my friend from Salem who offered the motion. And while I have never shed enough of my blood to be aware of the precise shade of it, I trust that it is as red as his. I agree also in much of what has been said by my friend from Boston in the second division (Mr. O'Connell), and I sincerely trust that this Convention will not demean itself by taking official notice of any fulminations of the newspaper press, at least until there is more pressing occasion than has yet appeared. The only question here for our consideration is a question of the dignity of the Convention, and such as it has left I would like to see preserved. [Applause.]

Mr. GLEASON of Andover: I have sat here during all this Convention. This is the first time I have felt like rising. I want to let you know that I have got some red blood in me and I will go the distance. First, I want to compliment the gentleman in the third division. Politics has been something new to me. I have served in the last two Legislatures and you know I have grown to love the gentleman from ward 5 and I know that he is all right.

Now to bring it right to a point, let us remember on this beautiful

morning that it would be nice to go out into the open country where I come from, — I noticed it on horseback this morning, — rather than come in here and be so small as to take any notice of this kind of stuff! Now I want to tell you a better piece of work that we can do this morning is this: Let us follow the dictates of the gentleman from ward 5, indefinitely postpone this matter and move, what the people want, the initiative and referendum to the second reading. There is a beautiful piece of work we can do this morning. [Applause.]

Mr. Bauer of Lynn: I should like to call the attention of the members of this Convention to the fact that the "slackers", so called, have been arriving in bunches. You have seen them come in in ones and twos all the morning and it is very evident that whatever else may be said, the dose of physic has worked.

Mr. Besse of Newburyport: I rise to a question of personal privilege. I wish to absolve my friend Mr. Shannahan of Somerville and request the Boston American to take his name off the list of slackers, as he kindly paired with me yesterday afternoon as I was obliged to go away.

Mr. Twomey of Lawrence: I trust that the Convention will not insist at this moment on ordering the main question to be now put. This matter of newspaper criticism, coming at least from the source to which this order is directed, has weighed somewhat heavily upon my mind; somewhat heavily, I say, because I am one of those who, on more than one occasion, have been referred to as having been absent from the work of this Convention. As far as healthy, honest criticism may be directed toward any person in public life, I certainly not only think it is helpful, but even would invite it, because there can be no more potent force for the welfare of legislation than publicity. But when it comes in the present form, under the designation of "slacker" at this particular time when that word has, I might say, a charged meaning, I must resent it, even though some members of this Convention, both by their words and by their applause, would seem to want to let it pass unnoticed. I would say that as far as the word "slacker" with its specialized meaning is concerned, I resent it not only because of the fact that I am the only remaining member of my office, in that one member of that office is now serving in France and in that I am trying to do his work, work which involves some duty to widows and orphans who have cases in court, but I resent it further because I come from a family the blood of a member of which has been shed for this country. I resent it further because I am within the shadow of the next call in the draft. I resent it further because I question the sincerity of the particular paper with reference to the initiative and referendum. I have seen that paper in its practical operation. I have represented the newsboys of Lawrence in their honest and justifiable protest against the methods of this particular paper, and if that paper can do all that I have seen it do within the last few months, if, although proclaiming itself as the champion of the people and as an asylum and a refuge, you might say, of the oppressed of all nations, — if that same paper can go to the city of Lawrence and even though it will not take money of liquor concerns for advertisements, if it can spend, I might say, its thirty pieces of silver to make thugs intoxicated and then send them out to attempt the murder of the newsboys, I say that I will not accept the

designation of slacker coming from that particular concern, but will accept whatever verdict my constituents may see fit to place upon my action. [Applause.]

Mr. Webster of Waltham: I want to tell something which will give information to a good many of the members present. This is All Saints' Day. [Laughter.] I do not think it is fair to take up all this time with the small matter of Boston journalism. Now, gentlemen, I understand I am in that list, though I have not seen it yet. I was paired yesterday afternoon, so that my conscience does not trouble me. I think the best thing for us to do is to dispose of this immediately, get it out of the way and forget it. If his own conscience is free, who cares? If his conscience is not free, no action of this body can help him out. [Applause.]

Mr. Ross of New Bedford: I will not detain the Convention but a moment. I trust this motion will be rejected. I feel sore on the Boston "American." I do not think it has called me a "slacker." I have been here all the session and the thing I am sore about is that it does not say something about me. [Laughter.] When a man has been in public life a few years he wants the press to talk about him, — to say something good if they want to, if they do not, to say something bad, — say something, anyway. And that is my soreness. If you remember, I tried to wake up the gang up there (pointing at the reporters' gallery), but they do not pay any attention. I have challenged them two or three times to say things, and they have not said them half bad enough. The thing I am looking for is for the press to talk about me, and I do not care whether it is "slacker" or "murderer". [Laughter.] I trust this motion will be negatived.

Mr. Dean of Fall River: I am on the list as one of the "slackers". As the gentleman in the third division (Mr. Lomasney) has said, I wish that the newspapers would publish a list every day of people who are absent from this Convention. At the same time, while I am on my feet I want to say that while I am down in the list of slackers I sat here in my seat during the roll-call because Mr. Cox came along and said: "I have got to be away a few minutes; I hope I will be back in time to vote. If not, do you agree to pair with me?" And I agreed to it, so I sat here and did not think it was worth while to make a statement at that time. Nevertheless, I think the newspaper is quite within its rights in publishing the list of people who are absent and also those of gentlemen who do not vote on the matter. I am heartily in accord with the motion to postpone the order indefinitely.

Mr. Bryant of Milton: I feel a good deal as the gentleman from Somerville has expressed himself and also the gentleman from ward 5. I think the discussion on this motion has served its purpose. I believe it is too small a matter for this Convention now to take a solemn vote on its merits. I think we ought to end this discussion, but I suggest that we vote against the motion for the previous question and that then we take up the motion to postpone indefinitely. We cannot take up the latter motion first, but if we do not vote the previous question now we can postpone the motion indefinitely. If we vote the previous question, then we all must vote on the merits of the main question. That is, we must either seem to ratify the action of the paper in publishing this list or to disapprove it. A good many of us think, — at

least I think, — that the matter has gone far enough and it has had all the discussion that it warrants and the proper thing to do is to postpone it indefinitely. And I suggest that we vote down the motion for the previous question and that we then indefinitely postpone the matter.

The question coming on indefinite postponement, the matter was indefinitely postponed.

At the next session debate took place on the following order offered by Mr. Feiker of Northampton:

Ordered, That any member of the Convention who absents himself for more than two days without leave as provided in Rule 13 be required to make satisfaction therefor as provided in Rule 20.

THE DEBATE.

Mr. Avery of Holyoke: I do not think that this order should be referred to the committee on Rules or should be adopted. In the first place, it does not strike any situation which bothers a good many men in this Convention, — that is, the case of some of the men who are absent from this Convention on excuse by the Convention so that they can make money. Some of the men who are thus absent do not need that money. Some of the men who stay here do need it, and this order does not fit that situation at all.

Another thing: It says that a man who is not excused must be penalized. Well, there are men who from this time on will not ask to be excused because they are too proud to do it, and who cannot come here because they cannot afford to come here. Before we pass any such hypercritical order as this let us face the question of compensation for the members of this Convention who cannot afford to come here much longer. Do we want this to be a representative Convention representing all classes in Massachusetts, rich and poor alike, or do we want it to be a Convention of people near Boston and of people who have got money enough to come here and give their time? It is about time that we faced that issue, because some of the men who ought to be here are not here to-day because they cannot afford to be here.

I am opposed to this order or any order like it until we are men enough to face the real question which is before this Convention at the present time, the question of absenteeism on the part of those who can afford to be here, and the question of compensation, rightful compensation, to the members who do come.

Mr. Feiker of Northampton: I offered this order in good faith and I think every member of the Convention believed that I did. There is no hypocrisy behind this order and I believe that the delegate from Holyoke knows it. I do not wish to cast any aspersion upon the character of any member of this Convention or to take into consideration any reason why he stays away from this Convention. But I submit that the time has come when the citizens of Massachusetts should have an interest in the delegates whom they have sent here. When we went to the primaries for the people's votes to come to this Convention we were mighty glad to tell them that we would attend to our duties and that we would do our duty as we saw it. I believe

that the duty of the men who have been elected to this Convention is to attend to this Convention every day until the business is finished or until it is time to adjourn. There are members of this Convention who have paid absolutely no attention to the oath which they took when they came into the Convention, and I submit that this order will bring them to their sense of duty. I am not going to point out any special case; it is not my purpose to do that. But I wish to have this Convention understand that I do not think it is fair to a man who comes here from western Massachusetts and spends his time in taking into consideration the questions which come before this Convention, to allow members who come from that section of the State and also other sections to absent themselves from this Convention weeks at a time without paying one bit of attention to this Convention. It makes no difference to me what the compensation is, we knew what it was when we were elected, every one of us, and if we have got a job that is going to take our time it is no fault of the citizens who elected us but our own fault, and we should take our medicine. That is what I say absolutely. It does not make any difference how hard it is to swallow the dose.

I did not agree with the delegate from Holyoke in his order to have this Convention adjourn on the 23d day of November or whatever date it might be. I believed that we should go ahead and do our duty and finish the work of this Convention and I believed the Commonwealth of Massachusetts would take into consideration the work which we did, and if we were entitled to any further compensation we would receive it. I believe it is time that the warning note should go forth to the members of this Convention to attend to their duties and not leave the Convention for a week at a time, and if in violation of Rule 13 of this Convention they absent themselves for more than two days, that they should be called to account under Rule 20 of this Convention and thus that they shall make satisfaction therefor.

I believe this is a fair order. It may come late in the season; you may say that the horse is out of the barn and now we are going to lock the door. But I believe if we have got a good colt in there we want to save the colt. I trust that this order will prevail and that the members of this Convention will thus bring to a sense of duty certain gentlemen who have paid no attention to the oath of office which they took when they came into this Convention.

On motion of Mr. Mahoney of Boston, the order was laid on the table.

On the 13th of August, 1918, the following order, offered by Mr. Curtis of Revere, was considered: —

Ordered, That the Treasurer and Receiver-General may accept the waiver of the salary, or any part thereof, of any member of the Convention who has been absent from its sessions, and may thereupon dispose of the sums so waived as though the same had not been appropriated to salaries by the Convention, unless the waiver requests the payment thereof to the work of the Red Cross, in which event it shall be so disposed of. The Secretary of the Convention is hereby directed to notify each delegate of the adoption of this order.

THE DEBATE.

Mr. Curtis of Revere: This order speaks for itself. It is not only an appeal to honor and to conscience, but it gives an opportunity for such delegates as, for various reasons, have not been present at very many of these sessions, if they so desire, to turn over their compensation, — their salary, — either to the Treasurer for general purposes or for the purposes of the Red Cross.

Some time ago the honored President of this Convention showed me a letter written by one of our delegates who is now with the colors across the water. In it this delegate said that he did not feel right in accepting pay from the Commonwealth for services which he did not render and wanted to know if there was not some way in which he could turn his money back to the purposes of the Commonwealth or in some other way. The Treasurer of the Commonwealth, as I understood the matter at that time, under the law sent checks to this delegate.

There is another class of delegates of whom I speak in highest respect, because very often they have their own personal reasons for not being here — it may be sickness, or it may be pressing duties that keep them away, and yet they have been absent nearly all of the term of this Convention. I speak in no derogatory terms of such men, although possibly there may be some who could have attended had they so wished. This order is designed so that if any of those men desire to pay over their salary to the treasurer of the Red Cross or any other charitable object, — I have no special interest in what they may turn it to, but I thought the Red Cross, "the greatest mother in the world," whose munificent hand stretches all over the world, might appeal to some of those men. I thought, too, it might be that some of those men remembered the admonition of old, "Labor to keep alive that little spark of celestial fire called conscience." Some men, I know, can well afford to turn back this money and give it to this splendid charity. But whether this order is passed or not it has been in print and will have its effect. It is all a matter of the conscience and of the honor and the financial condition of each delegate.

Mr. Creed of Boston: I move to amend by inserting after the words "Red Cross" the words ", the Young Men's Christian Association, the Knights of Columbus, the Salvation Army or the Jewish War Relief."

Mr. Curtis: I am very glad to accept an amendment such as offered. I have no special objection; all those named are worthy purposes.

The order as modified was adopted.

COMPENSATION OF DELEGATES.

On the 13th of November, 1917, Mr. Sullivan of Salem offered the following as a motion:

Ordered, That the committees on Rules and Procedure and Contingent Expenses and Pay-Roll, acting jointly, be instructed to take the necessary steps to secure from the General Court of 1918 a sufficient appropriation to cover the deficits already accrued at this session, and the estimated expenses of the sessions of the Convention to be held in 1918, the appropriation also to include a sufficient sum to be paid as compensation to the delegates at the rate of $150 per month during 1918, and also including compensation to be paid the delegates for November, 1917, at the same rate of $150 per month, together with the proper traveling or mileage expenses for the 1918 session, but the total of the monthly compensation not to exceed $750 to each delegate for ordinary services rendered after November 1, 1917.

THE DEBATE.

The PRESIDENT: Mr. Pillsbury of Wellesley asks that the order lie over.

Mr. SULLIVAN of Salem: I put that in as a motion; it is so written.

The PRESIDENT: It is in the form of a motion, although the Chair thinks it properly would be in the form of an order. Mr. Pillsbury of Wellesley moves that further consideration of the matter be postponed until to-morrow. The question is on postponement.

Mr. SULLIVAN: I would just as soon hear from the gentleman from Wellesley.

Mr. PILLSBURY: I have not the slightest objection, and think there can be no objection, to the reference of this motion to the committees proposed, but the form of the order is a mandate by the Convention on these committees to take steps to secure from the Legislature further compensation. There are some reasons why the Convention ought not to be put in that position and I do not think it need be, and if the form of the order is slightly changed I should see no objection to it. An order directing the committees to inquire into the subject would, I think, be entirely unobjectionable.

Mr. SULLIVAN: The reason I put this order in, — the reason I made it mandatory, as the gentleman from Wellesley says, — is because I know that on both sides of the subject under discussion, the I. and R., there are men who have been forced to borrow money to stay here. Some of them asked me to loan them money; I have not had it to lend. I am not looking for extra salary; I am getting along all right as it is. I am not making as much money by staying here as I would if I was outside, but I think many of these men are entitled to know where they are going to get off. I know one man has been forced to borrow $200; I do not know how he is ever going to pay it back. I think the Convention ought to instruct these committees to go before the Legislature and ask for the money, in view of the fact that there is some doubt whether this Convention has the authority to get the funds, and also that the State Treasurer says he would refuse to pay

them even if we did order him to make the payment. I think the delegates to this Convention are entitled to have the compensation. I want to see them get it. I do not want to see this Convention resolve itself next summer into a wealthy man's Convention by any means. I take opposite views from many of the men here who I know are in need of funds, but on the other hand I do not want them forced to borrow money that they never may be able to pay back. I want to see the motion adopted now.

Mr. PILLSBURY: I do not think we have yet reached the interesting question suggested by my friend from Salem and we shall all agree that if the Legislature takes care of this subject without any solicitation on the part of the Convention, as I think it may, it is the better way. I think there are some serious objections, as I intimated before, to putting the Convention in the position of a suppliant to the Legislature for more salary. I do not think it will become necessary and I do not want to see it done unless it does become necessary.

The motion to postpone prevailed. On the following day debate took place as follows: —

Mr. SULLIVAN of Salem: I might say to the gentlemen of the Convention that after talking with the President of the Convention I want to have this motion amended by striking out after the word "payroll", in line 3, the words "sitting jointly, be instructed to take necessary steps to secure", and inserting in place thereof the words "acting jointly, be requested to inquire into the matter of securing". I have this amendment here now, and I really think, after going into the matter at some length with the President of the Convention, that this is the proper way to handle this matter, rather than to make it mandatory, as I felt yesterday.

Mr. Cook of Northampton moved to amend by striking out from the last three lines of the order the words: "but the total of the monthly compensation not to exceed $750 to each delegate for ordinary services rendered after November 1, 1917."

Mr. BROWN of Brockton: I move to strike out everything after the figures "1918", in the seventh line, the effect of the amendment being to leave the whole matter to the Legislature.

Mr. SULLIVAN: In the first place, I hope that the amendment of the gentleman from Brockton (Mr. Brown) will not be adopted. I specifically put in my motion the words after the figures 1918 in the seventh line so that the delegates would get paid eventually for this month's services. You will recall that yesterday I stated, and I know it to be a fact, that many of the delegates who are not wealthy men have been forced to borrow money, and I think that they ought to be paid for November. I do not know of any other body of this kind that ever has sat in the State House for nothing during any month, and I think that many of these delegates should be paid for November. Personally it would not make any difference to me. I hope that amendment will not prevail.

Before talking on the amendment of the gentleman from Northampton (Mr. Cook), I should like to have him state to the Convention his reasons for wanting to have his amendment adopted.

Mr. SAWYER of Ware: I sincerely hope that the original motion will

be adopted and that both of these amendments will be voted down. The sum that is asked for in the original motion is a sum that no reasonable person could object to. It is in keeping with the dignity of this Convention to offer such a motion and take such action as the original motion propounds. But suppose we had these amendments, especially the amendment of the gentleman from Brockton. In the next Legislature we will see a lobby, a scramble on the part of some to get through a bill for $1,000 salary, and the result will be that there will come to pass a condition that is not in keeping with the dignity of this Convention. I sincerely hope we will vote down the amendments and pass the original order of the gentleman from Salem.

Mr. GLEASON of Andover: I hope the original order as amended by Mr. Sullivan will prevail. This I take as simply a recommendation to the incoming Legislature, and I for one of the incoming Legislature will consider it from that point. But I do hope that the two amendments by the two gentlemen in this division (Mr. Cook of Northampton and Mr. Brown) will be voted down, and that the original motion will stand.

Mr. COOK: We all have agreed, according to this order and the talks I have had with various delegates, that $150 is little enough to pay for our services here. Many of us, I believe, cannot state at this time how long we are going to be here next year or the year after, and if we are here four months or five months we will have to put in another order next fall, as we are doing now. With a reasonable amount of compensation for our services here then we can stay and finish our work in a proper way, knowing that we are going to be paid a reasonable price. I think we ought not to limit it.

Mr. GLEASON of Andover: Right always prevails. [Laughter and cries of "No".] If this order happens to go through and we find next year we are in the same predicament as this year, having to sit in three years, the Commonwealth of Massachusetts will stand by anybody who does that which is right. Now, let this order go through the way it is on the amendment, cutting out these two by the gentlemen in this division (Mr. Cook of Northampton and Mr. Brown). Let us proceed to work.

Mr. CLARK of Brockton: I hope the original order will not go through. It bears strongly the earmarks of greed, and in my opinion would prejudice our constituents, the people of Massachusetts, against this Convention and against its work. I believe that every man who comes here this month each day, every member of this Convention who comes here next summer each day that the Convention is in session, should have a fair remuneration for his time and services, but I do not believe that men who are not here more than one day in two weeks should be paid the whole salary. I believe it should be based upon a *per diem* actual attendance. I am in favor of submitting the whole question to the committee, as proposed in the first two lines, and I believe if we strike out all after the figures "1918" in the seventh line we will get their judgment after due deliberation and will not lay ourselves open to the charge of absolute greed.

Mr. SULLIVAN: I purposely put in line 9 the words "at the rate of $150 a month", so that if next summer we found that a lot of the gentlemen whom the leader of the Convention from ward 5 spoke of the other day are not attending to their duty we can put it on a

per diem basis. For one, in view of the remarks of the last speaker, I should be willing to introduce an order that he be made the official timekeeper.

Mr. Brown of Brockton: I should like to inquire whether it is the intent of this order to limit the sessions to June, July, August and September. That would be the effect of that amendment. Take $150 out for the month which is gone, and then the Convention is in the same position next year that it is in now. My motion, if it passes, will leave those details to the discretion of the committee. There is a deficit now. The $150 for this month is a deficit. It has been said here by no less an authority than the ex-Attorney General in the first division that we have made a charge on the Commonwealth. Why, then, should we not be dignified and leave it to our committee to do what ought to be done? My amendment would instruct the committee to take such action as would provide for this deficit and for everything after it. The committee would cover the whole of it. But the original amendment instructs and limits this committee. The Convention is saying to this committee: "Ask for $750 as the ultimate, and then we are through." I suggest that when we come back here in the summer there will be knotty questions to come up as the result of this war. They will be more interesting than any initiative and referendum, and there will be members who will take time, especially if they use statistics. Therefore I think it is better, I think it is more dignified, to make the order elastic and allow your committee to make proper provision. This will be the effect of my motion to strike out all after "1918". It is in accord with the gentleman from Wellesley (Mr. Pillsbury), who says that the Convention already has made a charge. The Legislature will fix the matter regardless of whether you say $750 or not. Otherwise than that I do not care what becomes of the amendment.

Mr. Harriman of New Bedford: I am opposed to the original motion, or to any of its amendments. I believe that it is better for this Convention to let things go, and if the Legislature sees fit to make the appropriation let them do it. I believe that they will realize that this work must be continued. I believe that with the results of the referendums which have been accepted by the people there will be a demand that we finish our work. If the Legislature refuses to grant or does not grant us this amount of money for carrying on the work, I believe then it will be within the province of this Convention to go ahead and provide for itself. I do not believe that any gathering of people representative of Massachusetts would allow any organization that had been called by the will of the people to meet without providing finances for that session.

Mr. Besse of Newburyport: I heartily agree with the gentleman from New Bedford (Mr. Harriman) and with the learned attorney in the first division (Mr. Pillsbury). I think it is beneath our dignity to go to the Legislature with any request of this kind. This matter should be left entirely to them. As the gentleman from New Bedford (Mr. Harriman) states, if they do not act then we can act, or see whether we can act.

Mr. Gleason of Andover: I understand from the remarks of the gentleman from Salem in the fourth division (Mr. Sullivan) that he had talked this matter over with you (the President).

The PRESIDENT: The Chair will state that it is not proper to refer to the opinion of the presiding officer. So far as the form of this amendment is concerned, the Chair has made no statement in regard to it to anybody. The Chair has stated, however, that he thought that the motion would be in better form if it requested the committee to inquire into the matter instead of instructing it to take certain action.

Mr. GLEASON: Thank you. I put that to the advice of the gentlemen of this Convention. If we follow the right I do not think we will make any mistake. This is simply a recommendation to the Legislature. They can do anything beyond that they see fit.

The amendment of Mr. Sullivan of Salem was adopted by a voice vote; that of Mr. Brown of Brockton was adopted by a rising vote of 104 in the affirmative, 29 in the negative; and the motion as amended prevailed, by a rising vote of 99 in the affirmative, 73 in the negative.

On the 12th of August, 1919, Mr. Curtis of Revere offered the following order:

Ordered, That the committee on Contingent Expenses and Pay-roll consider and report to the Convention what sum per mile shall be allowed for the traveling expenses of members of the Convention for the 1919 session. Also that said committee report what compensation shall be allowed to the members, and also the compensation for the 1919 session to be paid the secretaries and Sergeant-at-Arms of the Convention, and such assistants in their respective departments as may be approved by the committee on Rules and Procedure.

Mr. CURTIS of Revere: I dislike very much to say anything on this matter. I know that the gentleman's duties at Washington, as we learn from information given by my friend from Haverhill, are very pressing, and he (Mr. Luce) wants to get back. I like to accommodate him, but can hardly see how the committee on Contingent Expenses and Pay-roll can assemble and make up the mileage, agree on compensation for the members, and the compensation for the secretaries and the Sergeant-at-Arms' department in half an hour. That is too short a time. It certainly will take an hour, or more, at least. I ask, if it is not putting the gentleman to too much inconvenience, to have the matter go over until to-morrow. We can make it up to-night and have it fairly and fully before us on the morrow.

On the following day the committee on Contingent Expenses and Pay-roll reported, recommending the adoption of the following schedule:

Mileage (11,090 miles at 12 cents per mile),	$1,330 80
Compensation, 315 members at $50 each,	15,750 00
James W. Kimball, Secretary,	200 00
Frank E. Bridgman, Assistant Secretary,	100 00
F. Allen Burt, clerical assistant,	50 00
Thomas F. Pedrick, Sergeant-at-Arms,	150 00
14 messengers, per day,	3 00
3 pages, per day,	2 50
1 clerk, document room, per day,	3 50
1 assistant clerk, document room, per day,	3 00
Postmaster, per day,	3 25
Assistant postmaster, per day,	2 50
Doorkeeper, per day,	3 50
Assistant doorkeeper, per day,	3 25
Sergeant-at-Arms department, additional (first assistant secretary and other clerks, carpenter and assistant carpenter, engineers, elevator men, electricians, etc., matron, assistant matron, scrub women, porter, watchman and assistant watchmen),	570 00

Mr. Lyman of Easthampton moved to amend by inserting at the end of the report the following:

No member of the Convention who is not recorded on either day of the Convention shall be entitled to mileage or compensation for the session of 1919.

Mr. LYMAN: I offer this amendment because I believe that we should not pay the people's money to those members who are not interested enough in the work of the Convention to attend its sessions. I hope the amendment will be adopted.

Mr. UNDERHILL of Somerville: I offer an amendment striking out the figures, under "Compensation of members", $15,750, and inserting $9,500.

The PRESIDENT: That will necessitate a further amendment in the same line. I will ask the member to look at the report.

Mr. UNDERHILL: I would change my amendment to read, striking out the figure $50, and inserting $30; that would be $15 a day instead of $25.

The SECRETARY: Mr. Underhill moves to amend by striking out, in the compensation of members, $50, and inserting in place thereof $30, and, in the total, by striking out $15,750, and inserting $9,500.

Mr. UNDERHILL: It seems to me that $15 a day is sufficient compensation for the members who have come here to finish up their work. I notice that the committee on Pay-Roll have allowed, out of the $35,000, the munificent sum of $3.50 per day to the messengers, doorkeepers, some of the document clerks, and the postmaster, and so forth. I do not know that those men have done any more work or any less work than the members of the Convention, but it seems to me that if we vote ourselves at least three times as much as we vote to them that we are getting amply paid for our little trip down to Boston, or into Boston, during the summer, for two days' work, and we will turn back to the Treasury of the Commonwealth, something which never has been done before in my knowledge, a substantial sum out of what has been appropriated for the expenses of the Convention.

Mr. CURTIS of Revere: The gentleman from Somerville speaks of the munificent sum of $3.50 paid to this man, and $3.25 for that man, etc. I would state, for the benefit of the members of this Convention, that in making the report we have followed the procedure of last year. The phraseology is not changed and I have no doubt that the gentleman from Somerville voted for those amounts last year. Whether he intends to do so this year I do not know. We are following simply the procedure of last year.

I will tell you how we arrived at the amount of $50 for the members of the Convention. No one can state whether this Convention is to take two days, three days, or four days or more. Last year this Convention sat, I think, about 35 days in all, and we received for it $500. A great many members at the time expressed themselves that we should have received the same amount that we received in 1917. However, everybody appeared to be satisfied at the end. Now, this $50 is just one-tenth of the amount that we received last year, and our service in length of time, if we go over a day or so, will be one-tenth of what we served last year. To provide for that contingency we set it at $50.

Personally I am not captious whether you make this $30 or $40 or $50. It makes no difference to me whether you make it the one or

the other. I have no particular pride in the fact or the report as regards compensation, but it did strike me as fair to make it one-tenth of what we had last year, and that is exactly the line that the committee has followed as regards other employees of the State House. Last year they received a certain amount. I have before me the Auditor's report, and last night I went over that carefully and dissected it and picked out exactly the aggregate amount that was paid to these co-workers, you might say, with the Convention, and have taken one-tenth of that amount as a fair compensation.

The Sergeant-at-Arms in his discretion can pay to these $3.50 or $3 men or $3.25 men, if they have worked one day before we came or two days before we came, or if they work a day after we go or two days after we go, — it is in his discretion to pay those men according to the pay that they are receiving now. The committee did not think it was wise and did not think they ought to have the power, and should not exercise the power of increasing their pay. It is based on that that we submit our report.

Mr. Richardson of Newton: I offer an amendment to strike out the entire item which relates to the compensation of the members of the Convention. I think there will be found in the Convention a strong sentiment that, in fairness and justness to the people of the Commonwealth of Massachusetts, we ought not to ask for any compensation for coming here this year to finish up our work. We did not expect to receive any compensation at the time of the adjournment last year. We shall have been here in all about five hours when we have finished with our work. Let us present the spectacle of one public body that is not out for the dollars but is ready to render service, feeling that it already has received ample compensation for its work. We all know that we shall have received our expenses in coming here when we have received our mileage. It does not seem to me in fairness that we ought to take this money out of the treasury of the Commonwealth and put it into our own pockets.

Mr. George of Haverhill: I was about to suggest that the roll-calls of yesterday and to-day show that there are 220 members of the 320 members of the Convention present. Now, I am not criticising the committee that made this report, but I want to say a word in support of the amendment offered by the gentleman from Easthampton (Mr. Lyman). If we should pass this order unamended, one-third of the members who are absent will receive equal compensation with those who are present. If the amendment is adopted, the unexpended balance will revert back to the treasury, which will be something that has been referred to as quite unusual. But, regardless of this feature, I think it is unfair for this Convention to appropriate other people's money to a hundred people who do not take pains enough to come here and perform the duties that they ought to perform in finishing the work of this Convention. I feel that I have no right to vote for it. I do not think this Convention has any right to vote for it. Therefore I hope that the motion of the gentleman from Easthampton will prevail.

Mr. James J. Brennan of Boston: The argument of the gentleman from Haverhill would be all right if the Convention had lasted probably a week or ten days, but there is a condition that I can see where there may be a man who started from his home yesterday to come to

this Convention, and when the roll-call on attendance was taken he may not have got here. There was not another roll-call in order that he might be recorded yesterday. To-day here is a roll-call, showing the attendance. A man may not have been here at the attendance roll-call, he may have thought that he could be back in time for the roll-call, and yet he would be here for the two days and not recorded on either roll-call. I do not think that such an order as that should be adopted.

Mr. Sullivan of Salem: The situation that the gentleman in the third division (Mr. James J. Brennan) speaks of can be disposed of easily. We can take a roll-call before we go home.

Mr. Curtis of Revere: This amendment of the gentleman in this division (Mr. Lyman of Easthampton), I understand, is designed to get at some of the notorious slackers of last year and the year before and this year. I know of one gentleman, a member of this Convention, who lives within ten miles of the Hub, who never set foot in this chamber last year, drew $500 and his mileage; and when, in pursuance of my resolution, he was invited to refund, to my certain knowledge up to this date I have not heard of the treasury being enriched by any contribution. That is but one case.

I want to say right here that there is one man in this Convention, who sits in the third division, an honored judge (Mr. Kelley of Rockland), who was fair enough and honest enough, in pursuance of the resolution of last year, to return to the Treasurer of this Commonwealth money which he thought did not belong to him, and I honor him for it. Not only that, but I believe, if I remember, — I have it from the President's own lips, — that last year a soldier across the water, a member of this Convention, feeling in his conscience that he ought not to take money that he had not earned, wrote and asked that he be not paid. There was no action at that time by which the Treasurer could keep the money, but certainly it was to his honor and his credit.

The resolution offered by my friend in this division is simply to get at the slackers, notorious slackers, who are drawing money from the Commonwealth and doing nothing. Of course it will work some injustice. Every such act in this world, I presume, hits some one adversely. This may hit some one. But they all have had the proper notification and could have come here, could have got here in some way. I think most of the trains are running; so that if a man left home yesterday I believe he could have reached the Convention to-day for the roll-call; and, as has been suggested by my friend, if it is necessary, we can have another roll-call later.

Mr. Brown of Brockton: I am one of those who could not reach the roll-call here yesterday because no train went out of Brockton or came from the Cape after ten o'clock in the morning. I was here later but I did not answer to the roll-call. Not that I am asking for the money. While I am on my feet I may say it is barely possible that some of those men who stayed away may think that they served the Commonwealth better than by coming here. [Laughter.] I am inclined to think that, if they had that opinion, there are quite a number of men in the Commonwealth who might agree with them and wish that all members had the same thought. Seriously, however, I think it is rather small, that the members who are not here should have the little

fee taken from them. I hope that we will not spend more time over the pay-roll than we have over the safety and the good of the Commonwealth. So far as the money is concerned, — the $50 that we get, — I think there is quite a general opinion that considering what we have done, and what we have not done, the people are mighty glad to have us go.

Mr. Sullivan of Salem: To avoid the necessity for a roll-call I should like to suggest that the gentlemen here in the Convention who are in the category mentioned by the gentleman from Brockton in the second division, and the gentleman from Boston in the third division, stand up. I was one of those who was not here yesterday but I am here to-day. I was recorded on to-day's roll-call; I was not recorded on yesterday's. If there are any others who have not been recorded on the two days' roll-calls, let them stand up. As I understand, the amendment of the gentleman from Easthampton would cover those who already have been excused or given leave of absence because of sickness in their families or some such good reason. They will get their compensation.

Mr. Curtis of Revere: May I be permitted to add just one word? The gentleman from Somerville, in this division, my friend, seemed to indicate in his remarks after he had offered his amendment that it would be refreshing if a balance should be turned into the treasury, or, at least, not all expended of the $35,000 appropriated. If you adopt the motion for $50, and you do not adopt his amendment, that is, if you pay all the 315 members the full mileage and the $50, there yet will be a balance of $12,000 in the treasury. So maybe this committee is deserving of a little credit along that line. [Applause.]

Mr. Underhill of Somerville: The Legislature a number of years ago, almost so far back that the memory of man doth not reach, provided for a Constitutional Convention. They provided for a salary for the members, or the members provided a salary later on for themselves. They found that their work was not completed or that they had an extra long time, and so we got together and we had another session, and the Legislature in the goodness of its heart, although it has not been appreciated by this Convention, appropriated another $500. Up to that time no money had been turned back.

Mr. George of Haverhill: I want to ask the gentleman if it is to be inferred that that came out of the pockets of the Legislature or were they simply appropriating somebody else's money?

Mr. Underhill: I find that whether it is the Legislature or the Constitutional Convention or anything else, labor or the high cost of living, it comes out of the people's pockets. And so I would say that after a third whack at the treasury of the Commonwealth, the Convention cannot take any unction to itself unless it acts fairly in the matter; that is, give to each and every member a fair compensation for a fair day's work. And I think $15 in these times of the high cost of living, or higher living, is not too much; but I do think it is ridiculous for Mr. Brown of Brockton, or any other gentleman here, to think that he is worth $25 a day in this Convention.

Mr. Brown of Brockton: I should like to ask the gentleman by what standard he proceeds. If an unworthy member of the Legislature of the class of which he spoke in the last Legislature is worth $1500, what are men worth in a Constitutional Convention against whom

there is not a breath of suspicion but what they are the cream of the Commonwealth? [Laughter.]

Mr. Benton of Belmont: As all or nearly all of the members have spoken once, and some of them twice, I move the previous question.

Mr. Underhill: I have to be extremely careful in the language which I use, I suppose, in the Convention, as I have in the Legislature; but if the gentleman might look back over the reports of the Convention he will find stated in one of the speeches which I made to the Convention that even in the Convention there might be some who are not honest; and so I think that to-day we must agree to live up to our reputation by taking a fair amount, irrespective of what the Legislature may have done in the past or may do in the future. There are some men in this Convention who have served in the Legislature who are worth a good deal more than $1500 or $15,000 a year to the State. There are some men in this Convention who, I think the gentleman will agree with me, are in the same category that I classed some members of the Legislature. And so, sir, I hope that the amendment of the gentleman from Easthampton will prevail.

Mr. Smith of Provincetown: It seems strange to some of us at the closing hours of this great Convention that the same policies should be adopted as oftentimes in the Legislature, — this continual getting up to put on record. Had it not been for the press, and certain advertising that some members want and always have sought, there would not have been any amendments offered on this proposition, coming in here from the committee, which has given it a good consideration. It matters not to me whether it is one cent or ten dollars. It matters not to the gentleman from Newton, who paid ten cents to get into Boston, or a man who paid $4.80. It does not make any difference to him, it does not make any difference to me. But let us be fair. Do not let us close up this great Convention haggling over $10, $15, or two-cent men. Do not do it. Let us leave with clean hands, and back up what our committee has reported, or else go with my friend from Newton, and say: "Well, we won't take anything," and turn it all back into the treasury. [Applause.]

The amendment moved by Mr. Lyman of Easthampton was adopted, by a vote of 123 to 36.

The amendments moved by Mr. Underhill of Somerville were rejected, by a vote of 29 to 141.

The amendment moved by Mr. Richardson of Newton was rejected.

The report of the committee, as amended, was adopted.

Mr. Curtis of Revere offered the following order:

Ordered, That members of the Convention who were not recorded on the 1919 roll-calls be entitled to receive compensation for mileage and attendance, provided they report in person to the Secretary of the Convention previously to the hour of final adjournment.

Mr. Curtis of Revere: In order not to do injustice to any man, — and in this I know that my friend from Easthampton will concur, — I offered that order. It is based upon the fact that upon the floor at this time are at least two members of the Convention who I believe should be fairly entitled to compensation and mileage; and there may be others who can satisfy the Secretary before final adjournment that

they have been in attendance upon this Convention. I believe that no delegate should do an injustice to any of his fellow-delegates and for that reason I offer this order.

Mr. TWOMEY of Lawrence: I would ask that the mover of this amendment make it broad enough to include members of this Convention who, at this time, may be absent in the military service of the United States. I do not believe that those who may be in the service at this time should be excluded from the provisions of that order for no other reason than that they are in service at this time. I would ask the gentleman to make his amendment broad enough to make it possible for those men to later certify to the Secretary that they were in service at the time. I will offer that as an amendment.

Mr. CREAMER of Lynn: I should like to say to the members of the Convention and to the committee which has in charge the preparation of a pay-roll to the members based upon their attendance here at this Convention, that we have a delegate from Lynn unable to be present here because of a serious affliction in his family. I do not suppose it is the desire of the Convention that that man should suffer for that reason, and I should like to have the Convention or the committee, if it has the power without action on the part of the Convention, — I should like to have that committee see that this man is treated the same as those of us who are here. The man to whom I allude is Mr. Bergengren of my city. His daughter was killed in an automobile accident on the day before yesterday, and for that reason I know he is unable to be present.

Mr. CURTIS of Revere: I had thought of it and spoken to the Secretary of the very thing that my fellow-member has put into this order. I am thoroughly in sympathy with it. I also am in sympathy with the proposition that has been put before this Convention by the gentleman from Lynn, — now sitting in the first division (Mr. Creamer). I wish that he would offer an amendment to that effect, so that the gentleman could receive his mileage and compensation. And if there are any other members who are detained by serious sickness, and can prove to the satisfaction of the Secretary that they are similarly situated, I believe they also should receive their compensation.

Mr. CREAMER of Lynn: I should like to know if the committee itself has the power, or if it needs power; if the committee has no power I would move that the Convention itself extend a leave of absence to Captain Bergengren.

Mr. PILLSBURY of Wellesley: Allow me to add to that motion, "with an expression of the deepest sympathy of the Convention."

The PRESIDENT: The Chair directs the attention of the member from Lynn to the fact that, under the terms of the report of the committee as amended, the adoption of this motion would not entitle Mr. Bergengren to receive compensation, as the report as amended does not provide for any except those who are recorded on the roll-call.

Mr. CREAMER: I move, then, that Mr. Bergengren be excepted from the provisions of the order.

The PRESIDENT: The Chair will ask the member to suspend that motion till after this present order has been acted upon.

Mr. Martin of Holyoke moved to amend the amendment moved by Mr. Twomey by inserting after the words "naval service", the words "or who are

engaged in any war work activities", so that the amendment will read: "and members of the Convention who are in the military or naval service of the United States, or who are engaged in any war work activities, shall also be entitled to compensation and mileage."

The amendment to the amendment was rejected.

The amendment of Mr. Twomey of Lawrence was again read by the Secretary.

Mr. SULLIVAN of Salem: A parliamentary inquiry. That refers to members of the Convention at the present time in the service? Am I correct in understanding it that way?

The PRESIDENT: The Chair so understands it.

The amendment was adopted.

Mr. Glazier of Hudson moved to amend the order by striking out the words "previously to the hour of final adjournment."

Mr. GLAZIER: I offer this amendment in behalf of members who were here yesterday and not on record, that they may have an opportunity to assert their rights and prove that they were present at that time. They are not here to-day; they were here yesterday; and if that order is passed it deprives them of any opportunity of receiving what we are receiving at this time.

Mr. SULLIVAN of Salem: I hope that that amendment will not prevail. Why, if you do that, this will come out in the papers, and what is to prevent the slackers from coming in here and reporting to the Secretary to-morrow or next week or the week after, and getting their money? That leaves another one of those pernicious little loopholes.

The amendment did not prevail.

Mr. Creamer of Lynn moved that the words "Mr. Bergengren of Lynn and" be inserted after the words "*Ordered*, that", so that as amended the order would read: "*Ordered*, That Mr. Bergengren of Lynn and members of the Convention who were not recorded," etc.

The amendment was adopted.

Mr. Glazier of Hudson moved to amend by inserting after the words "Mr. Bergengren of Lynn" the words "Charles F. McCarthy of Marlborough."

Mr. GLAZIER: I wish to state to the members of the Convention that this member was present yesterday and is entitled to the amount paid to other members of the Convention, and I am offering this to protect his rights in the matter.

The amendment moved by Mr. Glazier of Hudson was adopted.

The order was adopted as amended.

COMPENSATION OF EMPLOYEES.

On the 14th of September, 1917, Mr. Herbert A. Kenny of Boston offered the following order:

Ordered, That the committee on Contingent Expenses and Pay-Roll consider the expediency of including the porters of the State House in the list of employees receiving one hundred dollars each for extra work.

On motion of Mr. Underhill of Somerville the order was amended by inserting after the word "porters", the words "and watchmen".

The committee on Contingent Expenses and Pay-Roll reported, Thursday, November 1, 1917, recommending the adoption of the following new draft:

Ordered, That such porters as the Sergeant-at-Arms shall certify have been in attendance in the employ of the Commonwealth in and about the rooms and corridors occupied by the Convention and its committees, or members thereof, since the Convention has been in session, be paid the sum of fifty dollars each as extra compensation by reason of the holding of said Convention.

Mr. Underhill of Somerville moved that the order be amended by inserting after the word "porters" the words "and watchmen".

On the 14th of November the order was recommitted to the committee and on the 27th of the same month the committee reported the following new draft:

Ordered, That the sum of fifty dollars be paid to each porter that the Sergeant-at-Arms shall certify has been in attendance in and about the chamber, rooms and corridors occupied by the members of the Convention and in the employ of the Commonwealth, as extra compensation for additional work performed.

Mr. Underhill of Somerville moved that the order be amended by inserting after the word "porter" the words "and each watchman".

Mr. Twomey of Lawrence moved that the amendment be amended by adding after the word "watchman" the words "and each scrub woman."

The amendment of the amendment was adopted, by a vote of 98 to 59 and the amendment, as amended, was adopted. The order, as amended, was adopted.

Subsequently, the vote by which the order had been adopted was reconsidered (on November 28th), by a vote of 112 to 68.

Mr. Lomasney of Boston moved that the order be amended by striking out the word "has", and inserting in place thereof the words "as having performed extra service and as having".

Subsequently, this amendment was withdrawn.

On motion of Mr. Edmund G. Sullivan of Salem the order was amended by substituting the following new draft:

Ordered, That the sum of fifty dollars be paid to such porters, watchmen and scrub women as the Sergeant-at-Arms shall certify to having performed extra and regular service, and as having been in attendance in and about the chamber, rooms and corridors occupied by the members of the Convention, and in the employ of the Commonwealth, as compensation for additional work performed.

On the 7th of November, 1917, Mr. Samuel W. George of Haverhill offered the following order:

Ordered, That the committee on Contingent Expenses and Pay-Roll consider the expediency of providing compensation for the matron of the State House, upon whom extra duties and labor have been imposed by reason of this Convention.

That committee reported November 27th, that "no action is necessary at this time."

Mr. George of Haverhill moved that the report be amended by striking out the words "no action is necessary at this time", and inserting in place thereof the words "the matron of the State House be allowed one hundred dollars for extra services on account of the present session of the Convention".

This amendment was rejected, by a vote of 51 to 81.

Mr. Mahoney of Boston moved that the report be amended by striking out the words "no action is necessary at this time", and inserting in place thereof the words "the matron of the State House be allowed fifty dollars for extra services on account of the present session of the Convention".

This amendment was adopted, by a vote of 99 to 19. The report, as amended, was accepted.

THE DEBATE.

Mr. GEORGE of Haverhill: We have given a sum of money to about everybody who has been employed in the State House except this one (the matron of the State House). I have understood that the committee on Contingent Expenses and Pay-Roll based their recommendation on the fact that some employees' time had been extended or work had been added to their present duties by reason of the holding of this Convention. If there is any one person who has been overworked it is the one who has had charge of all the employees, looked after the corridors, taken care of the State House and has been kept here without any vacation this summer. The mere fact that that position is held by a woman is no reason why this Convention should make this distinction. I therefore offer this motion in the hope that she will be recognized as entitled to receive $100 compensation as well as the other employees.

Mr. WONSON of Gloucester: I think we have been voting here in the dark on this question. There was nothing said one way or the other and I think we have been misled. Now the committee, when it reported the other day, was one member short; that is, the chairman (Mr. Curtis of Revere) had taken no part in the deliberations on account of enforced absence by sickness. He wanted to hear what had been said. We called a meeting and all the evidence that we could get together was brought before the meeting, and the unanimous committee's report was that the former report of the committee should stand. Now along comes some one with an amendment this morning to include one group, then an amendment is offered for another group. Here is the third one offered. Those three groups of people as groups have done nothing that the committee could find was evidence of extra assistance for the sitting of this Convention. If you gentlemen want to be in the class of giving gratuities around here and not getting anything in return for the State's money expended, you will stand behind these people asking that amendments be put upon this order. We stopped with the porters, which was as far as we could go conscientiously, after giving compensation to all people now employed by the State who had done some extra labor for us and who asked for additional compensation. Perhaps you think that they ought to be like

some of the other people in the State House here who have not asked for assistance. I think so myself. Look at the Librarian here; he has not asked for any additional compensation, yet he has been bothered to death by some of us going in there for books and papers. There is the whole Auditor's department, the Treasurer's department, who have had to draw our checks and do bookkeeping for the different funds we have created here; they have asked for no compensation and yet we have imposed extra work on them. If any people have come forward and asked for compensation for extra work, we have heard their request. Let me say, the committee on Rules hired a man at the first of the session, — we did not know anything about it and I do not think any of you did, — at the price of $500 a month and it has been going on now six months. The Secretary and the Sergeant-at-Arms came forward and we gave them compensation, and also the people connected with their departments in this chamber, — the messengers, door-keepers, assistant clerks, etc. I want to ask you where those people would have been since June 6 if we had not been in session? We kept them here, we made them work, we owe them some money and we have given it to them. The oilers and firemen down in the bowels of this building had to work harder this summer than they would have, had we not been here; more light was generated, more elevators were working, the air in this chamber was washed. All these things made extra work and we paid for it. Some of these people lost their vacation; some of them can testify that three weeks' vacation was lost. We placed the sum as $100 for those men, being a little more than three weeks' vacation would come to, because we felt that three weeks' vacation is worth more for a man than his pay for those three weeks.

Now we come down to the porters. The committee first was of the impression or opinion from the evidence submitted that the porters did do extra work, and the chairman of the committee when he sat with us was convinced of it also, which is pretty good proof, I think, to you that they are entitled to it. But when it comes down to the scrub women, 68 of them, and you have voted now to give them $100 for their compensation here, $6,800, — unless I am incorrectly informed —

Several Members: Fifty dollars.

Mr. Wonson: Well, the original amendments to the order first referred to the committee called for $100 each. The Sergeant-at-Arms gave me the number as 68 I am taking that figure.

Mr. Dennis D. Driscoll of Boston: According to the order, "the Sergeant-at-Arms shall certify". I think the Sergeant-at-Arms will certify those who performed the duty around the corridors and the Convention chamber. I do not think the order means that he shall certify the 68 scrub women who have worked all over the building.

Mr. Wonson: The Sergeant-at-Arms, I think, will do no such thing. He is not going to get into trouble by picking out two scrub women who scrub the corridor in front of this chamber here and give them $100 each and leave out the other 60 or more. Where will he be and what kind of position will he be in? You are going to have the whole of them get this or nobody. That policy has gone right down through the other groups provided for by us previously.

Mr. George: I desire to correct the gentleman from Gloucester. I think he is in error when he says they will receive $100 when the order

calls for $50. It seems to me also that since the scrub women are going to get $50 the matron ought to get $100. She is the only one who does not get anything.

Mr. WONSON: The original order that was referred to this committee had $100 in it. Now it is on this calendar here as $50, but it came to the committee as $100. We reported back $50 for the porters, but the scrub women and the watchmen come under the hundred dollar order. Whether it is $50 or $100 is not the issue here; it is the principle of the thing. The order came to the committee as $100 and it was turned down because we could not find one bit of extra work that they did on account of our being here. The scrub women, much as we should like to include them, and would if they did any work by reason of our being here, do not wash this building any greater number of times than they would have, had we not been here. The watchmen work both night and day around here. What do they do extra on account of our being here? The evidence we had (and that is what we must go by) showed nothing. There are three groups. The 24 hours in the day are divided into three parts and there is a group of watchmen here for each of those three periods. How many periods of eight hours do we sit here? How many of the 24 do we sit here and what do the watchmen do for our deliberations here? Did you ever go to try to hunt up one? Did you ever see one come here to do anything for you? I admit that they would if we asked them to, and one of them expressed that sentiment to me. But we have not called on them to do any extra work, and so why should the State's money, which is so valuable at this time, be given away to these people? I did not know there was a matron around the building here; I should like to see her. I do not know that she has done anything for the Convention. The only duties that I know she does is to boss this gang of scrub women that we are telling about. If the scrub women do not do any more on account of our being here, the matron or the boss should have no more compensation. Not that there is any sex line drawn here or anything like that. It is simply that you have given a committee work to do, they have investigated and reported what their conscience tells them to report and ask you to back them up in it.

The amendment moved by Mr. George of Haverhill was rejected, on a rising vote, 51 voting in the affirmative, 81 in the negative.

Mr. WONSON: Inasmuch as now we have given compensation to two of the groups who did no work and refused this third one, it is only fair to treat every one alike. I want to move to reconsider the amendment to the order whereby the watchmen and scrub women have been voted $50 each.

The PRESIDENT: The motion is not in order at present. The matter before the Convention is the report of the committee. The question is on accepting the report of the committee.

Mr. MAHONEY of Boston: I move that an appropriation be made of $50 for the matron, putting her by the side of the scrub women and other employees.

The amendment was adopted on rising vote, 99 in the affirmative, 19 in the negative.

Then the report as amended was accepted.

Later in the day Mr. Wonson of Gloucester moved to reconsider the action whereby the Convention had voted $50 for the State House watchmen, scrub women and matron.

Mr. WONSON of Gloucester: I do this, for the reason I believe the situation was not explained at the time we voted. It involves about $5,000 in addition to the amount which we voted this morning to State House employees who have not given one ounce of labor in return for it, outside of their regular duties. We are voting away other people's money, not our own. That is the difference. If we want to give tips around, let us pass the hat.

Unanimous consent for immediate consideration being refused, the Chair ruled that under the rules the motion must be laid over until the following session.

Mr. MORIARTY of Boston: May I make a parliamentary inquiry?

The PRESIDENT: The member will state his inquiry.

Mr. MORIARTY: This motion being laid over, will that money be paid that has been voted?

VOICES: No.

The PRESIDENT: The Chair will state that so long as the motion to reconsider is pending no action can be taken under the order that was adopted. [Applause.]

Mr. THOMPSON of Haverhill: I should like to inquire what vote is necessary to have an extra session, another legislative day.

The PRESIDENT: In answer to the question of the member the Chair will state that it can be done by a majority vote.

Mr. LOMASNEY: I move we adjourn to reassemble in four minutes for another legislative day.

The PRESIDENT: Mr. Lomasney of Boston moves that the Convention adjourn to reassemble —

Mr. LOMASNEY: Immediately.

The PRESIDENT: To reassemble immediately for another legislative session.

Mr. LOMASNEY: I trust the Convention will be fair with the people who have served us here in these minor capacities and that it will allow no narrow policy to be pursued here. It is only fair and square that the ladies and gentlemen who have been doing this work should be treated fairly. The fact that they are poor and working for the State should not cause any gentleman to do any different than he would do with his own employees. There is not a man in this Convention who would not treat his own employees the same way as is proposed and I hope we will allow no other policy to be pursued. I trust the motion will prevail.

Mr. WONSON of Gloucester: If no objection was raised by the gentleman making the speech I should like to have the privilege of saying a word in reply. We have got to go before the Legislature and ask for some money for ourselves next year. [Laughter.] Somebody has got to. Now what are they going to say when they go to show what we did with the money they gave us? If we can stand on the ground that we got adequate work in return for the compensation granted, our hands are clear and clean. If we cannot we are in a difficult position. I appeal for fair play, as the gentleman from Boston did. If we have voted compensation to persons who have given us work in return and

then turn around and grant compensation to those who have not given work in consideration for it, we are not using the people who have borne the extra burden fairly and properly. I hope you will see the need of no further legislative days to-day.

Mr. PARKMAN of Boston: I do not believe this Convention wants to spend any more time over these little matters. I move the Convention do now adjourn. [Applause.]

The PRESIDENT: The Chair will state that if that motion is adopted the Convention would have to reconvene at 10.30 o'clock on Friday morning.

Mr. PARKMAN: I understood we already had adopted an order that when this Convention adjourned, having completed its labors, which I understand it has done already, it would adjourn subject to the call of the Chair or the Secretary.

The PRESIDENT: The Chair will state that the motion to reconsider is pending, therefore there might be serious question as to whether or not the Convention had completed its labors.

Mr. PARKMAN: Under those circumstances I will withdraw my motion.

On a rising vote, 124 voted in the affirmative, 45 in the negative, and the motion prevailed. The Chair thereupon declared the Convention adjourned to reassemble again immediately.

Mr. PARKMAN: I move that this Convention now adjourn subject to the call of the President, as provided in the order.

VOICES: No.

Mr. GLAZIER of Hudson: I make a parliamentary inquiry whether that complies with Rule 45.

The PRESIDENT: The Chair will state that the order adopted on October 23 is adopted under a suspension of Rule 45, which still holds so far as that order is concerned. The question is on the motion of Mr. Parkman of Boston.

On a rising vote, 88 voted in the affirmative, 114 in the negative, and the motion did not prevail. The question then came on the motion to reconsider, made by Mr. Wonson of Gloucester, the vote whereby the Convention adopted the order printed in the calendar of the last legislative session as No. 105.

Mr. BARTLETT of Newburyport: I voted against this order for the reason that, as I understand it, the committee have reported to us that this proposes giving compensation (if it may be called so) to people who have done nothing for it. Taking that to be true, I deem it my duty not to take the money of the Commonwealth and give it away. If there are members who wish to give these people something, let them pay it themselves but not take it from money which is not theirs to give. That is my position upon the matter. Personally I should feel an unholy pleasure if this Convention, which has just adopted the I. and R., should go out with the stigma upon it of having taken the money of the Commonwealth and given it away.

Mr. LUCE of Waltham: I hope that reconsideration will prevail, for the reason that, in common with every other member of this Convention, I have its fair name and reputation very much at heart. With every other member I should be very glad to compensate any one who has served the Commonwealth in proportion to the services rendered,

but I cannot believe that if gentlemen will give a moment's reflection to this matter they will ask us to put upon our records that which has been viewed with scorn by the people of every State in the land ever since there were States. Again and again have legislators paid the penalty of giving away the people's money. Here is no proposition to compensate; here is a proposition to give, to make a gratuity, not for services rendered but out of a spirit of charity. That proposition has been denounced by the highest courts of the land. It has been held unconstitutional for legislative bodies to give gratuities. It has been frowned upon by constitutional provisions inserted in a large part of the Constitutions of the land precisely because of such episodes as this. It has been frowned upon by public opinion; it has been denounced as wrong from one end of the land to the other for a hundred years. And shall we in this assembly gathered under the most solemn auspices for the highest purposes that come to men, — shall we, in such a trivial, petty, insignificant detail as this, go from here without our consciences clear? For this reason I appeal to the Convention to pay those who have earned, not give money of the people to those who have not earned.

Mr. Curtis of Revere: As I have stated previously, when the original order was submitted to the committee on Contingent Expenses and Pay-Roll, of which I am chairman, I was in the hospital and knew nothing of the merits of it. On my motion the original order and the pending amendments that were offered were recommitted to our committee. We held a hearing to which a number of gentlemen interested were invited and we listened to them. Now I am going to state a few facts without prejudice and let the Convention decide as to its action. The watchmen receive $1,200 a year and there was absolutely no evidence before our committee that they had anything to do with this Convention, nor do I believe they have. The porters receive $850 a year and their duties as regards this Convention, as far as we could learn, were two in number: they cleaned the cuspidors and emptied the waste-paper baskets. The matron has charge of the scrub women. The scrub women are employed at 25 cents per hour. They are here to-day and gone to-morrow. They work perhaps two hours; they may work five hours, they may work seven hours, but they are not employed by the year by the Commonwealth.

Another statement that has been made to me by the Sergeant-at-Arms, who is not here, is that all of these men, — the porters and the watchmen, — have been granted $100 extra this year by the General Court. I am told also by the Sergeant-at-Arms that he does not know where he can get money to pay proposed increases. As I said before, I am stating all these facts without prejudice. No one has more sympathy for laboring people than myself. From my earliest years I have labored, beginning very early, when I was 14 years of age, up to almost this time, so I have the utmost sympathy. I also desire to make a statement that has been made to me not only by the Treasurer of this Commonwealth but by the President of the Senate, who spoke before our Mayors' Club at Young's Hotel on Saturday on State Finance. The Commonwealth of Massachusetts will be called upon by the Treasurer to provide bounties according to the Act passed by the last Legislature for the enlisted men of Massachusetts, now 62,000 in number, at the rate of $10 a month during the continuance of the war.

If the drafted men are taken in at the same rate, which they probably will be, because in the present state of public opinion there is hardly a person who would vote against it as long as the men are going into their country's cause, perhaps to lay down their lives, — if they also are given bounties, the Treasurer, — and the President of the Senate confirmed it, — will call upon the Commonwealth this winter for extraordinary expenses in connection with the military alone of about $12,000,000. Massachusetts has tremendous expenses, it has very heavy burdens. The State tax is rising by leaps and bounds. Every city and town is feeling it.

I have stated simply the facts but I wish to say one thing more. I regret that my friend from Gloucester, who reported the matter for the committee, had not stated the foregoing facts in his able speech, before the amendments were adopted. He waited until they were adopted and then it was too late. I do not know the temper of this Convention as regards giving gratuities, and I have absolutely no prejudice in the matter. I want simply these facts to be laid before you so that you can vote intelligently on the matter. Personally my sympathy is altogether for giving these gifts, but as a servant of this Commonwealth, as chairman of this committee, I feel it my duty in all fairness to put these facts before you.

Mr. PELLETIER of Boston: I, too, like the last speaker (Mr. Curtis of Revere) and the gentleman from Somerville (Mr. Underhill), lay some claim to personal pride and to personal honesty. I voted for these appropriations, and I do not propose that any man in this council chamber shall charge me with doing an unfair, a dishonest or a dishonorable thing in that vote. The gentleman from Waltham (Mr. Luce) speaks about giving away money, speaks about a gratuity, says without qualification, if I can hear right, that this is nothing more than a grab, graft such as has caused so much disturbance throughout this country. The resolution itself says that this money shall be paid as extra compensation for additional work performed. A majority of the committee has printed that and made that statement, and the gentleman from Waltham (Mr. Luce) charged them with lying and misleading you. He charges them with asking us to give a grab. Are we going to follow the printed statement here, the declaration of the majority of that committee, or are we to take the statement of these gentlemen who oppose this appropriation? It is a small matter, but it is an important committee. The committee is here with its recommendation. There are two amendments made. One is made by the gentleman from Somerville (Mr. Underhill). Nobody ever accused him of being a spendthrift of the State's money, and the very fact that he proposed that gave me confidence. Scrub women have to scrub anyhow; they would have to wash the floors anyhow! Do you mean to say that three hundred men walking in and walking out any day have not increased that work? They all might be down on their knees anyhow, but sometimes it is harder where three hundred men have been tramping through the corridors. And I am not going to speak of the use of tobacco. I am not going to speak of the throwing out of waste. Does any man say those scrub women have not done any harder work, does any man say that the woman in charge has not had a greater responsibility, with three hundred men going in and out, a great Convention being held, all of whose members I hold in the

highest respect? Why, gentlemen, these things are too small. There is not any man who has voted for that who has voted for grab. He has voted to give these people something. The watchman you say has done nothing here. Where we have been meeting in different rooms late in the evenings would you think the watchman had no responsibility added when he was here at an unseemly hour? Do you think he has had any responsibility? Why, of course there has been responsibility. These corridors have been thronged with men. Our committees, small in number perhaps, met in the evening. Gentlemen, let us not be small. If the State cannot afford it, — the argument of the gentleman from Revere (Mr. Curtis) at the end was that the State could not afford it, — that is one thing, but let us anyhow give what the services are worth, and let us not in our closing hours accuse one another of doing dishonest things or of committing graft.

Mr. Lomasney of Boston: The order says that the sum of $50 shall be paid to each porter, watchman, and each scrub woman whom the Sergeant-at-Arms shall certify. "Shall certify!" What does that mean to lawyers? He must make up a pay-roll, — of what? Read the order, — "has been in attendance in and about the chamber, rooms and corridors," and so forth and so on. That is the order. Is the Sergeant-at-Arms going to certify a false pay-roll for a few scrub women and watchmen, a man who has expended millions? Of course he is not. He is the man whom you are suggesting may fail to do his duty. He is the man of whom the gentleman from Worcester over there spoke a minute ago. He said: "How is he going to pick out two of these scrub women?" He said: "He would take them all." You heard that argument and you voted for these propositions, and now what? You want to do an injustice to whom? To the people at the bottom of the ladder, to the poor scrub women who may be waiting for this extra money to take dinners home to their children, whom they are working hard to support so that the State or city shall not have that burden placed on them. Five or ten dollars to a scrub woman or to a person who is poor is a lot of money.

Mr. Wonson: Mr. President.

Mr. Lomasney: I refuse to yield to a man so narrow. I believe in giving the poor, hard-working people of this State the same consideration as we do the others. If the Chief Justice of our Supreme Judicial Court or any of that class of men were being considered we would treat them with dignity. When I was on my feet I spoke of these people as ladies and gentlemen. Why? Because in my youth I had to work, and I know what it is to be poor, and I believe in treating the poor fairly and squarely, and they should be treated also with dignity, because labor is dignified. It is no crime to be poor. I believe that any man in this Convention, if he were dealing with his private affairs as an employer of labor would not hesitate a minute on this matter. I am sorry we have taken up so much time. The members' salary for the time consumed in this debate is worth four times the amount involved, but it is the principle of equal rights for all that I am fighting for. It seems to me that you can trust the Sergeant-at-Arms to certify no man or woman on his pay-roll, whether he or she gets five, ten, twenty or fifty dollars, who has not honestly earned the money, because Mr. Pedrick is not that kind of a man. I hope we shall not reconsider.

Mr. Twomey of Lawrence: In that I am the member who moved the particular amendment which seems to have provoked the most discussion I will state to this Convention that when the committee on Contingent Expenses and Pay-Roll, of which I am a member, made its report, it was with express notice from me that I should move such an amendment in the Convention. In view of remarks that have been made here with reference to the money that might be paid to these women, I want to say that they have sought no graft, they have sought no gratuity. Nobody suggested to me the amendment to include the scrub women. The amendment was unsolicited upon the part of any individual or of any group. I suggested it merely because of the fact that as a member of that committee I was unwilling to leave out from the list of employees to receive additional compensation, the few scrub women, — not the sixty-seven, but the few, — who by the Sergeant-at-Arms are assigned to clean the chamber and the corridors adjoining. I heard one gentleman who suddenly has assumed to be a guardian of the treasury of the Commonwealth urge upon the members here that no rational mind could be capable of thinking that a favorable vote would be anything other than one form of graft. I will say to anybody who makes remarks of that kind, that the graft in the Commonwealth of Massachusetts, if any, will not be found in the ranks of those who are quite so lowly in life as scrub women, quite so lowly not because of choice, but very often because of an unkind fate. And I say that when we talk about the Commonwealth and the Nation it might not be out of place to remind this Convention that we have scrub women right here who do not deserve to be characterized as grafters, in that some of them have given their sons to the defence of this country. I say that I resent the term of graft applied to the scrub women in general, and especially as applied to those who have served this Convention.

Mr. Washburn of Worcester: It is not a gracious task to intervene in a matter of this sort, but this debate has taken such a turn as to make this one of the most important questions that have come before this Convention because there is a principle involved. We have appointed a committee to investigate these matters, and that committee informs us that we have voted to appropriate money for a service that has not been performed. It would be quite easy for me to keep my seat without raising my voice in protest, but I say that the Convention cannot afford to act upon this matter until it is fully understood. I believe that this committee should be sustained, that the vote should be reconsidered, that we should hear the arguments that may be urged and then decide this question on its merits. When we give money away, let us give it out of our own pockets and not out of the treasury of the Commonwealth.

Mr. Horgan of Boston: I trust that reconsideration will not prevail, and I believe that the old axiom that consistency is a jewel ought to apply to every act of ours in this Convention. If, as the gentleman from Waltham (Mr. Luce) has indicated, it is unconstitutional by overt act to acquiesce in graft or gratuity, then this Convention, to be consistent, ought to pass a vote by which those men who receive pay as delegates to this Convention and were not present, and have not performed their duty as delegates, shall be compelled to reimburse the Commonwealth for the money they obtained under false pretences. I

think, with all respect to the opinion of the gentleman from Waltham (Mr. Luce), and the gentleman from Worcester (Mr. Washburn), it ill becomes us to deny to people who are doing their duty and the work they are called upon to perform, the additional compensation which their condition in life requires, and that it is not a good or a fair argument to advance that if we vote to give this extra compensation, — and I again emphasize the language of the order that those people must be certified to by the Sergeant-at-Arms, — we may lose additional compensation. The gentleman from Worcester may proceed upon the assumption that charity begins at home, and that, if our future salaries are jeoparded, we ought not to vote this extra compensation. But I believe that, in justice to these people on whose shoulders we have placed additional work, considering the additional expenses of life, that we are not voting any gratuity, and, on the other hand, we are recognizing a condition and a labor performed. We have voted intelligently, with full knowledge of the facts, but no additional evidence has been presented here, and consequently we ought not to reverse our former action, and therefore reconsideration ought not to prevail.

Mr. Dennis D. Driscoll of Boston: I spoke to the delegates to the Convention a week ago, and I want the delegates to give their attention to a few words I am going to add now, because they may repeat themselves from the platform of that notorious organization known as organized labor. I told you a week ago to consider this very carefully. The only thing I regret about this argument is that the scrub women employed in the State House do not belong to the Scrub Women's Union. I know the women work nights. I do not know whether the gentleman who has charge of them hires them or whether it is the chief matron of the State House who employs them. I do not know anybody who wants any graft here, any more than they want any bonus or any munificent salary, either through the Legislature or through the Constitutional Convention. I may be a little bit hard of hearing, but I can hear the voices in the rear. That is what means the defeat of the United States in its fight against Germany. I want to say to the delegates in this Convention that this is a more serious proposition than any other. I am sorry the delegates from the committee did not report the whole matter when it was first referred to us, and which, in the committee, was divided, — two in favor and two opposed.

Now, what is dishonest about it? I take exception to the statement of the delegate in the first division (Mr. Luce) that this is graft or that there is any dishonesty here. I profess that my character and my actions in life are just as honest as his or any other delegate in this Convention. I voted in favor of it. I did not vote for any graft. I voted for the same treatment to be given to everybody by the proper authorities. I trust the delegates at this late minute will refuse to reconsider this question. Leave the whole subject, as reported, in the hands of the Sergeant-at-Arms. I believe justice will be done to everybody and no criticism will be brought upon us by the action of the delegates in this Constitutional Convention.

Mr. Wonson of Gloucester: I should like to answer this question about the Sergeant-at-Arms certifying. He certifies to the attendance of these people, but he asks us not to put in that he certify that those

people did the work, because he will be unable to do so. You can see he will be unable to do so.

How can he discriminate? I do not see why all this issue has been made with organized labor delegates on one side and the others on the other side, because that has nothing to do with it. It is simply that the facts have been put before you. I should not think organized labor would ask for something in the nature of a gratuity without work performed. The thing is misleading.

Mr. SANFORD BATES of Boston: I want to ask the member a question. Under this order, if a washerwoman has been in attendance one day in this Chamber, and if therefore the Sergeant-at-Arms would be obliged to certify that she had been in attendance, would not he under the order be obliged to give her the maximum of $50?

Mr. WONSON: Under the order he would have to give her $50. The washerwomen get 25 cents an hour, as has been testified to; and by the greater number of hours they work, and the more labor we have put on them, they get more than 25 cents an hour in pay. What is the use of adding on top of that $50 more, if their compensation is in such a way that they get more for more hours work, and therefore more pay by our being here?

Mr. JAMES J. BRENNAN of Boston: In view of the fact that the gentleman who has just spoken has agreed to answer questions, I should like to ask him if he knows the difference between a washerwoman and a scrub woman?

Mr. WONSON: I am dealing only with scrub women as the order puts it. I do not know anything about washerwomen. The gentleman from Boston calls me narrow. I do not think I have talked enough so that he can tell whether I am narrow or not. Another thing is, that I do not see why they should be on a side where they try to stir up sectional strife against one who is voting and has been voting with them all along, and one who comes from the laboring ranks, and one who was sent here representing labor organizations, as I have been. When I worked in Boston here, and studied law, and got my education by going to night school, and all that sort of thing, because I had to, and my father being a member of the Carpenters' Union, I do not think I am in a different sort of position from the fellows who are opposing me now. I simply am trying to do my duty as a member of this committee and in charge of this report. [Applause.]

Mr. LOMASNEY of Boston: In view of its having been stated here frequently by the lawyers that what we said controlled the Supreme Judicial Court, why not let us say now that our understanding is that this money is to be paid to people who have done extra service, and to no one else? That would meet the situation. I hope we shall have an understanding that the Sergeant-at-Arms, if this order passes, shall pay the money to no one who has not done extra service in and around this Convention. If we make that statement, it seems to me, if they were right in saying our opinion governs the Supreme Judicial Court, it ought to govern the Sergeant-at-Arms in expending the people's money.

Mr. ANDERSON of Newton: May I ask the gentleman from Boston who has just taken his seat (Mr. Lomasney): Why then should we not make the motion read that way?

On the question of reconsideration, on a rising vote, 112 voted in the affirmative, 68 in the negative, and the motion to reconsider prevailed. Thereupon Mr. Lomasney of Boston moved to amend by striking out the word "has", and inserting in place thereof the words "as having performed extra service and as having", so as to read, —

Ordered, That the sum of fifty dollars be paid to each porter and each watchman and each scrub woman that the Sergeant-at-Arms shall certify as having performed extra service and as having been in attendance in and about the chamber, rooms and corridors occupied by the members of the Convention and in the employ of the Commonwealth, as extra compensation for additional work performed.

Mr. Curtis of Revere: The last amendment offered by the gentleman in the third division (Mr. Lomasney) is perfectly reasonable, absolutely fair and just, upon its face, but here is the trouble. Anybody who has looked into this matter as the committee has done, knows that it puts the Sergeant-at-Arms in a peculiar position, and the result will be, unless he is limited to paying three or four scrub women, the whole 67 will get $50 apiece. That will be the result. I wish the gentleman would tie it down to a certain number. I ask the gentleman to limit it to a certain number of watchmen, if any, a certain number of scrub women, and a certain number of porters, who actually attend upon this Convention. It must seem obvious to all that the Convention does not require the services of 67 scrub women. Nor does it need the services of all the watchmen. I wish the gentleman would amend it so the Sergeant-at-Arms could certify to a certain number, because that would relieve him of a great deal of responsibility, which the gentleman, as a practical politician, knows would be very pleasing to the official and relieve him from embarrassment.

Mr. Lomasney: I will accept any amendment the gentleman offers to do that. I have no such fears for Mr. Pedrick, if I may use the gentleman's name; I feel that he knows what the desires of the Convention are. I do not think he would pay 67 women when there ought to be only four or five paid. The gentleman who has been on the committee knows about the whole case. If he wants to put in anything additional, all right. Personally I think it is strong enough now. I am willing to accept any proper amendment. I do not want to give away the State's money any more than anybody else. I think if they have done any extra work they should be paid. That is my position.

Mr. Sullivan of Salem: I should like to move, as a substitute for the entire original motion and the amendments that have been made or offered to it, the following:

Ordered, That the sum of fifty dollars be paid to such porters, watchmen and scrub women as the Sergeant-at-Arms shall certify to having performed extra and regular service, and as having been in attendance in and about the chamber, rooms and corridors occupied by the members of the Convention, and in the employ of the Commonwealth, as compensation for additional work performed.

This substitute, specifying as it does "extra and regular service", disposes of the question brought out in the discussion of the original order and the amendments, whereby, it was stated, any person who worked irregularly for one hour or more and was paid 25 cents per hour or other small sum, the Sergeant-at-Arms would have to certify as having been in attendance in and about the chamber, rooms and corridors, etc., and they would come in for $50 each.

This substitute provides for the classes of employees mentioned, who have performed extra and regular service and have been in attendance

during the session, in and about the chamber, rooms and corridors, etc., for the benefit or convenience of the Convention. It excludes the irregular workers, those who have not performed any extra service, as well as those who already have been paid for any extra services rendered, those who might have filled in for a short time from other parts of the building, and those who primarily have not been working in connection with the Convention but simply performing services in various parts of the building to which service to the Convention was only incidental.

Mr. Lomasney of Boston asked unanimous consent to withdraw his amendment in favor of the one offered by Mr. Sullivan, and, there being no objection, the amendment was withdrawn. Thereupon the amendment of Mr. Sullivan of Salem and the order, as amended, were adopted.

MATTERS OF PROCEDURE.

Administering the Oath.

Governor McCall, after addressing the Convention on the 6th of June, 1917, said: I suppose that in the regular organization of a body whose status is established under the Constitution the next item of business would be the administration of the oath of office. There is a question whether that oath is necessary. In fact, the Attorney-General has sent me a communication holding that in his opinion it is not necessary. It is suggested by him that the Convention may deem it fitting and proper to prescribe oaths to be taken by its members, but that is a matter which rests entirely within the discretion of the Convention. Perhaps I should submit that question to the Convention at this stage and let it determine whether an oath should be administered.

Mr. CREAMER of Lynn: I move that an oath be administered to the members of this Convention.

The motion was adopted.

The GOVERNOR: Gentlemen, what shall the oath be? Shall it be the oath ordinarily administered to the officers of the government of the Commonwealth?

Mr. CREAMER: I will say that of course it is understood that those who wish to affirm instead of taking an oath should be allowed to do so.

The GOVERNOR: Of course that provides for an affirmation. Then, without objection, I will administer the oath ordinarily administered to the officers of the Commonwealth.

Method of Electing the President.

Upon the motion of Mr. Williams of Brookline, June 6th, that the President be elected by ballot, and the substitute moved by Mr. Quincy of Boston that he be elected by a call of the roll, debate proceeded as follows: —

Mr. PILLSBURY of Wellesley: I trust that the amendment will not be adopted. A choice by ballot is the usual method. There is no reason whatever that I know of for departing from it. There is no objection to the making of nominating speeches by any gentleman who is so moved, and that requires no authority from the Convention. I trust that the motion as originally made will be adopted, and that we shall proceed to a ballot for President.

Mr. QUINCY of Boston: I am sorry to differ with the learned gentleman who has just taken his seat, but the precedents upon this question are both ways. It is true that the Constitutional Conventions of 1820 and 1853 in this State elected their presiding officers by a secret ballot. It is also true that the practice now established in our House of Representatives and established in the House of Representatives at

Washington involves the election of a permanent presiding officer by open ballot taken by means of a roll-call. It is also true, as we have been informed in the pamphlet which we all have received from the Commission on compiling information, that the Constitutional Convention of 1915 in New York, and the recent Constitutional Conventions in Ohio and in Michigan, followed the practice of an open ballot for presiding officer. To my mind, — and this is no new opinion on my part, — this involves a question of principle, namely, the right of the constituent to know how his representative, in whatever body that representative may sit, votes upon an important question. We are concerned here not merely with a choice between two or more candidates, or gentlemen who are willing to be voted for, for the high and honorable office of President of this Convention. We are concerned not merely in the impartial performance of duty by a presiding officer, but, if the ordinary parliamentary practice is followed, we are concerned in the appointment through the President of the committees of this body, which is a very important duty, — which will do a great deal to shape the policy of this body and is certainly an act which bears very intimately upon its procedure and upon what it may accomplish.

Feeling so convinced, I have felt it my duty, and I find that a great many gentlemen agree with me in that feeling, to give the Convention a chance to vote whether it desires a secret ballot or whether it desires an open ballot upon the selection of its presiding officer. Let me simply add this as an expression of my own opinion, — that the Convention is fortunate, if we may judge by the newspapers, to have two gentlemen to be voted for here to-day each of whom, by experience, ability, and character, is eminently qualified to perform the duties of President of this Convention. The substitute that I have offered I do not intend to be in the interest of either one of those gentlemen as against the other, but I believe, and various other members of this Convention believe, that this is the proper method of electing a President of a body of this character.

Mr. Walker of Brookline: I feel that we should think very carefully before we begin the proceedings in this Constitutional Convention by a secret ballot. This question was fought out in this chamber some seven years ago over the speakership and it was then decided that as the House of Representatives was a representative body it was appropriate that the ballot should be taken by roll-call, to the end that the constituents of the various members here might know how they voted on that important question. Since that time I understand the precedent has been followed and the Speaker of the House of Representatives in Massachusetts is elected by an open roll-call. I am informed and believe, as the gentleman from Boston (Mr. Quincy) has said, that the recent Convention in New York, the Convention in Ohio, the Convention in Michigan, all these recent Conventions, elected their presiding officer by roll-call. Such is the custom in the National House of Representatives. I believe that there is a principle involved here. I think it would be a serious mistake for this Convention to begin its proceedings by a secret rather than by an open ballot. Let me remind you of the words we have just heard spoken from our Governor, the presiding officer of this Convention. He said:

> Representative government should be so open that the wind may blow and the sun shine through it.

I think that is very good advice and I trust that when it seems to be the demand of any considerable number of the members of this Convention throughout its entire session, we will let the wind blow and the sun shine through the proceedings of this Convention. [Applause.]

Mr. Hale of Boston: I hope very much that every member of this Convention will realize the importance of this issue. In my opinion it is the most fundamental of all the questions of procedure that are coming before us. It is the question as to whether we are going to conduct a Convention for the people of Massachusetts or for the special interests of Massachusetts. The one thing that we have got to do in this Convention, in the opinion of liberals of all parties, without regard to party lines, is to represent faithfully and honestly and openly the voters of Massachusetts, and the first step in preventing that being done is to elect a President by a secret ballot. Every one of us knows the tremendous power wielded by the President of this Convention. Everybody knows that the election of a President is one of the most important steps in this Convention and that upon the election of its President will depend very largely whether this Convention will be liberal or will be conservative; and therefore the vote for President ought to be open and every man here ought to be willing and glad to express his preference for either one of the two men who are going to be candidates. We ought not to be ashamed to say whether we are for one or for the other and we ought to be willing to have every one of our constituents throughout the State know how we stand on this vital question. I hope that the substitute motion of Mr. Quincy will prevail. [Applause.]

Mr. Brown of Brockton: The highest precedent in the matter of voting is the Australian ballot, for which we went through so much in this Commonwealth to enable a man to vote in secrecy. The man who is not qualified to vote for the interests of his constituents without flying a flag had better remain at home. [Applause.] It might be very well guessed as to how I might vote, but still at the same time when you cite as a precedent the House of Representatives, my education has been so bad that I have been led to assume that the only reason that method was ever adopted for organization of the House was so that a man might be recorded as to whether he was entitled to the favor of the Speaker who was elected or whether he double-crossed behind a secret ballot. [Applause.] We have come to a time, in my opinion, when a man should have the courage of his convictions and not be dragooned into the idea that there must be an open ballot so that somebody may watch him and tag him. I do not want to be put in that category; I am going to vote for a secret ballot. On some other things I shall fight for publicity; but if either man of the two is bright enough to have secured a majority of the pledges, secret or otherwise, let him have it. I am not afraid of either of them.

Another thing, too, I feel that a secret ballot would leave the President free to appoint his committees and not feel obliged to take the list to discover who his friends were when he was making up his committees. I hope when it comes to the election it will be by a secret ballot.

Mr. Creamer of Lynn: I should like to call the attention of this Convention to a distinction that the gentleman from Brockton (Mr. Brown) has failed to observe. When we go into the polling booth to

mark the Australian ballot we vote for ourselves individually; in this Convention we vote for our constituents. [Applause.]

Mr. Balch of Boston: I should like to point out that the Legislature is a body nominated, elected and organized on partizan lines, and the open roll-call in such a body is proper. This body was neither nominated nor elected, nor should it be organized, on purely partizan lines; hence I am in favor of the secret ballot, which means a conscience vote as contrasted with a controlled vote.

Mr. Dennis D. Driscoll of Boston: I am surprised that the people who are elected by the people and talk about publicity in the interest of their section come behind closed doors and are for secrecy in the matter of their future interests and welfare. I am opposed to the secret ballot. I desire that the people I represent and the people I associate with in my life, fighting for a principle of justice, shall know my action and stand on any public question that may be referred to them to vote upon by this Convention. And I trust that the delegates to this Convention will show to the people of this Commonwealth that it is not a secret Convention, that it is a Convention of the people and every action of theirs will be known through the public press, so that in discussing the public questions the people will have the information of their action here. And I trust that the delegates to this Convention will show the people of this Commonwealth liberty and not gag them with secret ballots. Give us the freedom to express publicly our thought upon our choice, not for selfish ends but for the interest of the people, — the selection of the President of the Constitutional Convention. [Applause.]

Mr. Anderson of Brookline: No man ought to be discredited by being elected President of a Constitutional Convention by secret ballot. [Applause.] I am surprised that the suggestion has been made that in these days, when America is involved in a world war growing out of secret diplomacy, we should start a Constitutional Convention by a secret ballot for the man who is to preside over it. The gentleman who sits beside me (Mr. Brown) made a distinction already sufficiently answered by the gentleman from Lynn (Mr. Creamer), but I refer to it again in order that there may be no misunderstanding. When we go into the polling booths we represent ourselves and our own consciences, our own convictions. But we are here as representatives. The agent, the representative, has no right to secrecy. It is a breach of trust to deal with the affairs of your principal without exposing what you do to your principal. I am surprised that the suggestion is made. I hope in the interest of whichever candidate may prevail that he will not be elected by any secret ballot. [Applause.]

Mr. Pillsbury of Wellesley: I rise again, your Excellency, only to protest against what, except for my desire to confine myself to wholly respectful terms, I should be inclined to call the absurdity of the reasons which are urged for departing from the usual practice. It is said or implied that there is something objectionable about the "secret" ballot. When, where and by whom was it discovered that this palladium of our liberties, as we have been taught to regard it, is an objectionable and dangerous thing because it is "secret"? Of course our friends know that a quarter of a century ago the secret ballot was adopted throughout the United States as the American principle.

It is now sought to make a distinction, on the ground that when we go to the polls we vote for ourselves and here we vote for our constituents. I am inclined to think, your Excellency, that my constituents are willing to trust me for my vote here; but as my friends from Brookline and Boston seem to assume that theirs are not, I will, for the purposes of the argument, concur in that assumption [laughter], but I wish to call to the attention of the Convention the results to which their logic will lead. If their constituents are afraid to trust them to vote for a President of the Convention by ballot, much more is it essential that their constituents should know how they vote upon every question of substance which comes before the Convention [Voices: "Certainly! Right!"]; and their argument leads directly to this result: That unless we are going to put ourselves in a very foolish position, it will become necessary for the Convention to take its vote by a roll-call on every question which passes before it, in order that the constituents of my friends from Boston and Brookline, and others, may know how their delegates vote; and not only in the Convention, but in committees, where a vote is often more important than a vote on the floor. It is a patent absurdity to assume that either of these things ought to be done or will be done. Yet there is just as much reason for doing that as there is for calling the roll in the election of President. The real reason for the amendment has not been given. If given, the amendment would not prevail.

Mr. Bauer of Lynn: I cannot agree with the previous speaker in his assumption that this open method of procedure will result in a delay of the Convention work or in a roll-call on every important matter. I wish to call his attention to the fact that, while undoubtedly he does represent his constituents, and undoubtedly they do trust him, or he would not be here, one of the fundamental reasons for this Convention being held was a constantly growing protest among the citizens of this Commonwealth against any secret procedure in the operation of its governmental functions by its representatives. That is one of the fundamental reasons for the Convention; there can be no denying of it. It is the invisible and secret association with the work of the Commonwealth in its legislative branches that has brought this Convention to the forefront at this particular time. I, for one, cannot see how any one here can vote, on this occasion, to begin the Convention's work with a secret ballot. It is not a question of flying a flag or anything of that kind. It is the principle of doing the work of the Convention out in the open, so that the whole Commonwealth may see what it is and who it is that is responsible for it.

Mr. Coakley of Boston: The gentleman from Wellesley (Mr. Pillsbury) has suggested that his constituents trust him and that we would be likely to put ourselves in a very foolish position, if we did not follow his idea on this issue. Well, there is not any doubt in my mind but that the gentleman from Wellesley is well trusted by his constituents, and the gentlemen in Wellesley know, no matter whether we take an open vote or a secret vote, just how the gentleman from Wellesley will vote. [Applause.] There is only one way he is going to vote and there is no need of his "flying a flag" to have the people of Wellesley know that he is going to vote with the interests. [Hisses.] Now I am rather anxious that it shall be known how I am going to vote

on this issue. Those are the snakes of the interests — do you hear them? [Renewed hisses; applause.]

The GOVERNOR: The Convention will be in order.

Mr. SAWYER of Ware: I rise to a point of order.

The GOVERNOR: The gentleman will state it.

Mr. SAWYER: It is not allowable under parliamentary rules in all bodies like this for expressions either of approval or disapproval to be made on the floor. I ask for a ruling against either applause or hisses.

The GOVERNOR: The Chair would request the Convention to refrain from any expression of dissent or approval, and the gentleman will proceed in order.

Mr. COAKLEY: Now, Mr. Chairman, as I understand it, if this motion is voted upon one way or the other, under the present rules of this body there can be no roll-call on the question as to whether or not we shall have a secret ballot. Therefore I am anxious that my constituents, who do not know whether I will vote for the interests or against the interests, shall know how I vote on this issue. I do not want it understood at all that in my mind either one of these gentlemen who are to be named for President, one of whom is to be elected, is in the category of interests or non-interests, and I would not say one word against Governor Bates or one word against Mr. Whipple, and that is not my intention; but we are starting out on the question of secrecy or openness, and what is going to happen throughout this Convention is going to be decided now. I do not think there is any other gentleman in this Convention who wants to take the attitude of the gentleman from Brockton (Mr. Brown) who says: "On this issue I do not want the people to know how I am going to vote, but on other issues I would like to have them know how I am going to vote.' I say I want my people to know how I am going to vote and now I ask every member of this Convention who comes from districts where the people want to know how they are going to vote, to vote in favor of the open ballot. Is there a man here who would be ashamed to vote for either of these high-class gentlemen? Stand up. Gentlemen talk about flying a flag. This is the time of flying the flag. Let us all fly our flag and let it be distinctly understood how we vote. I hope it will not go out to the Commonwealth of Massachusetts that, led by the gentleman from Wellesley, this Convention says "secret ballot." [Applause.]

Mr. JOSEPH F. O'CONNELL of Boston: I hope the gentlemen of this Convention will realize that the eyes of the civilized world are on us to-day, that democracy is at stake in the world, that this is no idle statement, that the first work of this Convention will be wired to Petrograd; and, with democracy in the balance, with the enemies of democracy attempting to show its failures, its short-comings, that the work that we do here to-day will be more significant than that of many other days that may take place later. I am surprised that a distinguished man like Mr. Pillsbury should get up in a deliberative assembly such as this, and say that one of the principal reasons why we should not have a roll-call is that a roll-call on important questions may impede this Convention in its proceedings. It seems to me the most absurd of all things that any Convention should be urged not to have a roll-call simply because roll-calls might impede our progress. I trust that this Convention will speak in no uncertain terms, and

speak so that the world may know that democracy has to be so administered that everybody, and the world at large, shall know everything that its representatives in its form of government attempt to do.

Mr. MORRILL of Haverhill: I believe we should have a roll-call on the question of adopting a method of electing a President, and that we should vote in favor of a roll-call on the election of President also. It has been mentioned that if we adopt that procedure we must, to be logical, to be consistent, also have roll-calls upon all important fundamental questions. I agree that we should do that. The House of Representatives has hundreds of roll-calls upon important measures, and the measures which we shall consider are very much more important than those the Legislature considers.

In regard to an open ballot, a roll-call, I believe that should be the method in all legislative bodies. I believe so, not as a matter of temporary expediency, but as a general principle. And, believing that, when the House changed from a secret ballot to a roll-call method of electing the Speaker, although I never have been accused of being an extra conservative man, yet I voted for an open ballot, despite the fact that a roll-call was forced by the reactionaries and conservatives. I voted for it because I believed we all should show for whom we stand for Speaker. The liberals might have gained at that time with a secret ballot. That is what the political machine which controlled the Legislature feared. That is why they wanted a roll-call as a whip at that time, to force their own membership into line. But nevertheless I voted for it, and to-day, when the machine is afraid now that the liberals may win by an open roll-call, nevertheless I am consistent enough to vote for it in both cases.

Mr. COLEMAN of Boston: Just one word. We certainly cannot afford to forget for a single moment in this Convention that nothing that we do, no matter how well it may be done, will be of any avail unless it be finally with the approval of the people. Can any one imagine that the people would be in doubt for a single moment as to how they would want us to act on this question? They certainly would ask for an open ballot. If we want our work accepted when we are through with it, let us from the very beginning win the confidence of the people. [Applause.]

By roll-call the Convention adopted the amendment of Mr. Quincy, 290 yeas to 24 nays.

Appointment of Committees.

Mr. Luce of Waltham for the committee on Rules and Procedure submitted a report, June 11th, 1917, regarding standing committees. Mr. O'Connell of Boston moved postponement of its consideration until the next day and debate so far as bearing on the main question proceeded as follows: —

Mr. O'CONNELL of Boston: I believe that this report is the most important report this Convention will consider for many days, and it would seem to me that every member of this Convention ought to have a copy of the rules before him and know exactly what he is voting upon. I trust the Convention will take this step carefully and have this matter postponed until to-morrow, making it the first order of the day.

Mr. LUCE of Waltham: I am confident that the members of the committee on Rules and Procedure will not have the slightest objec-

tion to the postponement of this report if it should prove to be the will of the Convention thus to add one more day to the length of our deliberations. The committee presents in this list of committees a unanimous report. The list has been prepared with great care, in the hope of distributing the probable work of the Convention so that as nearly as possible the various committees shall have an equal amount of labor. Of course it is absolutely impossible to approach equality as closely as we wish we could, but in this arrangement there has been a serious and carefully studied attempt to divide the work with some approach to equality. The report is based upon the belief that it will be well for every member of the Convention to have a position on some one of its working committees, and that in view of the size of the Convention it is not wise that any member should have more than one such position. Therefore we have arranged for twenty committees of fifteen members each, taking three hundred of the membership, one committee of nine members and two committees of five each, thus giving every one of the possible 319 members besides the President one position. Perhaps the gentleman would be content with a slow and careful re-reading of the list of committees, in order to see if he may point out some particular where he thinks we should gain by adding one more day to our deliberations. Manifestly the committees cannot be chosen and cannot get to work until we have decided what committees we shall have. If, perchance, the President be entrusted with the appointment of committees he cannot proceed until we have determined upon the list, and after we have agreed upon what committees we shall have, fairness to him and justice to ourselves requires that he shall have time enough, if he is to do the work, to do it properly. For these reasons, unless some important cause for delay presents itself, I should hope that we might be willing to act at once.

Mr. O'Connell of Boston: In answer to the request of the chairman of the committee on Rules to point out why I think it important that we should delay, I should like to call the Convention's attention to the very first rule, which, as I recall it, requires that all committees shall be appointed by the President of the Convention. Now, after all is said and done, there is the beginning and end of all this Convention in many respects. It differs from previous Conventions and the history of Massachusetts in its Constitutional Conventions. I have gone over carefully the journal of the first Convention of 1780, and in that Convention, which is the Convention really that we now are following, — the Convention that adopted the Constitution under which we now are working, — all committees were nominated from the floor, and the work of that Convention has been eminently satisfactory. In the Convention of 1820 there was an opportunity left for the Convention to choose its own committees or to have them appointed by the Chair, and I believe the Convention followed both policies. The Convention of 1853 followed the rule that I think is announced here to-day, namely, that the Chair shall appoint all committees, and I am one who believes that the failure of the Convention of 1853 to win the approval of the people was due to the fact that the people had no confidence in the committees. Now, I have no reflection on the Chair. Between him and me I think there is great respect, — at least, I esteem him very highly, — and I have no want of confidence in his ability to appoint committees; but I do believe that in this age when

the fate of democracy is in the air, when the principles of democracy are questioned, a Constitutional Convention in Massachusetts ought to be the first place where democracy should be practiced in its essence, and I believe that this Convention, when it commences to consider the difference between the rule that is advocated now and rules that may be suggested to the Convention, may be inclined to accept other rules. It is a fact that the National House of Representatives to-day is working under a proposition of a committee on Committees, and practically all the progressive legislation of the last eight years has followed since that era. I would ask the Convention, therefore, to pause before it adopts this rule and consider whether or not twenty-four hours' delay to suggest other provisions might not be wiser for the Convention.

Mr. Horgan of Boston moved that the report be amended by the substitution of the following: —

1. The Convention shall elect a committee of fifteen members, to be known as and called the "committee on Committees." This committee on Committees shall determine the number, select the members and designate the chairman of all committees; *provided, however,* that nothing herein shall affect the membership and duties of the committee on Rules and Procedure. The President of the Convention shall be a member and chairman of the committee on Committees.

Mr. Horgan: I desire first to call the attention of the Convention to the phraseology of section 6 of the Act under which we are operating, which says that the delegates "shall proceed to organize themselves in Convention, by choosing a President and such other officers and such committees as they may deem expedient."

While it is true, perhaps, that that language is susceptible of more than one interpretation, at the same time it seems to me it indicates that the intention of the framers of that law was that this body should select its own committees. Realizing, however, that the selection of various committees by the Convention itself might be too cumbersome, and appreciating at the same time the fact that it is important that there should be an equitable distribution of committees, it seems to me that a happy medium is the election by this Convention of a committee of fifteen, plus the President of the Convention, by which all other committees of the Convention shall be named. I make that suggestion without any intention of reflecting in any way whatsoever upon the President of this Convention. On the contrary, I have the highest esteem and admiration for him. I served under him when he was Speaker of the House of Representatives. I have shown my appreciation and admiration for him in other ways. Consequently, I assure you that, in making this suggestion, it is not animated by any desire other than a wish to have this Convention act as I believe the people of Massachusetts desire it to act. I believe that the time is ripe to settle this question. I believe that it may be determined and threshed out without any reflection upon any officer or member of this Convention. Personally my judgment is that this Convention ought not to delegate to one individual, no matter how high, exalted, honorable or able he may be, the duties which clearly devolve upon the Convention itself. Therefore I offer this as an amendment.

I want to say further that, in my humble judgment, no matter how carefully, even though unanimously, the committee on Rules and Procedure may have proceeded in the make-up of the various committees which they recommend to this Convention, I believe that the members of this Convention ought to be afforded an opportunity to analyze

thoroughly for themselves the proposed complexion of the committees, as well as the method in which those committees are to be named.

Mr. Bennett of Saugus: I have the general impression that we would get better committees to have them appointed by the Chair, and although I voted for somebody else for President of the Convention, I am in favor of their being appointed by the Chair. In some legislative bodies, where there is not general knowledge of the subjects under consideration, a committee may have an undue influence, but in this body I do not believe it is possible. The questions are fundamental, the people are much interested in them; it is not a question whether such an appropriation shall be made for such a town or city or road, but they are fundamental questions. Hence I have no fear that this Convention will be warped in any way by the constitution of the committees, and I think it would be better to have the President appoint them and proceed about our business.

Mr. Carr of Hopkinton: It seems to me that the amendment offered here, that a committee of fifteen be appointed to appoint committees or to select the number of committees, is very essential. It has been said by the gentleman from Saugus (Mr. Bennett) that we will accept the reports of committees or we may oppose the reports of committees, — that we will not give the action of committees the same weight in this Convention as is given to the action of committees of the Legislature. Now, we want to give the committees' reports just as much weight in this Convention as we do those of the legislative committees, because that is the reason we have committees. We want to have those committees have a public hearing, we want to have them weigh everything that is said and bring in what they believe to be a fair report of the committee. Now, how are you going to know that that is a fair report from that committee? By the very fact that that committee has been appointed from the floor, — that it is a committee that we have confidence in, that we know it has not been made up along partisan lines, or for some people who are in favor of one proposition or for people who are opposed to the same proposition. I say let us be sure when we appoint our committees that we appoint them so that they will have the backing of this Convention, and then we will have confidence in their reports. Because you will hear it advocated on the floor of this Convention that the committee has brought in such a report; that the committee has said so and so, and therefore we ought to sustain the committee's report. Let us advance cautiously in this. I have not any fault to find with the procedure that is adopted in the House of Representatives and it may be very well in that case to have the Speaker appoint the committees; but I say in a Convention of this character that we ought to have the committees above suspicion. I do not in any way mean to intimate that the appointment of committees by our able President would in any way cast any suspicion upon them, but I know that the force of a report of a committee appointed by a committee on Committees will have far more weight than the reports of committees appointed by an individual.

Mr. Curtis of Revere: I understood that the report of this committee was unanimous. If in order at this time I should like to have the Secretary read the list of the names of that committee. [The list was read.] That committee seems to me eminently fair, and it seems

to me that this Convention will do well to take their report. I fail to see now, in advance, any good reason why a fairer committee will be selected from the floor by any method of procedure. [Applause.]

The PRESIDENT: The Chair must ask the members not to express either approval or disapproval by any applause.

Mr. HORGAN: I desire to add only one word. The gentleman from Revere (Mr. Curtis) has laid great stress upon the caliber and character of the members of the committee on Rules and Procedure, indicating, in my judgment, by his language, that that committee is to name the various committees as recommended by that committee. As a matter of fact, the report of that committee simply provides that the various committees for the Convention work shall be appointed. It is self-evident that if that report is accepted, the committees, as a matter of course, will be appointed by the President of the Convention unless the Convention should order otherwise, and that is inconceivable. Furthermore, I desire again to emphasize the fact that in suggesting that a committee of fifteen, as well as the President of the Convention, shall be elected by this Convention to name all committees, I had in mind the thought that in view of the fact that there were sixteen delegates at large elected throughout the State, one of whom was the President of this Convention, leaving fifteen other delegates, by nominating the fifteen other delegates, — if this amendment was acceptable to the Convention, — I would then move that the other fifteen delegates at large to this Convention be the committee on Committees [laughter], for the simple reason that, while it is only the opinion of one, nevertheless the suggestion of the gentleman does not change my judgment that the delegates at large express better perhaps the opinion of the people of the Commonwealth than do the delegates from the Congressional or Representative districts. But I have not embodied that in my amendment because I believe that, in electing a committee on Committees, as I feel ought to be the duty of this Convention, the matter should be left to the Convention. I want again to emphasize the statement made by the gentleman from Boston on my right (Mr. O'Connell) as to the procedure of prior Conventions, indicating why those Conventions took that action, namely, the selection of their committees directly; and although it may have been cumbersome it seems to me that that is a happy medium, and I see no reason why the Convention should break a rule which is suggested by the language of the statute which gave power to the delegates.

Mr. LUCE: The serious nature of the question calls for the consideration of this body not chiefly because of precedents of previous Conventions but because of the action of the Congress of the United States seven years ago in taking away from its presiding officer the appointment of committees. Permit me to recall that in the early days of parliamentary history committees were at first named from the floor. This practice prevailed until after the Revolutionary War, when the present practice was substituted. Congress in its first session provided that all committees containing more than three members should be elected, but in the following January the practice had been found so cumbersome and awkward that instead was adopted the policy of having committees appointed by the presiding officer.

Something more than a hundred years ago men began to urge upon Congress that committees should be either elected or chosen by a

committee selected for that purpose. The proposal won no adherents until about a dozen years ago it became part of the program of those who objected to appointment by the gentleman then Speaker of the House and who for other reasons desired to change the system. After heated controversies they substituted a plan whereby the caucus of each political party selects its members of the committee on Ways and Means, and they in turn name the committees. You will observe, sir, that this was based upon a partizan motive, the object of it being to secure the assignment of committee memberships by the caucuses of two political parties. It may or may not be the case that this is the best form of procedure in a body chosen on partizan lines, met to carry out the political principles of the predominant party. The distinction between that situation and this is evident. The people of Massachusetts have voted that this shall be a non-partizan Convention. It is their desire, therefore, we may assume, that we shall not adopt forms of procedure that are essentially partizan in their nature and devised for the purpose of advancing party principles. I take it that there are in this body all shades of opinion. I take it that there will be union on no considerable number of measures by any one group of men. And for one I should be exceedingly reluctant to subscribe to a program which at once would precipitate upon us the formation of caucuses, the alignment of all these members in two camps and a contest to see which should get control of the Convention. Under these circumstances it is quite evident that the precedent of the House of Representatives at Washington should have no force with us, and that rather we should turn to the precedents of Massachusetts, — those precedents which have given us during so many years a House of Representatives that has been the pride of the State, because it has led all the legislative bodies of the Nation in the perfection of its laws and the adequacy of its machinery. Our Massachusetts tradition, worked out through a hundred years and more of study by those who have sat in the House of Representatives during that time, has formed around the position of presiding officer such a body of custom that it is unthinkable he should not do on the present occasion as during all these years those who have presided in the State House have done; that he should not follow their example and serve as the one man to whom we can confidently entrust our interests, sure that as the arbiter of those interests he will be fair and discreet and prudent. No man who ever has served in a legislative body can for one moment believe that it is wiser to invite the logrolling, the swapping of votes, the pulling and hauling which will come about if this matter is left to fifteen members. Even if there were dangers in trusting to one man, — and our experience shows none, — nevertheless, with that prospect before us of what it would mean if fifteen members of this body should be besought by more than three hundred others during the next few hours or days for this or that preference, can any man desire such a prospect for the beginning of our work? We know that, appointed by one man, the procedure will be orderly, we know that it will be prompt, we know that no time will be lost; and I believe every man here in his heart knows that the result will be fair and that the result will redound to the credit of the Convention and the Commonwealth. For those reasons, sir, I trust the report of the committee may prevail.

But before I take my seat let me explain that the order presented contemplated a decision between procedure by standing committees or procedure by committee of the whole body or the Convention itself. Another order had been drafted and was ready for presentation, requiring that committees should be appointed by the President. This discussion could have awaited more fortunately the presentation of the second order. But inasmuch as an amendment has been offered raising the issue at this stage, we are to decide at once whether we shall proceed by a committee on Committees or by appointment by the presiding officer. In any event, after the adoption of the present order, it will be necessary for us at least to go through the form of ratifying the second order.

Mr. HORGAN: My attention has been called to the fact that, subsequent to action upon this order now before the Convention for consideration, another order will be offered designating the manner in which committees shall be appointed, and that that is the proper proposition to which to offer our amendment. Therefore, as I intend, when that order is before us, to offer this amendment now pending, and believe that it is more appropriate to offer it under that order than under the order that now is pending, I ask unanimous consent to withdraw my amendment to the order now under consideration.

The PRESIDENT: The Chair hears no objection and the amendment is withdrawn. The question is on accepting the report of the committee. The Chair will state that it merely declares what the committees of the Convention are to be and does not determine how they are to be appointed or selected.

Mr. O'CONNELL of Boston: I rather think that the chairman of the committee on Rules did not intend to go quite as far as he did in stating the reason why the House of Representatives, or National House, changed its course in the appointment of committees. The real reason, generally accepted, was that it wanted to put the responsibility upon the members of the House and not leave it in the person of the Speaker. Now, then, if we are to accept precedent, — and the gentleman assumes that we should because of its success in the Massachusetts Legislature, — let me call the attention of the gentleman briefly to what the precedents of the Massachusetts Conventions that have had to do with the Constitution are. The Convention of 1853 adopted this rule:

> All committees shall be appointed and announced by the President, unless otherwise specially directed by the Convention.

Now, that saving clause that would leave us the right to appoint a committee is left out at this time. I see no good reason for having left out that very salutary exception. The Convention of 1820 adopted section 14 of its rules, as follows:

> All committees, except such as the Convention shall from time to time determine to select by ballot, shall be nominated by the President.

Both of those Conventions saved to themselves this exception which this rule seems to deny to us; whereas the Convention of 1853 —

Mr. WALKER: As the gentleman is proceeding under a misunderstanding, I should like to call again to his attention the fact that this order simply provides what committees shall be appointed; it does not provide how or by whom they should be appointed, and the

next order, as a matter of fact, will make the very exception that he thinks ought to be made. So I should think it would be better to confine the discussion to the order now before the Convention and wait until after the other order is presented, and then we shall know what that other order is.

Mr. O'Connell: That is a very nice explanation, but it seems to be an unreasonable one to offer to the Convention, particularly in view of the fact that if that order is contemplated and is all ready for our consideration, or nearly ready, that order should be before us before we take action on this, that may govern that one that is to come later. It would seem in all reason that we should have before us the facts and the rules that are going to guide and control us. Now, I can understand that possibly the next rule that comes out may avoid all this, but I do not know what that rule is, neither do you. None of us seems to know except those in whose custody it is. Now, then, I say —

Mr. Haines of Medford: I should like to ask the gentleman what objection he has to having these committees appointed, no matter by whom they are appointed?

Mr. O'Connell: You ask me what objection I have. I believe, sir, that the whole reason that I would give would be two objections. There is no objection to the personality of the President. [Laughter.] I do urge, however, that it is truer to democracy, if democracy has a chance to express itself. The first fruits of democracy in this body should be that it would appoint its own committees first. It was the course followed, I would say to the gentleman from Medford, by the Convention of 1780. It was a mighty fine precedent. The work of that Convention never has been disturbed; and when the work turned out by that Convention has been so eminently satisfactory, coming through the mode of procedure of committees nominated from the floor of the Convention, then I believe that this Convention of 1917 might do well to follow that splendid example. That is my reason for urging that a different rule be adopted than the one suggested by the committee. ["Question!" "Question!"]

The question being put, the report of the committee was adopted.

Mr. Luce of Waltham, for the committee on Rules and Procedure, then submitted the following report, which was read and considered forthwith, under a suspension of the rule, moved by Mr. Luce:

The committee on Rules and Procedure, who were authorized to report rules and orders for the government of the Convention, report, in part, recommending the adoption of the following rule: —

Standing committees shall be appointed by the President, and special committees unless otherwise ordered by the Convention, and the member first named shall be chairman.

Mr. Horgan of Boston moved to amend by inserting after the word "President," the words "unless otherwise ordered by the Convention," so as to read:

Standing committees shall be appointed by the President, unless otherwise ordered by the Convention, and special committees unless otherwise directed by the Convention, and the member first named shall be chairman.

Mr. Horgan: I desire to explain that I have changed the sense of the amendment as originally offered because I believe that the desire of this Convention, as indicated already, is not to elect a committee on Committees, and I do not propose unnecessarily to take up the time of

the Convention. Consequently I am offering a simple amendment, which simply gives back to the Convention a power which it is delegating temporarily, if at any time in the judgment of the Convention such a crisis arises. Otherwise, it leaves the phraseology of the report of the committee exactly as offered.

Mr. ANDERSON of Brookline: I should like to inquire whether the committee considered inserting in the order after the words "appointed by the President", the words "subject to the approval of the Convention." In some deliberative assemblies an opportunity of that kind is given to correct inadvertences and what sometimes are thought to be unfairnesses, leaving the main responsibility where I think it belongs, with the Chairman. If the committee considered that, and for good reasons turned it down, I do not care to urge it.

Mr. HORGAN: I should like to ask the President to rule on the phraseology of the order as originally offered, "except when otherwise ordered by the Convention" after "special committees", — is that applicable to the appointment of standing committees? If so, as it would appear that my amendment was unnecessary, I should like to withdraw the same, but I should like the ruling of the President first.

The PRESIDENT: The Chair thinks there is some doubt as the order is reported, if the punctuation be considered, as to whether or not it did mean the same as it would mean if amended as suggested by the member from Boston. That is, the Chair thinks —

Mr. HORGAN: In that case, then, I will submit my amendment.

The PRESIDENT: The question is on the adoption of the amendment.

Mr. FRENCH of Randolph: Before voting I should like to have the question of the gentleman from Brookline, Mr. Anderson, answered by the committee on Rules.

Mr. LUCE: The purpose of the committee on Rules and Procedure in this matter was to follow as closely as possible, and in this particular precisely, the practice of our House of Representatives. That practice is familiar to a very large proportion of the members. It is the normal thing to those of us who have served here, and it was not our intention to deviate from that practice in any particular.

Mr. ANDERSON of Brookline: Out of the depths of my ignorance I repeat my question. Are these committees, under the committee's report, to be appointed by the Chair subject to the approval of the Convention, or does the appointment of the Chair end it once and for all?

Mr. LUCE: My recollection of the practice of the House of Representatives is that no question ever was raised after the presiding officer had appointed his committees. Therefore it may be said that the universal practice of the House of Representatives, to a point where the memory of man runneth not to the contrary, has been that the appointments of the presiding officer stand as those of the members of the committee.

Mr. ANDERSON of Brookline: If in order I move to add at the proper place, right after the comma, "subject to the approval of the Convention,".

Mr. LUCE: The perfect good faith of the gentleman from Brookline is so manifest that I feel reluctant to call his attention to the fact that had he served in a legislative body he would have realized how an

amendment like this would open Pandora's box. All the troubles possible would fly out, for the moment the presiding officer had announced his appointments, that moment every member of this Convention who would have preferred some other appointment would immediately be ready to question the wisdom of the choice and to join in a movement to upset what had been done. If precedent and practice have shown us the wisdom of leaving this decision to one man and abiding by his fair play, have pointed out to us the danger of questioning that decision after it has been made, then this amendment will be rejected; but if gentlemen should desire to invite the ill feeling and the controversy and the wirepulling and the logrolling that otherwise will be precipitated upon them, then they will vote for this amendment. For my part, sir, I trust that the Convention will remember how many times the judgment of a presiding officer has proved in the end to be wise and judicious and just.

Mr. Anderson of Brookline: In response to the gentleman I desire to say that I have served in a sort of legislative body where we had exactly that rule, — the old Boston school-committee. The rule operated as I say it would operate here. It enabled occasionally, rarely, some member to call to the attention of the President an inadvertence, and on very rare occasions an alleged unfairness. It produced a feeling of security in the body itself that would not obtain if one man were left the final arbiter as to all the committees. I do not believe in leaving in one man the absolute uncontrolled responsibility of selecting beyond the possibility of appeal to the entire Convention all the committees. I think we ought to retain that part of the power ourselves. I hope the motion to amend will prevail. I venture to prophesy that if it does prevail we shall have no Pandora's box opened here.

Mr. Hale of Boston: I sincerely trust that the amendment of the gentleman from Brookline will be carried. I was extremely sorry that the chairman of the committee on Rules did not accept that amendment, as he admitted it was offered in good faith. I had hoped, and I still hope, that the President of this Convention himself will accept the amendment, because the amendment was meant in no way as a slight on the presiding officer. This provision is a customary provision in Constitutional Conventions, and it seems to me that it is a thing which will do more to establish the confidence of the Convention in the presiding officer than any other one thing. I am extremely sorry that the matter is not going through unanimously.

Mr. Carr: I would not arise a second time to speak on this question if it was not for the reference that was made by the chairman of the committee on Rules, pointing out the procedure of the House of Representatives as something to guide us. I tell you now, and any member who sat in the last House of Representatives also will say, that the procedure there with reference to the playing for recess committees, which was not subject to the approval of the Legislature, was disgraceful. It was simply that the men stultified themselves there during the last Legislature by playing to the Speaker for recess committee appointments, so that they did not open their mouths in opposition. If we had had something like the proposition offered in the rules of the House of Representatives we would not have had the spectacle that we saw in the closing hours of the last Legislature. This amendment is simply a practical one, it is putting the endorse-

ment of the Convention upon the appointments of the President, and I am sure that the President cannot feel that he is in any way offended by it.

Mr. Collins of Amesbury: I hope the various amendments will be killed and the order will go through as reported by the committee on Rules. I have had the privilege of serving in the House of Representatives for seven or eight years, and I do not think I am through yet. Whether that is so or not, I want to say this: I have served under different Speakers here, when the Republican Party had the majority and when no party had the majority, and I never yet have found a man who was not absolutely fair in his committee appointments. If we 319 men here have not been able to elect a man who is fair enough and square enough and who is honest enough to give us a square deal, then we had better commence at the bottom and go over it again. As for the remark of my friend at the left (Mr. Carr) about recess committees, so long as he has made a personality of it, I know of some men who got recess committees who did not expect they were going to get them, did not ask for them and did not want them and I know of some, sore ones, who did not get them and who have taken every opportunity to express their dissatisfaction.

Mr. Creamer of Lynn: I hope the substitute motion of the gentleman from Brookline (Mr. Anderson) will prevail. It seems to me along the lines we now are following in this country, of making this country safe for democracy — with a small "d."

Mr. O'Connell of Salem: I feel from all that has been said that it would appear that many were in favor of taking something away from the President. I favor the appointment by the President, but I feel that probably the President may not know the calibre of all the men in this Convention. It has been said that there will be men upon every committee, taking in the total membership. How can we tell whether the committees will be satisfactory and will be able to do their work? Therefore I favor having them appointed subject to the approval of the Convention in case some members of those committees are unable to qualify.

Mr. Sanford Bates of Boston: I hope that if either of these amendments be adopted it will be that suggested by the gentleman from Boston in the first division (Mr. Horgan). I think that every argument which has been advanced in favor of the motion of the gentleman from Brookline (Mr. Anderson) fits his amendment absolutely. Further than that, I think we ought to bear in mind that the wording as suggested by the gentleman from Brookline would require the active participation of this whole body in every single appointment; in other words, no appointment could be made except subject to approval. Now, if we adopt the wording of the gentleman from Boston we still retain all the safeguards that are necessary, and yet we allow our President to appoint his committees, no action to be taken unless the Convention is dissatisfied, in which event the wording suggested by the gentleman from Boston may be availed of and the Convention may otherwise order. Therefore it seems to me if we are going to accept either one we ought to accept his.

The amendments offered by Mr. Anderson of Brookline and Mr. Horgan of Boston were rejected, and the report of the committee was adopted.

The Committee of the Whole.

On the 13th day of June, 1917, Mr. Hart of Cambridge raised the question as to the proceedings in the Committee of the Whole.

Mr. HART of Cambridge: Will the chairman of the committee on Rules and Procedure permit one or two questions? First, under Committee of the Whole, do I understand that, by the amendment just proposed by the committee, it is out of the power of the Committee of the Whole to decide priority of questions which appear upon a printed docket or calendar at the beginning of the session of that committee?

Mr. LUCE of Waltham: The opening sentence of Rule 22 says: "The rules of the Convention so far as applicable shall be observed in Committee of the Whole," and then it continues with exceptions, and among them I do not see any exception permitting deviation from the established calendar by other than the mode required in the main Convention.

Mr. QUINCY of Boston: I should like to ask the chairman of the committee on Rules whether I understood him correctly to say that, in his opinion, the rules of the Convention governing its calendar, and calling for action upon matters in its calendar in order, apply to the docket to be made up by the Committee of the Whole, — because that is entirely contrary to my understanding of the construction of the rule and of the intention of the committee on Rules.

Mr. LUCE: I answer with some diffidence and embarrassment, because in Massachusetts for many years we have not had any practical experience with the workings of the Committee of the Whole. I am quite certain that some member of the subcommittee having this matter particularly in charge could answer the gentleman from Boston more accurately than myself. If I misunderstood I am very glad to be enlightened on the matter, but my understanding was that when we went into Committee of the Whole the ordinary procedure of the main body was followed so far as the calendar is concerned. Possibly I am in error in the matter.

Mr. WALKER of Brookline: My understanding of this matter is exactly the understanding of the gentleman from Boston, namely, that the docket of the Committee of the Whole is wholly in the control of the Committee of the Whole, and that the rule which applies to the calendar of the Convention does not apply to the docket of the committee. If that is not perfectly clear I should move an amendment to the calendar rule to the effect that this rule shall not affect the docket of the Committee of the Whole.

The PRESIDENT: The Chair does not understand that that amendment is necessary.

Mr. LUCE: I have not the slightest objection to any change of that sort.

Mr. WALKER of Brookline: Do I understand the Chair to rule that the rule relative to the calendar does not apply to the docket of the Committee of the Whole? If so, I withdraw my amendment.

The PRESIDENT: The Chair so understands.

On the same day Mr. Curtis of Revere asked for a ruling as to a quorum of the Committee of the Whole.

Mr. CURTIS of Revere: Rule 54, relating to a quorum, states:

54. One hundred and sixty-one members present in the Convention Chamber shall constitute a quorum for the transaction of business, but a motion to go into Committee of the Whole may be entertained whenever one hundred members are present.

Is it not just as essential to state the quorum for the Committee of the Whole when only 100 members are present and the motion is made to go into Committee of the Whole, as it is to state the quorum for the entire Convention?

Mr. LUCE: The reason for this is historical and goes away back into the days of Queen Elizabeth, when the Committee of the Whole was first developed. It was found very difficult in Parliament to secure a large attendance at the committee meetings, and the practice grew of permitting the presence of members of Parliament at these meetings as they saw fit. The outcome of it was recognition of the fact that a Committee of the Whole need not work under such drastic regulations as the main body. There is no danger in allowing a smaller quorum because everything that the Committee of the Whole reports must be acted upon by the Convention, so nothing final can be accomplished in the committee. For this reason it is the common practice to permit Committees of the Whole to sit with a smaller number than is required in the main body.

Mr. CURTIS: I should like to ask the chairman of the committee if there is any harm in stating that 51, say, shall constitute a quorum? How else can the President of this Convention decide when a motion is made to go into Committee of the Whole whether there will be a sufficient number to transact business? Does it need all, or does it need two, or does it need 51, or what does it need?

Mr. LUCE: This rule was presented in order that when we come to debating the reports of the committees, if on some warm afternoon there should not be 161 members of the Convention present, but there should be 110 or 120 or so, it might be moved to go into Committee of the Whole and the afternoon might not be wasted, or so much of the time as would be necessary to get 161 members might not be wasted. The number 100 is purely arbitrary. Should it be the pleasure of the Convention to make it 50 or 150, well and good. It is an easy number to remember. The practice will be that if some gentleman thinks the measure under consideration ought not to be considered unless there are more present than he thinks there are, he will rise and doubt the presence of 100 members, whereupon a count will be taken, and if there are more than 100, then immediately the body will go into the Committee of the Whole and proceed with its work. It was a motion that was meant to facilitate business.

Mr. WALKER of Brookline: It seems to me that the Committee of the Whole is going to prove an extremely useful institution in this Convention. The whole idea of the Committee of the Whole is that it shall be very informal, that it shall be really a committee meeting, not a meeting of the Convention, and therefore the quorum might well be less than the Convention quorum. We must remember that nothing that is done in the committee is final. Things that are done in the Convention are final, and therefore 161 is necessary for a

quorum. Things done in the committee are merely tentative, and the Convention at any time can upset anything that is done in the committee. For that reason it is quite proper that we have a smaller number to constitute a quorum in the committee. Now, once it is decided that 100 shall constitute a quorum in the committee, there is no reason in the world why the Convention should not be permitted to entertain a motion to go into Committee of the Whole when there are 100 present, because when they are in Committee of the Whole 100 is a quorum. Therefore it seems to me that the rule is sound and ought to prevail as it is.

Mr. CURTIS of Revere: I still am unenlightened as to how that will work. A motion is made to go into Committee of the Whole; what if 51 members of the 100 present should decide that they did not want to go into Committee of the Whole? What becomes of that motion? Are the minority to be supreme and the majority not have anything to say? I do not quite understand it.

Mr. WALKER of Brookline: It simply says that when 100 are present a motion to go into Committee of the Whole may be entertained. There may be 200 present, and it would take one-half of those present to carry that vote. It will take one-half of those present, of course, to carry the motion, whether there are 100 present or 200 present. It will take one-half of those present to prevail, but the motion may be entertained when 100 are present. In other words, the raising of the question of no quorum would not prevent any one moving that the Convention go into Committee of the Whole.

In Convention July 18, 1917:

Mr. LUCE of Waltham: For the information of the Convention I ask leave to make a statement. Nothing appears now in the way of taking up to-morrow the work of the Committee of the Whole on the docket that is on the desks of the delegates. This docket has been prepared in accordance with the direction of the Convention, arranged in the order of the Constitution, and so far contains the committee reports on about five-sixths of the matters that have been referred to committees. It is expected that when the Convention goes into Committee of the Whole to-morrow, a motion will be made for a call of the docket; and if that motion carries, the matters on the docket will be read off then by the Chairman, giving members an opportunity to call "Pass" on such matters as they desire later on to debate. Measures on which that call is not made by any member will be put to vote immediately and reported to the Convention, the purpose being to eliminate from the docket all those uncontroverted matters that otherwise would encumber the docket for many days and possibly weeks. This corresponds roughly to the call of a docket in the courts, and also resembles the call of the daily calendar in the House.

I am making this statement so that members interested in particular reports may appreciate the importance of being present to-morrow at the time of the call of the docket, in order to secure an opportunity for debate of the measure at a later stage if such opportunity is desired. I think, however, I shall voice the unanimous sentiment of the Convention if I say that it will be very much to our convenience if

we may get out of the way at once all those matters that are not to be seriously contested at some later stage.

Mr. WILLIAM H. SULLIVAN of Boston: A point of information. On this docket there are several measures embodying practically the same thing. Is it essential in this Convention that we pass all kindred matters, or is it possible to pass only the matter upon which we care to debate?

Mr. LUCE: I understand that in our deliberations we are differing from those of the Legislature in that we are not precluded by the rules of procedure, as we are in the Legislature, from amending a proposition even though the amendment may be in effect the equivalent of some measure previously rejected. I am inclined to think that, as a rule, it is not of parliamentary importance to save on the docket a matter for the purpose the gentleman has in mind, but that it will be sufficient, unless the particular proposition is to be urged, to save some one recommendation, which may be used as a basis for construction if the Convention desires to build upon it.

[When on the following day the Convention went into Committee of the Whole, and a call of the docket was ordered, delegates called "Pass" on the various measures until it was apparent that the procedure would be fruitless, whereupon, one member announcing his intention to call "Pass" on every measure on the docket, the Chairman ruled that to be equivalent to passing everything. No call of the docket was attempted afterward.]

Powers of the Committee of the Whole.

In Committee of the Whole, July 24, 1917:

The CHAIRMAN (Mr. Luce of Waltham): The Chair understands that at the last session of the Committee there was some misunderstanding as to the matter of amendments. It was not his intention to give the idea that amendments are not perfectly proper in the Committee of the Whole. On the contrary, he understands that one of the chief purposes of the Committee of the Whole is to facilitate the treatment of amendments; that in such a committee it is eminently desirable that amendments shall be handled as they are presented, and if the Committee approves, discussed on their merits, and so far as practicable that action shall be taken on each amendment before proceeding to the next, which somewhat differs from the practice in an ordinary legislative body, where frequently all amendments are voted on at the end of the debate.

None of the amendments on the docket is pending now but notice has been given that they are to be moved. If an amendment is moved in the Committee of the Whole, and the Committee does not rise before action, that amendment will appear in the Journal of the Committee of the Whole, which members will observe is printed in connection with the Journal of the Convention. The point at issue the other day was whether the Committee itself could authorize the printing of amendments, and the attitude of the Chair was that authority of such a sort should be exercised by the Convention itself. It is in itself a trivial matter but involves the powers of the Committee to a degree that led the Chairman to the belief the Convention, rather than the Committee, would better issue authority.

Postponement by Committee of the Whole.

In Committee of the Whole, July 19, 1917, Mr. Anderson of Newton, moved that a specified resolution be placed for discussion first upon the docket of the Committee of the Whole for July 24.

Mr. Quincy of Boston: Without desiring to prejudice in the least the merits of postponement, I should like to raise the point of order that as the Committee on the Whole is not a continuing body it has no right to postpone any measure beyond the present sitting.

The Chairman (Mr. Luce of Waltham): The Chair will state that the practice in the National Congress appears to differ. In the Senate, if he understands correctly, a motion to postpone may be acted upon, but in the House a motion to postpone may not be considered. With this difference of precedent the Chair is inclined to follow that of the National House of Representatives rather than that of the National Senate, inasmuch as the practice of the National House in most particulars is in conformity with that of the Parliament of Great Britain, whence came most of our parliamentary law. The Chair therefore will rule, for the sake of bringing it before the Committee at any rate, that the point of order is well taken, and that a motion to postpone cannot be entertained.

Mr. Anderson of Newton: I appeal from the ruling of the Chair.

Mr. Coombs of Worcester: I second the appeal.

Mr. Bodfish of Barnstable: I should like to inquire for information just what may happen when we get a little farther down on the list. There is a report in which I am interested, — that on the abolition of capital punishment. The commission for compiling data for this Convention has in process of preparation a pamphlet for the use of this Convention on that matter, which has not yet gone to the printer, but which goes to the printer to-day or to-morrow. I should like to be able to have that matter postponed so that the Convention or the Committee may have that pamphlet in hand at the time they consider the matter. I do not see very well how that can be accomplished under the Chair's ruling that a motion to postpone is not in order.

The Chairman: The Chair understands that the conduct of the Committee is within the control of the Convention, and that the Convention, if it sees fit, may direct this Committee to postpone or may take any other action it sees fit in regard to any measure before the committee.

Mr. Richardson of Newton: Is it not possible that this matter is covered by our own rules for the government of the Committee on the Whole, which states plainly in Rule 32, that a motion for indefinite postponement shall not be in order? It would seem by applying the common principles of interpretation that this means that a motion to postpone to a time stated is in order.

The Chairman: The Chair begs the indulgence of the Committee to explain that a motion for indefinite postponement is considered, by the parliamentary practice of Massachusetts, the equivalent of final action, and that the rule in question may have been meant to show to the Committee that it might not attempt final action on a measure.

Mr. Jones of Melrose: I desire that the honorable delegate from Newton be treated with courtesy in this matter, although I do not think at the present time that I am in accord with him, and it seems

rather unfortunate to precipitate discussion this afternoon, when it is perfectly patent that there are certain documents which I understand are not at present before us, and when people desire to confer. If it be in order, I would move that the matter be laid upon the table.

Mr. EDWIN U. CURTIS of Boston: Has the question of the appeal from your decision been disposed of?

The CHAIRMAN: Will the gentleman repeat his question?

Mr. EDWIN U. CURTIS: I rise for information, to ask if the question on the appeal from the decision of the Chair is not in order.

The CHAIRMAN: The question of the appeal is in order. No other business is in order.

Mr. HAINES of Medford: For a point of information I should like to ask, if the decision of the Chair is sustained, if a motion to place this matter at the end of the calendar or at the end of the docket will then be in order.

The CHAIRMAN: The Chair rules that it will not be in order.

Mr. ANDERSON of Brookline: I have no great interest in the matter under consideration this afternoon, although it does seem that, if documents that are not available now are needed by any of those who propose to participate in the discussion, fair opportunity ought to be given to them to get those documents. But unless I am under a grave misapprehension as to the effect of the Chairman's ruling, if that ruling is sustained by this Committee, we shall be hampered seriously hereafter. I cannot conceive that we shall do the rest of our summer's work comfortably and efficiently without having the right in the Committee of the Whole to assign to a time stated important matters which we shall want to discuss. I hope, therefore, that the appeal from the Chair's ruling will prevail, — not so much for its bearing upon the particular question to-day, but in order that the Committee of the Whole may retain the power (which I think it has) to assign to a time stated discussion of any important matter.

Mr. BENNETT of Saugus: I should like to ask, if there is an adverse decision upon this appeal, would that establish our power to postpone matters without any further action on the part of the Convention?

The CHAIRMAN: The Chair will rule that if the decision of the Chair is not sustained the matter thereafter will be open to such action as the Committee sees fit to take in regard to this practice.

Mr. BENNETT: It seems to me that is the most expeditious manner of settling the matter, and I am sure after the candid explanation of the Chairman in regard to the two different practices in the two Houses of Congress there will be no discourtesy so far as the Chairman is concerned. I hope therefore the appeal will be voted.

The CHAIRMAN: The Chair understands that is precisely the question involved in the appeal from the Chair's ruling. Unless his memory deceives him, it has been ruled in the National House of Representatives that once the consideration of a matter has been entered upon in Committee of the Whole motions of this character may not be entertained. The question before this body, if the Chair may be pardoned for stating it, seems to be whether we shall follow the precedent of the National House of Representatives or of the National Senate.

Mr. BALCH of Boston: If I understand the thought of the Committee aright, the Committee believes it will be fair play in this par-

ticular instance to obtain in this manner a sufficient delay to allow the question to become more ripe before it is acted upon. At the same time the Committee entertains the notion that it would be unwise, merely for the sake of this particular case, to promote a form of procedure by which the Committee of the Whole might generally delay matters. If that is so, then it is simply a case of our being tangled up in red-tape. Is it not possible to cut the red-tape by a motion now that the Committee of the Whole be dissolved or that the Committee rise, whichever be the proper wording? We could meet thereafter in Convention and do as we chose about it.

The CHAIRMAN: The Chair will decline to entertain any motion not affecting the question now before the Committee, which is whether the decision of the Chair shall be sustained.

After discussion of the reasons for delay: —

Mr. EDWIN U. CURTIS of Boston: I should have given my reasons for not wanting to put this matter over were it not for the fact that I did not suppose it was parliamentary to discuss a matter pending an appeal from the decision of the Chair. If it is proper, then I am ready to enter into the discussion.

The CHAIRMAN: The Chair will state that the point made by the gentleman from Boston is correct. The discussion has taken a turn outside of the scope of the matter before the Committee; but the very purpose of the Committee of the Whole is to give somewhat more freedom of action than under ordinary parliamentary rules is possible in a law-making body, and therefore the Chair has abstained from calling gentlemen to order, yet he would have it understood that in his belief it would be wiser if the discussion were confined to the question before the Committee, — the appeal from the decision of the Chair.

Mr. GEORGE of Haverhill: I desire to say one word with reference to the ruling on this important question. There was a proposition before the Convention which provided, if the order had been adopted, that the Committee of the Whole could postpone matters to a fixed day. Now, I never heard of such a proposition anywhere in a Committee of the Whole, unless, possibly, it was on certain occasions in the United States Senate. There are reasons why it should not prevail. The Convention itself is made up of 320 members; 161 are a quorum. The Convention may lay matters on the table, and it can postpone to a day certain, but when we go into Committee of the Whole we are not supposed to change the docket; everything is supposed to take its regular course, as it should. You cannot discharge from the docket; you cannot lay on the table; you cannot postpone. The quorum in the Committee of the Whole represents less than one-third of the membership of the Convention, and it is barely possible that 51 members could postpone a matter for three weeks. That is what they do in the Legislature, and that is what we do not want to do in the Committee of the Whole. We should not forget that with any sort of a rule that makes it easy for my friend to do a certain thing he wants to do, it will be just as easy for other people to do things, that he does not want them to do. That is sure.

Mr. ANDERSON of Newton: I ask unanimous consent to withdraw my appeal.

The Chairman: Mr. Anderson of Newton asks unanimous consent to withdraw his appeal from the decision of the Chair. Is there objection? The Chair hears none, and the appeal is withdrawn.

On the 25th of October, 1917, the following order offered by Mr. Besse of Newburyport, was considered: —

Ordered, That the committee on Rules and Procedure be instructed to improve, revise, amend or form new rules that will tend to expedite the proceedings of this Convention, said committee to meet during the term of adjournment and to report immediately upon the reconvening of the Convention, and this committee be and hereby is instructed to embody in their new set of rules the abolishment of the Committee of the Whole.

Mr. Besse of Newburyport: I offered this order because this Convention has been criticized severely on account of delays, and I think that these delays are partly due to the rules, which are intricate, especially the rule which allows or permits the Committee of the Whole. Possibly this will not be employed in the future, but I should like to see the rules revised so that they will expedite matters, after our adjournment, that is, next year; and I should like also to see them revised so that the Committee of the Whole could not be employed in our future deliberations.

Mr. Bennett of Saugus: I move to amend by striking out the last three lines, beginning with the word "and" in the third line from the end.

I am quite confident that the freedom of debate which has been allowed in this Convention is inherited from the Committee of the Whole; that is to say, if we had had no Committee of the Whole, which had set the pace for free discussion, we should not have the freedom of debate which we now have in the Convention itself. The motion for the previous question to limit debate, and so forth, would have been introduced a great deal more, and we should have had less discussion. The trouble with the Committee of the Whole here was not an inherent difficulty. It was because certain persons got together and framed an arbitrary method of procedure. I do not think it often has been known in a parliamentary body that certain gentlemen on the floor prepared a list of speakers every day, and carried it up to the presiding officer, and that he adopted it. That is to say, the permission to speak in the Committee of the Whole for a long time was not accorded by the Chairman, but was accorded by a certain gentleman from Boston, who arranged the plan, the program, of speakers. The trouble with the Committee of the Whole was not an inherent difficulty, and I think it has great uses, and I think the value of it has extended over into the Convention. I hope that my amendment will prevail, and that we shall not decide arbitrarily, positively, that the Committee of the Whole never has any uses.

Mr. Besse: I think that the Committee of the Whole took up at least two-thirds of the time that we already have spent. I do not see any need of the Committee of the Whole where this Convention meets as a body. This is a Constitutional Convention, not a constitutional committee, and it is supposed to act as a Convention and under rules which might govern a Convention. The only objection to its doing so, and doing away with the Committee of the Whole, is, as I understand

from the chairman of the committee on Rules, the fact that they are afraid the previous question will be moved, thus shutting off debate. The previous question never has been moved in this Convention until there has been adequate debate on a subject. If it has been moved it never was carried. This Convention is composed of gentlemen who would not force such unfair tactics. I see no reason why this Convention, as one body, cannot work under Convention rules and not rules of the Committee of the Whole. The Committee of the Whole is good and proper if you have two bodies, like a board of aldermen and a common council of a city, so they can get together and discuss a subject, to see the general sentiment of those two bodies. But when you have one body, like this, it is absolutely unnecessary in my opinion.

Mr. Luce of Waltham: I think the Convention sympathizes with the view taken by the gentleman from Newburyport as to the Committee of the Whole, and I am not disposed to argue the question here this morning, but would express the wish that the gentleman from Newburyport might accept the amendment of the gentleman from Saugus (Mr. Bennett), in order that the committee on Rules and Procedure, bearing in mind the desire of the gentleman from Newburyport and the evident wish of a majority of the Convention, in reframing the rules, if that is done, may so reframe them that the Committee of the Whole will still be available in case we have only one hundred members present, and mere routine business to transact, which can be performed therein. I think we may assure the gentleman from Newburyport that the purpose of his last three lines will be accomplished somehow without too much hampering us in our attempt to meet his desires. Therefore I would ask him if he would not leave this to the judgment of the committee on Rules, to work out the purpose in the way that may seem most advantageous.

Mr. Besse: Under those conditions, I am very glad to accept the amendment.

The order as modified was adopted.

Instructing Committees.

On the 13th day of June, 1917, Mr. Morrill of Haverhill sought information regarding the Convention's authority to issue instructions to committees.

Mr. Morrill of Haverhill: I desire to ask for information, through you, Mr. President. I see that Rule 55 says that Rule 20 shall not be dispensed with except by unanimous consent. What I desire to know in regard to Rule 20, which provides for matters coming back from the committee on Form and Phraseology before they can be acted upon by the Convention, is as to whether this would afford an opportunity for pigeonholing measures by the committee refusing to report back. There does not appear to be any time limit within which the committee on Form and Phraseology shall report, as I understand it; at least, that is true in the House of the corresponding committee, because they cannot act upon matters until they have taken their several readings and are sent to them, and that is true up to and including the very last day of the session of the Convention. In other words, is an opportunity afforded for the committee on Form and Phraseology to pigeonhole

any measures and refuse to send them back to this Convention at any time before we prorogue?

Mr. Luce: Such a possibility was not contemplated. It seems to me beyond the range of Massachusetts practice. I cannot conceive that the committee on Form and Phraseology would require instructions from the Convention, but of course the Convention at any time may instruct any of its committees, so that if one of them should prove recalcitrant or obstinate or discourteous it is within the power of the Convention to control it at any moment.

Mr. Morrill: In regard to instructing the committee; as I understand it, it would take unanimous consent to so instruct them, if Rule 55 and Rule 20 are adopted as defined in print here.

Mr. Luce: I am afraid I do not read those rules as the gentleman in the fourth division (Mr. Morrill) reads them. If he would have the goodness to point out his difficulty perhaps I might explain it better.

Mr. Morrill: As I understand it, Rule 55 should be interpreted as follows: No rule or standing order of the Convention shall be dispensed with except with unanimous consent in regard to certain rules; and Rule 20 being one of those, that Rule 20 could not be dispensed with except by unanimous consent, and Rule 20 provides that where a proposal has been referred to the committee on Form and Phraseology it shall not be acted upon by the Convention until report thereon has been made by the committee. Supposing they refuse or neglect to report back?

Mr. Luce: I am still of the belief that every committee of a legislative body is within the control of the body itself; that always, at any time, by a majority vote of that body, it may give instructions to a committee, which that committee would disregard at its peril.

Mr. Morrill: Mr. President, do you decide the same as the member? May I get your decision in this matter?

The President: The Chair is perfectly willing to give its opinion, which is that the Convention at any time can control the committee on Form and Phraseology, by discharging it from the further consideration of any matter which has been referred to it if it neglects to report it back promptly, or it can take any other action in regard to the committee and govern it without any difficulty, under this rule. The object of the rule is to make certain that every matter in the way of a proposal for amendment of the Constitution shall go before this committee before it is acted upon finally by the Convention, but not that they shall keep it.

Reconsideration.

On the 13th day of June, 1917, the question of reconsideration being raised, debate took place as follows: —

Mr. Balch of Boston: It appears to me that one change should be made in Rule 55, which requires that Rule 34 shall be suspended only by unanimous consent. Now Rule 34 might well result in this body's adopting the practice which prevails in the Boston city council, where it has been the custom for many years to move reconsideration at once, hoping the same will not prevail, thereby precluding possibility of a change of mind later. I heard it suggested this morning that if we adopt that practice the same result might be obtained in

this manner: Suppose that a vote is passed, and while conditions are unchanged and while the Convention is in the same mood, some one moves reconsideration in good faith, hoping it will prevail, but the body, having had no reason to change its mind, naturally stands by its former vote.

Now, then, we live in revolutionary times. Conditions may be utterly different before we close our labors from what they are now. And yet supposing that is so, supposing there should be the greatest, the most solid reasons for changing our minds, we could not do it if one single warped or heated mind should object. I believe in so large a body as this, — 320 members, — to require unanimous consent before we can change our minds is too strong. I would suggest, for instance, that Rule 34 should not be dispensed with except by consent of all but ten members, let us say, or whatever the committee on Rules and Procedure might suggest.

Mr. Luce: I take it the purpose of the House practice, which has been developed through many years of experience, is based upon the theory that there must be an end of litigation, — sooner or later something must be settled, — for if a matter is not terminated at some time it naturally follows that at any subsequent time it may be opened while those particularly interested are absent, when there may be a small attendance, or for some other reason the rights of individuals and minorities will be endangered. I may call the gentleman's attention to a fact or refresh his memory with a fact which must be perfectly familiar to him, — that the whole object of a code of rules is the protection of minorities and the protection of individuals. A majority can look out for itself; it always has the power to do anything it wants to; but to protect minorities and individuals it has been found necessary to have these rules, and at the opening of the session, while we all are in a calm frame of mind and ready to appreciate the importance of protecting minorities, it has been the custom to make these agreements, and one of them is that a member desiring to have action reconsidered shall let his colleagues know of his intention either on that day or the first thing on the next day. And the result in the Legislature is that a man in charge of a bill keeps his place until he sees one day whether the motion is going to be made, and he is careful the next day in the first half hour to be on the watch to make sure that the motion will not be made, and at the end of the half hour he is free, — his responsibility is gone; he knows he can attend to other duties and turn his mind to fresh propositions. And after the very long experience of the Legislature in thus safeguarding the rights of everybody by this rule, I am inclined to think, sir, that we would better adhere to the practice so familiar to by far the greater number of the members of this Convention.

Mr. Balch of Boston: Following up the remarks I made a few moments ago referring to this rule, I am convinced that my instinct about that matter was right. It would be with genuine alarm that I should see this Convention without power to change its mind under the violently changed circumstances which war time might well produce. Mr. Luce has answered in a perfectly convincing and conclusive manner the necessity for any amendment like this in the case of ordinary legislative proceedings. In my opinion he has not answered the necessity for it in a body of this kind at a time like this. Of

course it is true that something must be settled; it is true we must get ahead; we cannot have these things bobbing up again after we once have voted them down. But, as I said before, to put it in the power of one single unbalanced mind, possibly, if such there should prove to be before the end of our proceedings in this Convention, to prevent the whole Convention from changing its mind in its latter days, would be unwise. And I hope that this motion will prevail, because I think that if 310 of us want to change our minds, ten is a sufficiently small number to prevent us from doing so.

Mr. SAWYER of Ware: The gentleman who has just spoken entirely misunderstands the purpose of Rule 34. It simply is that a motion to reconsider goes into the calendar for the next day, and for immediate consideration requires unanimous consent, just the same as in the offering of an order, if any single member objects it goes into the Orders of the Day for the next day. The rule has worked for twenty years in the House of Representatives here without any objection on the part of any one, and I think when we understand what Rule 34 is it will be seen that the amendment the gentleman proposes is not needed.

Mr. BALCH: I think I understand entirely; but the point is this, — that this Convention might well vote a certain binding rule upon itself, and then while in the same mood and under the same set of conditions refuse to reconsider it, very properly. Then before our labors cease conditions might have changed absolutely. Perchance those of us who belong in the Home Guards may not be here then. The city may be in a turmoil; conditions may be utterly different. We absolutely cannot foresee what they may be; and the fact that on Monday we may have passed a vote and on Tuesday may have refused to reconsider it ought not to place it within the power of one crank to prevent our changing our minds towards the end of our labors, many months from now.

The amendment was rejected.

On the 14th of September, 1917, debate in Committee of the Whole on amendments offered to the resolution recommended by the committee on the Initiative and Referendum, was proceeding under an order providing that on each amendment its proposer should have ten minutes, then there should be general debate of twenty minutes, and then a member of the minority and a member of the majority of the committee should each have five minutes. In reporting the count of a vote on an amendment offered by Mr. Anderson of Newton, two of the monitors stated that a member whom they had counted had been counted also in another division. So much of the subsequent discussion as bore directly on the parliamentary question that arose, was as follows: —

The CHAIRMAN (Mr. Pillsbury of Wellesley): All members will resume their seats. The Chair assumes that the gentleman referred to by the gentleman from Boston in the third division was counted a second time, if at all, by inadvertence.

Mr. YOUNGMAN of Boston (a monitor): Certainly.

The CHAIRMAN: The doubt in the fourth division will now be resolved. Gentlemen in the fourth division opposed to the amendment will rise and stand until counted.

A count of thirty-three on the nays was returned by the monitors from the fourth division.

Mr. Morrill of Haverhill: I doubt the vote in the fourth division. I make it thirty-six in the fourth division, — three of us do.

The Chairman: The monitor's count as doubted and resolved must stand. On this amendment 132 have voted in the affirmative and 128 in the negative, and the amendment is adopted. [Applause and cheers.]

Mr. Lomasney of Boston: I desire to move that the vote just taken be reconsidered, and I desire to give my reasons for it. While this vote was in progress several men who are members of the Convention came into the room, and their votes were not recorded in the divisions that they belong to, that is, in three different divisions. It was a decision of the Chair that made the confusion in the first place. The square way to do is to have the divisions vote again, every member to be instructed to go to his own division, in his own seat, and stay there, and then let the vote be taken and returned by the monitors in each division in an orderly manner; and if one vote settles the matter, let it be the vote of an intelligent majority, that there may be no question about it.

The Chairman: The gentleman from Boston in the third division moves to reconsider the vote just taken.

Mr. Sawyer of Ware: I sincerely hope that this motion to reconsider will prevail. We cannot afford to let it go out to the public that there is any doubt on any of the votes that we cast here. This vote will rest under a shadow unless we do reconsider. For fairness, and for the good name of the Convention before the State, there should be a reconsideration of this vote and a careful count made.

Mr. Luce of Waltham: I rise to a parliamentary inquiry. If this vote is reconsidered is the measure thrown open again for 40 minutes of debate?

The Chairman: The Chair on first impression would think that it is not, but that the question will recur on the adoption of the amendment.

Mr. Luce: The situation in which the measure finds itself is such that I hope the gentlemen represented by my friend from Brookline in the third division will not press the matter, for this reason. He invites us, or, rather, the maker of the motion invites us, to determine this question by the votes of men who have not heard one word of the argument, — that is the definite proposition [applause], — and he invites a decisive vote on this proposition in the hope that he will carry it by the ballots of men who do not know what they are voting about. [Applause]. There may be conflicting interests, there may be opposite views as to what is fair play; but I submit that the most unfair of all unfair play is to try to carry a measure with the avowed intention of securing the help of men who do not know the argument. [Applause.]

Mr. Lomasney: I do not know by what right the gentleman should give me orders or should give the gentleman from Brookline orders to give me. I come from a district that never took orders or received orders from any one. [Applause.] The trouble —

The Chairman: Will the gentleman from Boston give way for a moment?

Mr. Lomasney: Yes, sir. Pardon me.

The Chairman: The Chair must appeal to the Committee to avoid

anything which is likely to excite acrimony or disturb the order of the Committee. The gentleman from Boston, Mr. Lomasney.

Mr. LOMASNEY: The gentleman from Waltham stands here and says to me that men voted, or that I was seeking for men to vote, who did not hear a word of the argument. Have they not heard it for weeks? Now, it comes down to this question. How does he know the gentlemen I refer to have not been outside in the corridor for a thousand and one reasons? Why does he assume they do not know anything? Is he the only man who knows anything in this Convention? Suppose his conclusions are correct, does he indict their constituents for sending men here who know nothing? Why is he to be a censor upon the capacity of the humblest man in this Convention, and to say that he did not understand it? Did not understand what? The difference between allowing the Legislature to do something or allowing them to do nothing. If a man does not understand that, why, he is not fit to be here, and I submit there is no man here who does not understand it. They may not have studied it the same as the "Robert Bruce from Waltham", but they have their own viewpoint.

What was my proposition? When the Chair made his ruling I addressed myself to the Chair, calling his attention to the fact that the vote had been doubted in the fourth division. Then what happened? Confusion. The gentleman from Brighton makes a statement; he named no man. What is there in the rules to stop a man over there from voting here? Nothing. Is his unsupported statement going to sway this Convention?

Mr. YOUNGMAN of Boston: I rise to a question of personal privilege. Officially I am a monitor in this division, but am not the only monitor. The other monitor sits at the other end of this same row and votes, I think, generally the opposite from what I vote, and I know voted the opposite from what I voted on this. By name, in making the count and comparing our counts, I mentioned a gentleman whom I saw, — I mentioned to my fellow-monitor a gentleman whom I saw go over into that division. I do not say that that gentleman went there intentionally; I do not think he did at all; but I mentioned him by name, and my fellow-monitor will bear me out that in comparing our count we counted him in this division, although his seat, in fact, is over in the first division. Therefore it is not simply my statement but it is the finding of us two officials, happening by chance to mention that man's name, that if this member were to be counted in the fourth division he would be counted twice on this close vote.

Mr. MCANARNEY of Quincy: As the other monitor of this division referred to, I rise to a matter of personal privilege. It is true that as one of the monitors in this division I did count a delegate who was in this division but whose seat is not in the division. When the count was about to be taken up in the fourth division I recognized the delegate standing near the desk of the officer at the end of that division. Some one spoke to the gentleman; he smiled and went out into the corridor and away from the fourth division. My personal opinion is that the delegate was there through inadvertence. My belief is that he was not counted, but nevertheless he was there when my fellow-monitor saw him, and afterwards retired from the division.

Mr. LOMASNEY of Boston: What was the result? There were only

four votes difference. What was my proposition? That the vote be reconsidered, every man go into his own place, and count it right. Do not let it be said that the Constitutional Convention wants to carry any amendment unfairly; that is my proposition, — not to do any wrong, not to take away the rights of any one.

On the motion to reconsider, 142 members voted in the affirmative, 115 in the negative.

Mr. Luce: I rise to ask permission to direct a question to the gentleman from Brookline in the third division who is in charge of this measure. I ask unanimous consent.

Mr. Lomasney: I rise to a point of order.

Mr. Brown of Brockton: I object.

The Chairman: Objection is made.

Mr. Luce: I rise to a point of order.

The Chairman: The gentleman will state his point of order.

Mr. Luce: I will state the point of order that this matter, having been reconsidered, is open to further discussion.

The Chairman: The question raised by the gentleman from Waltham is a somewhat difficult and perhaps a doubtful question, but it seems to the Chair, as already intimated, that under the limitations of the debate by the standing order of the Convention the question is not reopened for debate. [Applause.] The Chair will be glad to have an appeal from that decision taken if any member desires.

Mr. Luce: I appeal from the decision of the Chair.

The Chairman: Mr. Luce of Waltham appeals from the decision of the Chair. The question is: Shall the decision of the Chair stand as the judgment of the Committee?

Mr. Richardson of Newton: I second the appeal.

Mr. Luce: It is of course with the greatest reluctance that I raise this point, in view of the long experience of the presiding officer, and also in view of the fact that my motives may be misconstrued; but I saw no other opportunity to address to the gentleman in the third division in charge of this measure an appeal that he join with me in asking unanimous consent for at least a brief statement —

Mr. William H. Sullivan of Boston: I rise to a point of order.

The Chairman: The gentleman will state his point of order.

Mr. Sullivan: My point of order is that the question before the Convention is an appeal from the decision of the Chair; that debate should be confined to reasons why your appeal should or should not be sustained; that the gentleman is not talking to the question. [Applause.]

The Chairman: The gentleman is correct in his statement of the rule, but the Chair does not yet perceive that the gentleman from Waltham is departing from it in his preliminary words.

Mr. Luce: If my friend in the fourth division had allowed me to finish the sentence I think he would have seen that my appeal to the gentleman from Brookline is pertinent to the inquiry. As the situation now stands, if the appeal is not sustained gentlemen who have not heard a word of the argument will be unable to know the reasons why they should vote for or against this measure. I am confident that the gentleman from Brookline does not wish to be put before this Convention in the attitude of snapping the whip, or striking on

the desk with his hand, and having men blindly follow him. He has told us, I take it in good faith, that he desires, as I desire, that no man on any question here shall vote without knowing the reasons. Therefore, I ask him for this opportunity, brief if you desire, — three minutes, two minutes, one minute, — only one minute, if he pleases, — that the reasons for and against this amendment may be put before this Convention. That is why I appeal, in order that the purpose of parliamentary law, to give fair play to every man and particularly to every man in the minority, may be carried out. If this appeal is sustained then there will be the opportunity to accomplish the purpose of this Committee, to allow every man who votes to hear why he should or should not vote. If the appeal is not sustained, then the unfortunate result will have been secured of determining this issue by the help of a considerable number of men who have not heard the arguments.

Mr. Pelletier of Boston: I rise to a question of information of the gentleman from Waltham. I should like to ask him if, not having heard the argument in this chamber, he considers that I, for instance, cannot vote intelligently upon this or any other amendment that has been before us?

Mr. Luce: If the gentleman in the second division had been here, and had listened to the statement made by the gentleman from Brookline, he would have learned that the majority of the Committee itself was not prepared to vote on this question. [Laughter and applause.]

Mr. Underhill of Somerville: I suppose I am going to throw a bomb into this Convention. [Laughter.] But it is about time something was done. I have sat here the last two days, and I have seen this conservative, picked body of men, —

Mr. William H. Sullivan of Boston: I rise to a point of order.

The Chairman: The gentleman will state his point of order.

Mr. Sullivan: My point of order is that the question under discussion is an appeal from the decision of the Chair; that the only matter that can be discussed is reasons why the appeal should or should not be sustained. The gentleman is not talking to the question.

The Chairman: The Chair does not yet perceive that the gentleman from Somerville is departing from the rule.

Mr. Underhill: If the gentleman wants me to go to it right off I will accommodate him. The old procedure which has been used here year after year by a certain few members of the Massachusetts Legislature has been attempted by members of this Convention, and they have been caught with the goods on. [Applause.] The reason I hope the appeal of my friend from Waltham may be sustained is because we have had a fair, honest count, that has been verified in every division, and it is unfair, after certain men in this Convention from points of vantage have sent their errand boys out into the corridor and out to the telephones, to ring up and get every man he possibly could in this Convention, and delayed the operation of the Convention until they might be here to vote, — if we are going to have orderly sessions they ought to be conducted better than those of yesterday and to-day. If we are going to have any standing before the community after we get through our deliberations we ought to conduct ourselves

like statesmen and not like the Springfield (Democratic) Convention of a few years ago. If we are going to have any standing before the public on this I. and R. proposition, — and I am going to fight the I. and R. just as hard as I can, but I am not going to use any unfair tactics, — if we are going to have serious consideration of this question from the people of Massachusetts we have got to put a proposition across here in a dignified, honest and fair manner. Now, unless the Chairman's decision in this matter of appeal shall be sustained those who were on the outside, those to whom telephone messages were sent, those who were hurried in here at the last minute, will have no opportunity or argument to judge of the real merits of this question. So I hope the appeal will be sustained in order that they may vote intelligently.

Mr. ANDERSON of Brookline: I hope the appeal will be sustained. [Applause.] The Chairman states in making the ruling that it is a close and doubtful ruling. It seems to me that in Committee of the Whole we should tend to favor a flexible control of this body. I think, therefore, in the light of the Chairman's own statement of the closeness and doubtfulness of the ruling, that we fairly may take into account that on the pending question there is an honest difference of opinion among those who are not committed against the general proposition; and as the Committee seems to be getting somewhat heated in the case, I think it will tend to cool us off and resolve us back to a deliberative assembly if we allow a little more chance to discuss what is one of the few sane propositions which have come from the opponents of the measure. I think that something along the line of what is here suggested is entitled to very respectful consideration. My friend who sits beside me says that the Committee has not reached a final determination on it. I think it is plainly in the interests of good understanding, of a sound result, that we should have another opportunity to debate it; and that those who are seeking honestly to get a sound and workable measure should have a chance to express themselves. For those reasons I hope the appeal will be sustained, and we shall proceed with the debate.

Mr. LOMASNEY: I hope the Chair will be sustained, because the Chair has been absolutely fair. I have differed with him many and many a time, but no man could have acted fairer than he did to-day. In the heat he made a ruling. I respect him, and I also knew if it was called to his attention that he would see, if it was right, that justice was done, — and he did. Now, if the gentleman from Waltham was fair he would say to the Convention, frankly: "Give us unanimous consent and let us reopen this matter," and there would be no objection. But what does he do? First, when he started to oppose the motion to reconsider, he started to talk and throw insinuations on the leadership; and then he suggested that he and the gentleman from Brookline should do certain things. That is not the way to get unanimous consent in a body like this. Every man is the equal of his fellow-man. I suggest that the gentleman from Waltham ask unanimous consent to withdraw his appeal from the decision of the Chair, and then if he wants the Convention to have a half hour, let him say so. But, I trust that he, and I know the gentleman from Brookline, realizes that somebody else has some right here, and somebody else knows something, even if he is not so forward in expressing it as the gentle-

man from Waltham. I trust that this Convention will not do injustice to the presiding officer, who has presided over the upper branch of the General Court on two different occasions, to sustain the appeal of the gentleman from Waltham. If he is fair, notwithstanding what the gentleman from Brookline just seated said, he should withdraw his motion. If he does not I hope the Committee will sustain the Chair.

The CHAIRMAN: The gentleman from Boston in the third division asks unanimous consent that the recurring question upon the motion to amend of the gentleman from Newton be open to debate.

Mr. BENNETT of Saugus: I object. I hope that the Chair will be sustained. I hope the appeal will not be sustained, for the following reasons: Some weight evidently is attached in this Convention to the fact that ordinarily a motion to reconsider brings the main question before the House again and it is debatable, but in this case here we have a special rule which provides that there shall be a certain limitation of debate. The special rule provides that we shall devote thirty minutes to this question, and then that there shall be five minutes for the minority and five minutes for the majority. If you open this question by sustaining this appeal you go directly against that special rule, which is, as I stated, that there is a certain amount of time for debate, and you will provide additional time by this reconsideration, which we could do and ought to do if there were no special rule. But there is a special rule, and therefore the subject is not open to debate.

The CHAIRMAN: The gentleman from Boston in the third division renews his request for unanimous consent that upon the recurring question on the amendment debate be reopened. Is there any further objection?

Mr. BENNETT: I object.

Mr. BROWN of Brockton: The reason I want to sustain the Chair is to maintain for the gentleman from Waltham his well-known reputation for fairness. Did he not rise and ask the question before the vote was taken, fearing that if it was carried debate might be reopened? Did not the Chair then rule that it could not be reopened? Did the gentleman from Waltham then rise and say that the people did not know how they were going to vote? That is the time when he should have doubted the ruling of the Chair.

Mr. LUCE: If my knowledge of parliamentary law is correct I never should be allowed to raise a point of order on an answer to a parliamentary inquiry; I could raise a point of order only on a ruling. It was not made at that time, if I am right.

Mr. BROWN: I think the gentleman does not understand me, but it is my fault. When that motion was first made to reconsider, the gentleman rose and asked the Chair for a ruling. If it was reconsidered was it not open to debate? The Chair then ruled that it was not, and the gentleman from Waltham took no exception at that time to that ruling.

The CHAIRMAN: Will the gentleman from Brockton give way a moment?

Mr. BROWN: Sure.

The CHAIRMAN: The ruling in question could not have been made as a ruling at that stage, but only as an expression of opinion, for the situation in which a ruling could be made had not then arisen.

Mr. BROWN: Accepting the interpretation of the Chair, so much the

worse for the gentleman from Waltham, because it then left it open for him to take a position antagonizing the Chair, and without putting us in a position, in order to sustain the gentleman from Waltham, to throw down the gentleman who is presiding in the Chair. So my position is that we should let the decision of the Chair be sustained.

Mr. William H. Sullivan of Boston: I hope the appeal will not be sustained, but that the decision of the Chair will stand. And why? Why, because if the appeal is sustained it means more debate, and we cannot forget the Grand Debate the other day, advertised for days, when the galleries were crowded, when members and listeners were wearing the red rose of Lancaster, and excursion trains were run here; then for the first time the tax-payers were allowed to gaze upon the spectacle for which they were paying unlimited money, — the Great Debate. And that is why I hope the decision of the Chair will be sustained, because of the Great Debate, when we followed the gentleman from Waltham all through the Forum Romanum, all through the ruins of Rome, until at two o'clock we were delighted with the grandest part of the Great Debate, when the leader of the minority party, the gentleman from Lancaster, carefully selected by the leader of the minority who is also the delegate from Lancaster, presented the great feature of the Grand Debate, and we were advised to listen to all he said in order to vote intelligently upon the question.

The Chairman: The Chair does not think that the gentleman is addressing himself to the question before the Committee, of the appeal. [Applause.]

Mr. Sullivan: If the Chair will follow me carefully he will see that the reason I am opposing the appeal from his decision is because I want to prevent further debate, and I want to prevent further debate because of the spectacle and the oratory to which I listened the other day. Is that proper? Is that in keeping with the discussion of the question before this Convention? I do not want to be shut off by you, as I have been repeatedly. I know parliamentary law; I say I am talking to the question. I will continue to talk to the question. I oppose —

The Chairman: The gentleman must confine himself to terms respectful to the Chair and to the Committee.

Mr. Sullivan: I am confining myself to the question. I ask you not to sustain this appeal. Why? Because on the day of the Grand Debate, promptly at two o'clock, this self-appointed leader of the minority, carelessly, but with characteristic modesty, sought the principal place in this assembly, to lead off with the finale of the Grand Debate. And at 2.05 by the clock he was by the babbling brook, the babbling of which was so contagious that at 2.15 he was babbling by the brook. At 2.16 he saw the reflection of the I. and R. in the stream of real things. Then he paused, and the impressive silence was broken only by the sacrilegious whisper of a neighboring delegate, who said he would give me a nickel for every reference the speaker made to the initiative and referendum. Now, I oppose this appeal from your decision, further, because at 2.20 in this Grand Debate he paused —

The Chairman: The gentleman from Boston will suspend. The Chair does not think that the gentleman from Boston is addressing

himself to the question before the Committee on the appeal. The gentleman will confine himself to the question on appeal.

Mr. SULLIVAN: The question before this Convention is whether or not your appeal shall be sustained; I am opposing that appeal because I do not care to hear further debate, and I do not care to hear further debate because of the exhibition the other day. I contend by all fair ruling of parliamentary law that I am very close to the question, closer than any other man who has been permitted to speak here, and I insist upon my rights. Now, I further oppose this appeal, which will afford further debate, because at 2.30 the self-appointed leader was obliged to geographically circumscribe his adorable personal friend Achilles, and at 2.36 he was pleading with Achilles —

Mr. HART of Cambridge: Is it in order —

The CHAIRMAN: The Committee will be in order. For what purpose does the gentleman rise?

Mr. HART: Is it in order for an individual member to call the speaker to order? If so, I desire to do so.

The CHAIRMAN: What is the gentleman's point of order?

Mr. HART: That the gentleman is not speaking to the question, nor to the edification of this Convention.

The CHAIRMAN: The Chair thinks the point of order that the gentleman is not speaking to the question is well taken; and he has twice admonished the member to that effect and hopes that the member will now comply with the rule.

Mr. SULLIVAN: If I am to speak for the edification of this Convention, then I must traverse the plains of Troy —

Mr. PARKMAN of Boston: Mr. Chairman —

The CHAIRMAN: Does the gentleman from Boston yield?

Mr. SULLIVAN: I do not yield.

The CHAIRMAN: The gentleman declines to yield. Does the gentleman from Boston in the first division rise to a question of order?

Mr. HIBBARD of Pittsfield: Mr. Chairman —

Mr. SULLIVAN: The other day —

The CHAIRMAN: Does the gentleman from Pittsfield rise to a question of order?

Mr. HIBBARD: I do. I move that this Committee rise.

Mr. SULLIVAN: I had the floor; I did not yield. You were not justified in recognizing the gentleman from Pittsfield.

The CHAIRMAN: The gentleman from Boston has the floor if he proceeds in order. It cannot be taken from him for a motion merely.

Mr. SULLIVAN: If I were seeking to edify this Convention I would not speak to the question; but, on the day of the Grand Debate, to which I will refer until I have described it —

The CHAIRMAN: The Chair must require the gentleman from Boston to resume his seat unless and until he will confine himself to the question pending on the appeal. [Applause.]

Mr. SULLIVAN: I am opposing this appeal from your decision, and in doing so I am exercising my personal rights. Were I to be deterred from expressing my opinion upon your ruling by the fact that I am not edifying this Convention —

Mr. HERBERT A. KENNY of Boston: Mr. Chairman —

Mr. SULLIVAN: I might seek —

Mr. KENNY: I rise to a point of order.

The CHAIRMAN: Mr. Kenny of Boston rises to a point of order. The gentleman will state his point of order.

Mr. KENNY: My point of order is that an appeal from the decision of the Chair is not debatable.

The CHAIRMAN: The Chair thinks the point is not well taken.

Mr. SULLIVAN: I repeat, that my reason for opposing further debate is that the other day, in the Grand Debate, I was attacked, somewhat facetiously —

Mr. SAWYER of Ware: I rise to a point of order.

The CHAIRMAN: Mr. Sawyer of Ware rises to a point of order. The gentleman will state his point of order. The Committee will be in order.

Mr. SAWYER: Mr. Chairman —

The CHAIRMAN: The Committee will be in order. The gentleman from Ware will state his point of order.

Mr. SAWYER: The rules of the Committee of the Whole say that, so far as applicable, parliamentary procedure shall be governed by the rules of the House of Representatives. In that the time for debate upon an appeal from the decision of the Chair is only ten minutes.

The CHAIRMAN: The Chair is not aware of any rule of the Convention which imports into its procedure the procedure of the House of Representatives except as expressly reënacted in the rules of the Convention, and the Chair greatly regrets, on the present occasion, that it is so. [Laughter and applause.]

Mr. SULLIVAN: I do not think that your comment is justified by any rules of parliamentary law. Now, my objection to sustaining the appeal from the decision of the Chair is because we have not been proceeding in an orderly manner. I oppose the appeal from the Chair also because many times when I have risen and made good points of order which would save time they have not been sustained by the Chair. I have, sir, always, and were every man in this assembly against me, I would assert my rights —

The CHAIRMAN: The Chair rules that the reasons being assigned by the gentleman from Boston are not reasons pertinent to the pending question. The gentleman will confine himself to the pending question or resume his seat. [Applause.]

Mr. SULLIVAN: I will confine myself to the question. Shall the appeal of the Chair be sustained? I am giving my reasons for opposing the appeal from your decision.

Mr. BUTTRICK of Lancaster: I rise to a question of parliamentary procedure.

The CHAIRMAN: The gentleman will state his question.

Mr. BUTTRICK: As I understand it, sir, a few minutes ago the delegate from Pittsfield made a motion that the Committee do now rise, and I request a ruling as to whether that motion is not now in order.

The CHAIRMAN: The Chair held that the motion could not be entertained, as the gentleman in occupation of the floor would not yield the floor for the purpose of having it made.

Mr. SULLIVAN: Mr. Chairman —

The CHAIRMAN: Mr. Sullivan of Boston.

Mr. LOMASNEY of Boston: Will you give me a moment?

Mr. SULLIVAN: Yes.

The CHAIRMAN: Mr. Lomasney of Boston.

Mr. LOMASNEY: I move that the Committee rise.

The CHAIRMAN: Mr. Lomasney of Boston moves that the Committee do now rise.

The motion prevailed, and the Committee accordingly rose.

The Convention having adjourned to Sept. 18, on that day the Secretary read the following report: —

The committee on Rules and Procedure, who were authorized and instructed to report as to the best method of proceeding to revise, alter or amend the Constitution and to report rules and orders for the government of the Convention, report recommending that Rule 45 be amended by inserting in line 13, next after the words "suspension of any rule", the words "and upon an appeal from the decision of the Chair", and by adding at the end thereof the words "The statement of any question of personal privilege shall be limited to five minutes"; also that Rule 15 be amended by adding at the end thereof the words "and upon the taking of any vote the President may require that all members shall resume and remain in their places until final verification of the vote"; also that Rule 2 be amended by striking out the words "in preference to other members."

ROBERT LUCE, for the committee.

[Applause.]

The report was accepted and the rules were amended as recommended.

The CHAIRMAN (of the Committee of the Whole) (Mr. Pillsbury of Wellesley): At the rising of the Committee on Friday an amendment offered by the gentleman from Newton (Mr. Anderson) had been adopted and its adoption reconsidered. Pending the recurring question after reconsideration, the Chair ruled that under the order of the Convention limiting debate the amendment is not open to further debate. The gentleman from Waltham (Mr. Luce) appealed from the decision of the Chair, and the pending question is upon that appeal, the question being: Shall the decision of the Chair stand as the judgment of the Committee? No other business is in order pending the reso ution of that appeal.

Mr. ANDERSON of Newton: I offered and I press this amendment as a friend of the initiative and referendum. I believe that it will strengthen the proposition, and what will strengthen the proposition will be for the good of the Commonwealth, and what is for the good of the Commonwealth will be for the good of those who favor the initiative and referendum. My amendment provides that in addition to the 40,000 signatures, those who come with an initiative petition must have also one-third —

Mr. GOOD of Cambridge: Mr. Chairman —

The CHAIRMAN: Does the gentleman yield?

Mr. ANDERSON: No, I have three minutes only.

The CHAIRMAN: The gentleman declines to yield.

Mr. GOOD: I rise to a point of order.

The CHAIRMAN: The gentleman will state his point of order.

Mr. GOOD: That the matter before the House, or rather before the Committee, has absolutely no bearing upon what the gentleman from Newton is now talking about. The question is on the appeal, as I understand it.

The CHAIRMAN: The question is on the appeal, but the Chair does not yet see that the gentleman from Newton is not addressing himself to the appeal.

Mr. ANDERSON: The amendment demands that they have not only

40,000 signatures, but one-third of the House and one-quarter of the Senate on the vote on a constitutional amendment. This is for two purposes. First, in order that trivial propositions, made by small groups, may thus be eliminated; second —

The CHAIRMAN: The gentleman from Newton must remember that the pending question is upon the appeal and that debate must be confined to that question.

Mr. ANDERSON: I am speaking with reference to the matter, to get the whole thing before the Committee again, and I hoped that I would not be called down with reference to it. I am sorry that this has been made a test matter; I hope it will not be made a test vote. I think that there are a great many persons in this chamber who really believe in the proposition, who ought to be free to vote for it. I am sure that as I am a sincere friend of the initiative and referendum it cannot be made a test vote one way or the other, and I hope that the whole proposition will be judged upon its merits.

Mr. LOMASNEY: On the question of the appeal, it seems to me that we should sustain the Chair. Crocker, in his book on Parliamentary Procedure, page 97, says:

> A member dissatisfied with a decision of the Chair, whether rendered upon a point of order or otherwise, may appeal therefrom. If the appeal is seconded the Chair thereupon states the question on the appeal. The form of this question, as determined by usage, is: "Shall the decision of the Chair stand as the judgment of the meeting?" Unless the matter pending, when the point of order was raised, was undebatable, debate upon the question raised by the appeal is in order and cannot be terminated by the presiding officer at his pleasure, but must be allowed to proceed like debate upon any other question.

Now, the matter was not debatable. By vote of the Convention, we had limited the time by which the vote should start. We had started to take that vote, and the reconsideration set us back where we were; and I hope, in view of that fact, no matter what rule we pass to-day, the Chair will be sustained.

Mr. WALKER of Brookline: If the appeal from the Chair is sustained there is debate, if the appeal is not sustained there is no debate; therefore I am under the necessity of taking this advantage, as I may not have any other opportunity, to state to the Convention that the committee on the Initiative and Referendum has met, — the majority members of the committee, I refer to, — and unanimously are against the amendment offered by my friend, the gentleman from Newton. I will say that we have given the most careful consideration to this matter; we realize, moreover, that it comes from a real friend of the initiative and referendum, and therefore we hesitate to vote against it, but we are compelled to do so. To-day if 21 Senators vote not to submit a constitutional amendment to the people it cannot be submitted. If this amendment goes through, then if 31 Senators vote against submission of a constitutional amendment it cannot be submitted. Is this whole initiative and referendum question to go on the question of whether 21 or 31 Senators —

Mr. LUCE of Waltham: Before the gentleman's three minutes have expired I should be glad to have him inform this body if he thinks the appeal from the decision of the Chair should or should not be sustained.

Mr. WALKER: I shall proceed with my remarks unless the Chairman calls me down. I will say that the chairman of the committee on

Rules was arguing yesterday that there might be debate. Now he will not allow me the three minutes to explain the position of the committee, thinking that there will be no debate after this vote is taken. [Applause.]

The CHAIRMAN: The gentleman from Brookline will kindly bear in mind that the question is upon the appeal and debate must be confined to that question.

Mr. WALKER: I think I have said enough, I will stop here, as the intention is to shut off debate, as I understand it. But I sincerely hope, in spite of the fact that this matter has been offered by a friend of the measure, that every friend of the initiative and referendum will vote at this time against this measure.

Mr. CREAMER of Lynn: I rise to a point of order.

The CHAIRMAN: The gentleman from Lynn will state his point of order.

Mr. CREAMER: I understand under the rules of this debate no member has a right to speak more than once. The gentleman from Waltham already has spoken.

The CHAIRMAN: The new rule for debate on appeal is not so in terms. The rule is that no member shall speak more than three minutes. There may be an implication that he shall not speak more than once, but strictly, under the terms of the rule, the gentleman from Waltham may have further time.

Mr. LUCE: I interrupted the gentleman from Brookline, and not to keep him from making his statement, but I hope I betray no confidence in saying I understood that he agreed with me that the appeal ought to be sustained, for the very purpose that he might be able to explain the matter as he desired, and that I might have the same opportunity; and so my request was in order that it might be clear, if it is the fact, that he and I both desired further opportunity for debate on this measure.

Mr. WALKER: I am somewhat surprised at the gentleman's statement, as he told me within half an hour he intended to offer to withdraw his appeal. [Laughter.]

Mr. BALCH of Boston: There is in law a principle known as estoppel. That principle is that a man who once has committed himself, by act, to a particular line of conduct, cannot thereafter set up claims inconsistent with his act. That is a rule of common sense which obtains in the practice of men of business and of honor throughout the world, even outside the technical precincts of the law. If that principle is to obtain here, then Mr. Walker and those who agree with him cannot in honor vote against a proposition to allow debate. Mr. Walker already has debated it. He and those who agree with him I assume cannot now oppose the right of others to do as they themselves have done.

Mr. SAWYER: I sincerely hope that this Convention will vote Yes on the question before us and sustain the Chair. The ruling of the Chair was made in good faith. There are a great many exigencies that arise in this Committee of the Whole that cannot be governed by rules, because they could not be foreseen by the committee on Rules. Therefore if we are going to get along orderly there must be a considerable sustaining of the Chair. I hope that we will vote a hearty Yes.

The CHAIRMAN: The question is on the appeal. Is the Committee

ready for the question? ("Question, question.") The question is: Shall the decision of the Chair stand as the judgment of the Committee?

The vote was taken.

The CHAIRMAN: The Chair is in doubt. Before verifying the vote the Chair feels called upon to exercise the power conferred by the rule adopted this morning, and to require all members to resume and remain in their places pending the vote and the verification of it. The Chair reminds the Committee that the task of the monitors is difficult and delicate, and that they will be greatly assisted if members will stand in order in their places pending the verification of the vote.

On the question of sustaining the Chair, 134 members voted in the affirmative, 124 in the negative, and the decision of the Chair stood as the judgment of the Committee.

Upon the amendment of Mr. Anderson of Newton, 131 members voted in the affirmative, 130 in the negative, and the amendment was adopted.

Mr. George of Haverhill moved, Nov. 23, 1917, reconsideration of a vote whereby the Convention earlier in the day had refused to adopt a certain amendment; the same subject-matter being still under consideration. Thereupon Mr. Walker of Brookline raised the point of order that, as other matters had intervened, the vote in question could not be reconsidered. The President ruled the point not well taken, "it being in order to move a reconsideration of a vote on a collateral question at any time before a vote is taken on a main question." Thereupon Mr. Sullivan of Lawrence raised the point of order that if a motion to reconsider is made on the same day as the vote is taken it shall be placed first in the Orders of the Day for the succeeding day. The Chair ruled the point of order not well taken; as the rule referred to applies to principal motions and not to subsidiary motions.

At the request of Mr. Walker the Secretary read the rule in question: —

RECONSIDERATION. When a vote has passed, it shall be in order for any member to move a reconsideration thereof on the same or the succeeding day, and such motion, if made on the same day, shall be placed first in the Orders of the Day succeeding, and if made on the succeeding day it shall be made before the Orders of the Day are taken up. A motion to reconsider being rejected, shall not be renewed, nor shall any subject be a second time reconsidered: Provided, that a motion to reconsider a vote upon a collateral matter, shall not remove the main subject under consideration from before the Convention, but shall be considered when made. Debate on motions to reconsider shall be limited to thirty minutes, and no member shall speak more than five minutes; but on a motion to reconsider a vote upon any collateral matter debate shall be limited to ten minutes, and no member shall speak more than three minutes.

Mr. WALKER: After an amendment has been debated, closed, and a vote has been taken upon it and a motion to reconsider was not then made, and if we pass to the consideration of another amendment, and it has been taken up, considered, voted upon, disposed of, is a motion to reconsider the first amendment then in order?

The PRESIDENT: The Chair has ruled that a motion to reconsider an amendment on the same stage of the proposition is in order at any time during that stage of the proposition. That is the invariable practice of all parliamentary bodies, and also has been the practice of this Convention.

Number Requisite for Calling the Yeas and Nays.

The question as to the number of votes necessary to secure a call of the yeas and nays called forth this discussion on June the 13th, 1917. Mr. Brown of Brockton moved to amend Rule 43 by striking out the words "forty members", and inserting in place thereof the words "one-eighth of the members present, to be determined by the President,".

Mr. Underhill of Somerville: That matter was gone into very carefully in your committee on Rules. The House practice is that one-eighth of the membership, or thirty, shall rise requesting a roll-call. The number is fixed, rather than stating one-eighth, by stating thirty, a specific number, so that the presiding officer may not be obliged to make a count of the House each time when a roll-call is requested. In previous Conventions one-fifth of the membership has been required. Now, sir, one-fifth of the membership of this body would be 64. One-eighth of the membership of this body is 40, and thereby a number was fixed approximating the number of the House members required to order a roll-call. In other words, if 40 members, or one-eighth of the whole Convention, shall ask for a roll-call, it shall be granted. That will prevent upon each occasion when a roll-call is required or requested the whole membership being counted and then divided and one-eighth arrived at of the members present. So it would be a good deal better to fix the number at 40 than to make a provision for any percentage of the members.

Mr. Brown of Brockton: My idea was that the real, perhaps the only, protection that a small minority might have on some day when there might be a small gathering like 100 to put anything over, would be to ask for a roll-call.

Mr. Underhill: May I further explain that should only 100 members be present on any occasion the question of quorum could be raised, and no business could possibly be transacted with only 100 members present.

Mr. Brown: I am sorry that I carried my attempt to explain to an absurdity which is in itself so apparent, but at the same time the proposition holds true. I got at the one-eighth in ignorance of the rule of the House, providing that it should be one-eighth of the whole number, and I wanted to preserve that; that is to say, I wanted to have that same safeguard carried out when a smaller number is present. This is not a Legislature; it is the whole people. It is the people's court.

Mr. Morrill of Haverhill: I can see the justice of the complaint made by the member from Brockton (Mr. Brown). In the House, where 30 are required to compel a roll-call, very frequently from 20 to 27 will arise and the roll-call attempt will fail. That is due quite often to the fact, as he has intimated, that the House proceeds hour after hour, if not all day long on certain days, with only two-thirds of a quorum present, because it is an unwritten rule that a member should not doubt a quorum unless he wants to "get in wrong," as it is called, and rather than have any trouble, every one allows unanimous consent to permit business to be carried on with from 60 to 100 members present when 121 is a quorum. I do not know any business concern in this State which carries on business and pays full salaries to all of its

employees and requires only one-half and one extra to be present in order to keep the factory going. That is all a quorum really means, and anything less than that is a farce. If we are kind enough to permit business to go on in the Convention with say 110 or 112 members present when 161 are a quorum, why should we be compelled to get a far larger percentage in order to get a roll-call than would be required where 161 or more were present? Instead of one-eighth we might be compelled to get one-third of those present in order to obtain a roll-call. The smaller the number present the larger the percentage necessary to compel a roll-call, but I think, as the member from Somerville (Mr. Underhill) says, that a fixed number would be better. I think, therefore, that 30 instead of 40 would be the happy medium and satisfactory to everybody as a compromise, so I move to amend that section by striking out the word "forty", and inserting in place thereof the word "thirty".

Mr. Clapp of Lexington: I do not believe this matter needs any long discussion, but I should like to say just a word. What the gentleman from Somerville (Mr. Underhill) already has said anticipates largely the point I wish to make. I do not speak as he does, out of a wealth of legislative experience, but the matter comes to my mind as one of common sense. It seems to me the rule which you have to apply in determining whether the roll-call shall be invoked should be one that is very simple and easy of application. Certainly the rule as it stands needs that requirement. Under the plan proposed by the gentleman from Brockton (Mr. Brown) it would be the duty of the President, as I understand it, to enter into a series of arithmetical computations. First he has got to count and determine how many members are here, then divide by 8 or 5, as the case may be. And so I say that the principle of the rule is correct in prescribing a fixed number of men who may have the roll-call on demand. Whether it should be 40 or whether it should be 30 I have no opinion. Personally I would be satisfied with 30 in place of 40. But I do think we should stand for this simple method which the rule now prescribes.

Mr. Brown received consent to withdraw his amendment. That of Mr. Morrill was rejected, by a vote of 28 to 162.

On the 13th of June, 1918, Mr. Underhill of Somerville moved to amend Rule 49 by striking out the word "forty" and inserting in place thereof the word "fifty", so as to read:

49. On all questions the sense of the Convention shall be taken by Yeas and Nays, provided fifty members so require.

Mr. Underhill: A brief explanation of this motion might be in order at this time. The required number to demand a roll-call under the present rules of the Convention is forty members. My amendment is to require an additional ten, — or fifty members. There are many matters on the calendar which are of minor importance to the Convention and to the community but in which some of our members have a special and direct interest. Some of them would be glad to be placed on record on these amendments, either for the purpose of advancing their political fortunes or for some other personal reason. In a Convention of this size if fifty men are not willing to rise for a

call of the roll it seems to me evident that the matter is not of sufficient importance to place the Convention on record. Any matter of particular importance, or that had the ear of the Convention easily, would get one hundred or two hundred members to rise for a calling of the roll. I think this will save days of the time of the Convention, because, as you all know, the calling of the roll requires about twenty-five to thirty minutes at least, and sometimes much longer. I think this will eliminate a number of roll-calls which every one will agree are unnecessary to the proper conduct of the Convention, and I trust that this motion will pass.

Mr. SAWYER of Ware: I rise to a point of order.

The PRESIDENT: The member will state his point of order.

Mr. SAWYER: That this ought to go to the committee on Rules. It cannot be considered immediately without unanimous consent.

The PRESIDENT: Will the member point out the rule to which he refers, which requires this to go to the committee on Rules?

Mr. SAWYER: I understand it is an amendment to the rules of the Convention.

The PRESIDENT: The Chair does not so understand it.

Mr. SAWYER: I would move to refer it to the committee on Rules.

Mr. KNOTTS of Somerville: I would just like to say that I think that the point that the gentleman from Somerville (Mr. Underhill) has made has been achieved already in this Convention, because the proportion now, — forty, — is equal to fifty because of the reduction in the size of this Convention. I trust that the amendment will not prevail.

The matter was referred to the Committee on Rules, which committee reported, June 21, that the order ought NOT to be adopted.

The order was rejected.

Amendments.

In Committee of the Whole, Sept. 13, 1917, the Chairman (Mr. Jones of Melrose) having announced that unless there were objection he would put to a vote together certain amendments to the measure for the initiative and referendum offered by Mr. Loring of Beverly, Mr. Bennett of Saugus submitted that one of these amendments was foreign to the others and should be voted upon independently. No objection being raised to separation, the Chairman was about to put to a vote by itself the amendment in question when Mr. Quincy of Boston raised against it the point of order that it was not germane, saying: —

Mr. QUINCY: The pending amendment states very clearly in its first section the subject-matter with which it is dealing. That subject-matter is defined to be the initiative and referendum, and the initiative and the referendum are defined in the first section. The initiative is defined as the power of the people to reserve to themselves the initiative, that is, the power of a certain number of voters to submit laws and amendments to the Constitution to the people for enactment, adoption or rejection at the polls. The amendment moved by the gentleman from Beverly does not come within that language. It is an entirely different method, namely, a modification of the existing legis-

lative method for bringing about the submission of amendments to voters at the polls. In offering that amendment it seems to me that the gentleman from Beverly goes outside of the province of the committee on Initiative and Referendum, which reported this measure, and that it is not proper to incorporate by way of amendment into a pending measure a provision which properly did not lie within the province of the committee which made the report, and which would have been open to a point of order if included in its report, on the ground that it was outside the province of the committee to report such a provision. That argument is enforced by the fact that this particular subject, namely, the amending of the Constitution by legislative action, clearly belongs to the committee on Amendment and Codification, and that committee already has reported a measure, not identical indeed with that of the gentleman from Beverly, but very similar to it, modifying the requirements of the present legislative method of submission. I therefore submit that the amendment of the gentleman from Beverly printed in the calendar is not properly germane to the measure under consideration.

The Chairman: The Chair will call the attention of the Committee to Rule 26 of the rules of the Convention, which is as follows:

A proposal for amendment of the Constitution reported by a committee, based upon a specific reference or references, shall not be open to the point of order that it contains matter not within the scope of the reference.

While that rule does not bear directly upon the question of order which has been raised, it seems to the Chair to indicate that the purpose of the Convention and of the Committee was to allow broad latitude in the matter of amendments, and it seems to the Chair that the amendment moved by the gentleman from Beverly (Mr. Loring) is not sufficiently foreign to the subject-matter of the resolution to warrant the Chair in declaring it out of order. The Chair therefore rules that the point of order raised by the gentleman from Boston (Mr. Quincy) is not well taken.

In the course of consideration of the resolution for the Initiative and Referendum, the Convention voted, Nov. 21, 1917: —

That general debate be closed at twenty-six minutes after four o'clock, and the vote be taken upon the amendments in the order in which they affect the resolution; provided, however, that no vote on any amendment be taken until the mover thereof be given five minutes for discussion and a member of the majority and a member of the minority of the committee on Initiative and Referendum each be given the same length of time. . . .

On the following day, Mr. Adams of Springfield, discussing under this limitation an amendment he had offered, was understood by the Chair (Mr. Luce of Waltham) to move in the course of his remarks an amendment to his amendment, whereupon Mr. Walker of Brookline raised the point that further amendments were not in order. The Chair ruled that under the motion given above, there was no restriction upon the offering of amendments at any time in the course of the debate. From this ruling Mr. Hale of Boston appealed and Mr. Walker seconded the appeal. In the debate thereupon were the following observations on the parliamentary question involved: —

Mr. Dutch of Winchester: May I inquire whether or not under previous orders which we have had, amendments have not been offered by representatives of the minority and the majority in their

closing five-minute speeches, after general debate had been entirely closed? I think that has been done time and again.

Mr. WALKER of Brookline: Of course amendments are in order at any time; an amendment to an amendment is in order at any time; but the amendment must be offered during the debate, and when the amendment has been offered then it must be put, before the debate is closed. It is unheard of in parliamentary law after the debate is closed to permit an amendment to be put, — I mean, to permit an amendment to be made after debate is closed. Now, if this amendment was made during debate, I shall withdraw my appeal from the decision of the Chair.

Mr. ADAMS of Springfield: If the Chair will permit my statement it would be this: At the beginning of my remarks I stated that it was necessary to add more to the amendment already moved, that I wished to move it, and did move it, and immediately that I read my addition myself as moved.

Mr. WALKER of Brookline: If this is a mere technical mistake I should be glad to withdraw my appeal. I simply do not wish amendments to be made after the debate is closed. If the gentleman said he was going to make it, even though it was not actually made, I should be very glad to withdraw my appeal. . . . I think it would be unfortunate not to allow the mover of the amendment, if he has made a mistake, to perfect or suggest an amendment to his amendment, in order that it may be put before this Convention in proper form. I do not criticize the ruling of the Chair; but if his ruling is correct I trust that this procedure will be observed, namely, that if any perfecting amendment is to be offered, it be offered by the man during the five minutes that he has to discuss his amendment; and that then, after we know what the amendment is, a gentleman on the minority of the committee and a gentleman on the majority of the committee have an opportunity to discuss it.

Is not that fair? Otherwise amendments will be put in here after his time and after my time has expired, and we cannot even explain to the Convention the force or effect of such amendments. Plainly that is not the intention of the Convention. Therefore, to permit the mover of the amendment to propose a perfecting amendment, after his time has expired, should not be permitted. I do not know thaf the Chair would be willing to make that ruling. If he cannot make that ruling then I shall make a motion to that effect as soon as this question is disposed of.

Unanimous consent having been given to Mr. Hale and Mr. Walker to withdraw the appeal and its second, Mr. Walker moved: —

No additional amendments shall be entertained after the time allotted for debate to the mover of an amendment has expired.

The motion prevailed.

Effect of Amendments.

On the same day (November 22, 1917) Mr. Lummus of Lynn moved that the resolution (on the Initiative and Referendum) recommended as a substitute by the committee on Form and Phraseology be amended by adding after the word "petition", in line 30, the words "; nor shall this provision be the subject of an initiative petition".

Mr. Richardson of Newton raised the point of order that the amendment was not properly before the Convention, being essentially the same as an amendment previously adopted.

The President declared the point of order well taken.

Later the Convention considered an amendment moved by Mr. Harriman of New Bedford: That the resolution recommended as a substitute by the committee on Form and Phraseology be amended by striking out lines 28, 29 and 30 (as amended).

Debate ensued as follows: —

Mr. Richardson of Newton: I rise to a parliamentary inquiry.

The President: The member will state his parliamentary inquiry.

Mr. Richardson: During the Convention we have added a number of sentences or clauses at the end of line 30 in the report of the committee on Form and Phraseology. My inquiry is whether, if the amendment offered by the gentleman who has just taken his seat is adopted, the result would be to strike out all the amendments which we have adopted this afternoon.

The President: The Chair would rule that anything that was added after line 30 would not be affected by this amendment, anything which was inserted in the lines would be affected by it.

Mr. Richardson: Then I rise to a point of order.

The President: The member will state his point of order.

Mr. Richardson: The point of order is that under the construction which the Chair has just placed upon the amendment offered by the gentleman from New Bedford if adopted it is inconsistent with the action of the Convention this afternoon in adopting the amendments which are a part of lines 28 to 30 and in addition to them, and therefore the amendment cannot be entertained now, being inconsistent with the previous action.

The President: The Chair would rule that the question of consistency is not a parliamentary question, and further, that the point of order is not well taken, for while it would not be in order to move to strike out merely the words that had been inserted, it is in order to strike out words that have been inserted in combination with certain other words.

Discussion on the same amendment was resumed on the following day: —

Mr. Richardson: I am not sure that I understood perfectly the decision of the Chair yesterday, and I am not sure that the attention of the Chair was directed to the exact point which I now desire to raise. My question is, in view of the action of the Convention yesterday, stated on page 2 of the calendar for to-day, by which the Convention yesterday added after the word "petition", in line 30, the words: "nor shall this section be the subject of such a petition", whether, if the amendment now offered by the gentleman from New Bedford were adopted, the result would be to reverse the action of the Convention taken yesterday on the words that I have just read, or whether the result would be to leave those words which I have just read still a part of the measure.

The President: The amendment to which the gentleman refers was an amendment to add in line 30, after the word "petition", the words "nor shall this section be the subject of such a petition". The

effect of the amendment was to add those words to line 30. The words cannot stand alone, and if the present amendment is adopted the result will be to strike out those words with the other words in lines 28 to 30.

Mr. RICHARDSON: I rise to a point of order.

The PRESIDENT: The member will state his point of order.

Mr. RICHARDSON: That in view of the ruling of the Chair the amendment of the gentleman from New Bedford (Mr. Harriman) is out of order, because constituting a reversal in substance of the action which the Convention took yesterday.

The PRESIDENT: The Chair would rule that in case the amendment offered by the member from New Bedford was to strike out the same words as those adopted yesterday it would be out of order, but when he moves to strike them out in connection with other words that motion can be entertained.

A rising vote being taken, 68 voted in the affirmative, 135 in the negative, and the amendment was rejected.

Effect of Action Taken by Courtesy.

At the close of the session Oct. 17, 1917, a motion to adjourn was withdrawn at the request of the President, so that an order might be entertained, inviting certain gentlemen to address the Convention on the following day in the matter of the Liberty Loan. That having been disposed of, before the motion to adjourn was renewed, Mr. Creamer of Lynn got the floor and moved to reconsider a vote that had been taken on an amendment just before the motion to adjourn that was withdrawn. There followed: —

Mr. PILLSBURY of Wellesley: I rise to a point of order.

The PRESIDENT: The member will state his point of order.

Mr. PILLSBURY: That the motion to reconsider cannot be entertained, if I am right in my recollection, as other business had intervened before it was made.

The PRESIDENT: The Chair rules that the member would be correct in his point of order if the other business had not intervened as a matter of courtesy by common consent. The Chair thinks under such circumstances the right to make the motion to reconsider should not be cut off.

Mr. LOMASNEY of Boston: Did I understand the Chair to rule that it was the unanimous consent of the Convention to allow the reconsideration?

The PRESIDENT: The Chair rules that the business which intervened having been business which was not in order but which was allowed by general consent it should not cut off the right of the members to move reconsideration.

After debate, the motion to reconsider was rejected.

Treatment of Incidental Questions.

In the course of discussion of an amendment to the resolution for the Initiative and Referendum Nov. 23, 1917, Mr. Bennett of Saugus having asked whether an extension of the time of debate would invalidate his right to move to lay the amendment on the table, the President informed him that such a motion would

be out of order and ruled that "you cannot lay an incidental question on the table without laying the whole matter on the table."

Later on the same day, Mr. Quincy of Boston moved that a pending amendment be postponed until all specific amendments printed in the calendar be disposed of, whereupon Mr. Sawyer of Ware raised the point that this would be inconsistent with the ruling about laying on the table. The President said: —

"The Chair would rule that if a motion was made to postpone this matter to a time certain, that motion could not be entertained, because a final vote might be reached upon the main proposition in the meantime, but a postponement of the matter until after certain other amendments have been considered the Chair rules is in order, as such postponement still leaves the matter before the Convention to be acted on before the main question. Therefore the Chair rules that the point of order is not well taken."

Changes in Rules.

At the opening of the second session of the Convention, June 12, 1918, a report of the Committee on Rules and Procedure, recommending certain changes in the rules, came up for consideration.

The first recommendation was that the rules be amended as follows: —

By striking out Rule 18 and substituting therefor the following: "18. No member shall speak more than once to the prevention of others who have not spoken; nor shall any member speak on any question more than thirty minutes in all, unless the Convention votes an extension of his time, which shall not exceed thirty minutes."

Mr. PILLSBURY of Wellesley: The principal purpose of that amendment is to provide a limitation of general debate, a question, of course, upon which there is room for division of opinion and upon which there was some difference of opinion among the members of the committee; but we were all agreed that it is desirable to impose some limitation upon the flow of oratory which consumed so much time of the Convention at the first session and for which perhaps there remains no such pressing occasion as was furnished by some of the measures with which we then had to deal. Upon consideration of this question the committee came to the conclusion that thirty minutes as a general limitation, with a power in the Convention to extend the time of a member who really had something to say which might take an hour, for not exceeding thirty minutes, would be a judicious, moderate and reasonable limitation of debate.

The amendment was adopted.

The next amendment was as follows: —

In Rule 19, by inserting after the word "Convention", the words ", except, after recognition by the Chair, for the purpose of speaking therefrom," — so as to read as follows: "19. No member shall be permitted to stand, to the interruption of another, while any member is speaking, nor to pass unnecessarily between the President and the member speaking, nor shall any member be permitted to stand in the aisles or the area in front of the President's desk during the session of the Convention, except, after recognition by the Chair, for the purpose of speaking therefrom, nor to stand at the Secretary's desk during a roll-call."

Mr. PILLSBURY: This subject is so small as hardly to call for explanation. The only purpose is to make speaking from the area in

front of the desk orderly, which under the rules as they stood was technically out of order.

The amendment was adopted.

The committee recommended striking out Rule 27 and substituting therefor a rule as follows: —

"27. Reports of committees, except as provided in Rule 33, shall be acted upon when received, or placed in the Orders of the Day for the next session, at the discretion of the Chair. Upon the adoption of this rule the Committee of the Whole shall stand discharged of all matters pending on its docket, and such matters, in the same order, shall be placed in the Orders of the Day for the next session of the Convention."

Mr. PILLSBURY: This amendment presents a question of importance but upon which the committee has been able to learn or hear of substantially no difference of opinion. The change effected by the amendment is wholly in the second clause, which discontinues the Committee of the Whole; that is to say, discontinues it as of course. It still remains within the power of the Convention to go into Committee of the Whole upon any particular measure or measures if it sees fit and whenever it sees fit. But the committee has found a very general feeling to prevail, apparently, among members of the Convention to the effect that the Committee of the Whole had outlived its usefulness, that it involved a duplication of debate and in the end a very substantial waste of time, and that the Convention can now get along without it. Accordingly it seemed best to the committee, — where I believe, all shades of opinion in the Convention are represented, and the committee was unanimous as I believe they were in all these recommendations, — it seemed best to the committee to discontinue the procedure in Committee of the Whole as a thing of course and do our business in Convention.

Mr. O'CONNELL of Boston: May I ask the gentleman if this rule as now proposed will include all the matters that now are before the Convention or only new matters to come before it?

Mr. PILLSBURY: It is designed to include all matters now pending upon the docket of the Committee of the Whole, which, as the amendment provides, as my friend will see, are to be placed in the Orders of the Day for the next session of the Convention, in the same order in which they there stand. It may or may not be known to all the members, — it certainly is to some, — that the subjects remaining on the docket of the Committee of the Whole, which comprise practically all the business which remains before the Convention, have been topically grouped, and the same disposition of them is now made in transferring them into the calendar of the Convention. They are transferred by this proposed rule in the same order and will be reached and considered in the same order unless the Convention orders otherwise, — as it can at any time, of course.

The amendment was adopted.

The amendment proposed to Rule 32 was: —

In Rule 32, by striking out the words "for the previous question or", — so as to read as follows: — "32. The rules of the Convention so far as applicable shall be observed in Committee of the Whole, except that one hundred members shall constitute a quorum; it cannot refer a matter to any other committee; it cannot adjourn; a motion for indefinite postponement shall not be in order; the yeas and nays shall not be called; and a member may speak more than once. The com-

mittee shall have the same powers as the Convention to enforce the attendance of members; and the Secretary and the Sergeant-at-Arms shall be the secretary and sergeant-at-arms, respectively, of the Committee of the Whole."

Mr. PILLSBURY: The only effect of this amendment is to introduce the previous question into the Committee of the Whole if and so far as the Convention sees fit hereafter to go into Committee of the Whole. The former rules excluded the previous question from that committee and members will see presently that a new rule is provided concerning the previous question, which makes it a little less drastic than it is at common parliamentary law.

Mr. O'CONNELL of Boston: May I ask the gentleman if that will not make it possible for a small part of this Convention to cut off all debate? If it transpires that there are, for instance, 51 members desirous of cutting off debate, would not those 51 members have power under this rule to order the previous question and thereby close all debate at any moment that there may happen to be 51 in Committee of the Whole? As I understand, the Committee of the Whole is given a small quorum of one hundred principally for the purpose of allowing men who are interested particularly to carry on the debate, and that as a rule no legislative body ever permits the previous question in the Committeé of the Whole. It seems to me that the Convention ought to pause before taking such a drastic step. The Committee of the Whole is a matter of convenience. I do not believe a matter of convenience should be made a weapon to be used upon gentlemen of the whole body, particularly a constitutional body which needs to discuss fully a question. I should like to ask the gentleman if the committee has contemplated giving a majority of the quorum a right by the previous question to cut off all debate.

Mr. PILLSBURY: This is not the effect of the amendment. My friend from Boston will remember, in the first place, that it is not supposed that the Convention will go into Committee of the Whole hereafter to any considerable extent and perhaps not at all, and except as it does so this amendment is not operative. If and whenever it does, then, as my friend from Boston says, a majority of the committee can vote the previous question. But he will also remember that that only concludes debate for the time being in the committee and that the subject still has to be reported to the Convention and to go through its several stages there, so that the Committee of the Whole cannot by the previous question or any other device put a final end to the debates of the Convention upon any topic.

Further, if my friend from Boston will look forward to the proposed amendments of Rules 46 and 47, he will see that the committee, for reasons which can be stated when we come to it, has thought it best to take the edge, so to speak, off the previous question generally, by providing for not exceeding thirty minutes debate in any case when the previous question is ordered. I will not at this moment, unless I am asked to, go into the reasons for that change, which is, I think, an innovation in parliamentary practice. But the committee thought they had good reasons for it and that it is likely to be a useful change.

Mr. O'CONNELL of Boston: This, as the chairman of the committee says, is an innovation in the doctrine of the Committee of the Whole. It is certainly a very drastic one. In all English-speaking legislative bodies the Committee of the Whole never has had the previous ques-

tion permitted. It violates the whole spirit of the doctrine and the policy of the Committee of the Whole. It seems to me that it comes with ill grace for Massachusetts to try in such a drastic way to curtail the privileges of the Committee of the Whole. I should like to hear from some other member of the committee more fully as to why they decided on bringing in this rule which is really an overturning of the doctrine of the Committee of the Whole. The Committee of the Whole is a successful method of procedure in the British House of Commons, it is a successful method of procedure in our own Congress and it is invoked successfully wherever the Committee of the Whole is practiced. Now I should like to hear some other reason why this doctrine is invoked at this time.

Mr. QUINCY of Boston: At the request of the gentleman from Wellesley in charge of this report I will try to add the further explanation asked for by the gentleman from Boston. I think if he will reflect upon the consequences of Rule 27 already adopted he will recognize that the importance of the Committee of the Whole is very much minimized. If the Convention contemplated resorting to the Committee of the Whole except in a very rare case it would not have adopted Rule 27 as it has done. Now transferring all the measures before the Committee of the Whole to the Convention calendar implies that any further reports, if there be such, would be treated in the same way, — that is, would be placed regularly upon the calendar of the Convention itself instead of being referred as of course to the Committee of the Whole. In other words, we do not retain in the rules as proposed to be altered any standing provision for going into Committee of the Whole. We do leave it in the power of the Convention to go into Committee of the Whole if it sees fit to do so. Therefore it seemed to the committee that any limitation upon debate in the Committee of the Whole would not be of great practical consequence. As the gentleman from Boston very correctly states, it is contrary to the theory of the Committee of the Whole to impose a limit upon debate in that body in the form of the previous question. I think the committee was influenced by practical considerations, in the line of some thoughts suggested in the very admirable address of our President, in making this recommendation. In my judgment the Convention would be more likely to resort to reference to the Committee of the Whole in some suitable case if a means existed for bringing debate in that body to an end, through this modified form of the previous question, than it would if reference to the Committee of the Whole involved unlimited debate, as it has heretofore.

Now I do not know that I would have supported the application of the previous question, speaking for myself, in the Committee of the Whole unless the effect of ordering the previous question had been modified as contained in the proposed amendment to Rules 46 and 47. Now what happens if the previous question is ordered in Committee of the Whole? In the first place, the question whether the previous question should be ordered is open to debate for ten minutes; then if it is ordered this innovation is introduced, that twenty minutes is then allotted for general debate, and then the member in charge of the measure gets ten minutes; so that the voting of the previous question in Committee of the Whole does not mean that the main question is put at once, but that it is within thirty minutes of being

put. It seemed to the committee that on the whole it would be desirable to impose that modified form of the previous question, even in Committee of the Whole, contrary as it is to ordinary parliamentary practice.

The amendment was adopted.

The amendment recommended to Rule 33 was: —

By substituting for Rule 33, as heretofore amended, the following: "33. If a committee reports favorably on a proposal to amend the Constitution, and if the proposal has been read but once, it shall go to a second reading without question; otherwise it shall be placed in the Orders of the Day for the next session, pending the question on ordering to a third reading."

Mr. PILLSBURY: Perhaps it ought to be said that this is only a change of form made necessary by dropping the Committee of the Whole. That is all there is to it. It simply takes the words "Committee of the Whole" out of the rule.

The amendment was adopted.

The recommendation of the committee for an amendment of Rule 34 was: —

By substituting for the heretofore superseded Rule 34 the following: "34. If a committee reports that a proposal to amend the Constitution ought not to pass, it shall be placed in the Orders of the Day for the next session, and shall then be open to amendment, pending the question on rejection. If rejection is negatived, the proposal, if it has been read but once, shall go to a second reading without question; otherwise it shall be placed in the Orders of the Day for the next session, pending the question on ordering to a third reading."

Mr. PILLSBURY: I have no desire to occupy the time of the Convention in making any unnecessary explanation, but this is a matter of some interest and perhaps attention ought to be called to the fact that it introduces an innovation in parliamentary procedure in favor of the proponents of measures. The general purpose of the committee in all the changes in the rules which they have recommended was to shorten our proceedings, if possible, rather than to extend them. The immediate effect of this one may be to extend them slightly, and still we believe that on the whole it will make for economy of time. There has been some complaint by friends of particular measures against which committees have reported, that they have no chance to perfect them upon an adverse report, the question being upon rejection. This change opens the way to amendment in that situation. If an adverse report of a committee comes in, the friends of the measure may amend it before the question is put upon rejection, and it may be that they can amend it into a form in which the Convention would take it, or indeed into a form in which the committee itself would take it. This rule is designed to afford that opportunity and I think that is all that need be said about it.

The amendment was adopted.

The amendment proposed to Rule 37 was: —

In Rule 37, by inserting after the word "adoption" the words ", or any motion which in the opinion of the Chair should not be considered without further notice,", — so as to read as follows: "37. If any member of the Convention shall so request, any order or resolution which shall be proposed for adoption, or any motion which in the opinion of the Chair should not be considered without further notice, shall be postponed until the next session without question."

Mr. QUINCY of Boston: At the request of the gentleman from Wellesley I merely will state that this puts formally into the rule the

discretion which necessarily has been exercised in fact by the presiding officer. It formally recognizes that it is within the discretion of the presiding officer to say whether a particular order or resolution should be considered at once or should be postponed without question.

The amendment was adopted.

The amendment recommended to Rule 45 was: —

In Rule 45, by striking out the words "After July 16, 1917, until all amendments to the Constitution have been finally adopted for submission by the Convention to the people, no motion to adjourn for more than seven days at a time shall be entertained."; and by inserting after the word "postpone" the words "or adjourn", — so as to read as follows: "45. A motion to adjourn shall always be in order; and that motion, or a request for the yeas and nays, shall be decided without debate. On motions to lay on the table, to take from the table, to close debate at a specified time, to postpone or adjourn to a day certain, to commit or recommit, and for suspension of any rule, and upon an appeal from the decision of the Chair, debate shall be limited to ten minutes, and no member shall speak more than three minutes. The statement of any question of personal privilege shall be limited to five minutes.

Mr. PILLSBURY: It is apparent at a glance that the purpose of the first part of this amendment is simply to abolish as now obsolete that part of the existing rule which forbids a motion to adjourn for more than seven days. That rule grew out of a state of things now happily past and not, as we trust, likely to recur. The effect of the other part is only to impose upon a motion to adjourn to a day certain the same limitation of debate which Rule 45 imposes upon the other motions there mentioned, it having been discovered that there is, under the existing rules, no limitation upon debate of that particular question.

Mr. WALKER of Brookline: I am not quite content with the explanation of the gentleman from Wellesley of the effect of this particular amendment and I think it is due to the Convention to have the members understand the full effect of the amendment. The gentleman has called the first part of the amendment obsolete. Far from being obsolete it is in effect to-day and will have a very practical effect upon the Convention. As it stands, the Convention cannot now adjourn for more than seven days except by suspending this rule, which requires a two-thirds vote or a three-fourths vote, I have forgotten which. If this rule is amended as proposed, then this Convention can adjourn for a month or it can adjourn until after the war, or it can adjourn for any time it sees fit, whenever a majority of a quorum see fit to adjourn. With that explanation I think the Convention may act as it sees fit. I personally have consented to this change and am willing to rely on the vote of the majority of the Convention. I think the Convention should understand the full effect of this particular change.

Mr. SULLIVAN of Lawrence: May I call the attention of the committee to the fact that this rule, which is called Rule 45 in the circular that we have, is printed as Rule 47 in the Journal, page 48? I am not sure which is right, but it is so printed.

The PRESIDENT: Since the rules were first printed in the Journal the Chair is informed that there has been a rearrangement by the Convention. If you have the pamphlet form of the rules you have the present order, but the Journal form is not the present order.

Mr. CREAMER of Lynn: I should like to call the attention of the members of this Convention to the danger of adopting this change in the rules, and especially would I like to call to the attention of those members who believe that it is the duty of this Convention now to sit and complete its work, the fact that if this rule is adopted it easily will be possible for the majority of a small number to adjourn without day, and to do away with the possibility of carrying on the work of this Convention. I think everybody here should vote with that knowledge. Those who think the Convention ought to complete its work, in my opinion ought to vote against this rule.

Mr. ANDERSON of Newton: I should like to ask whether the first clause of the new rule includes adjourning *sine die*.

Mr. PILLSBURY of Wellesley: If I understand the inquiry, the rule will be left in a form in which it would be open to the Convention to adjourn *sine die* whenever it sees fit. The committee has no desire to conceal anything. The proposed amendment leaves the whole power of adjournment in the hands of the Convention, which at the former session had imposed fetters upon itself by this rule in respect of that power. And while I know of no purpose now to attempt to adjourn the Convention finally or until after the war, or anything of that kind, the Convention may as well know, and perhaps ought to know now, that the committee on Rules has reported an order, which I suppose will be presented to the Convention in due course, providing, I believe, for adjournment to the second Tuesday of September if the Convention has not finally adjourned on the first Friday of August.

Mr. Sawyer of Ware moved as an amendment that the original rule stand, and that the word "seven" be changed to "thirty-five", so as to read: "No motion to adjourn for more than thirty-five days at a time shall be entertained."

Mr. SAWYER: I hope that this substitute may be accepted. If we adopt the rules suggested by the committee on Rules it means that any time a majority who are in session here may in forty minutes adjourn this Convention indefinitely or to any time far in the future. A motion here might carry a majority vote, the same majority could put the previous question on it, and only forty minutes be allowed for debate, with no opportunity for members who are not here to get here, and before we knew it we might find, at some time when there might be a tangle over any question, that they could adjourn this Convention. Now if you will accept this substitute that I offer, to provide that the Convention may adjourn for thirty-five days at a time, you will take care of the proposal of the committee on Rules that we adjourn through August, and you will prevent any danger from anything being sprung on the Convention.

Mr. BRYANT of Milton: It has been stated here a number of times that we are in danger of having a mere quorum adjourn by a majority vote. I had supposed when I read Rule 37, which we have just adopted, that that was aimed against a proceeding of that kind. Rule 37 provides that any order may be put over which in the opinion of the Chair should not be considered without further notice. Any question of adjourning *sine die* or of adjourning until after the war it seems to me is certainly a question which any chairman would rule should be considered only after notice to the whole Convention. They are as important questions as we can take up, and I think any motion to adjourn *sine die* or to adjourn until after the war in all probability

would be ruled by the chairman to be such a motion that it ought to be taken up only after further consideration, so that I do not think there is much danger of a snap judgment, or of a small body of this Convention, adjourning without notice to the rest.

Mr. WALKER of Brookline: I do not agree with the interpretation of the rules of this Convention given by the gentleman from Wellesley (Mr. Pillsbury), nor by the gentleman from Ware (Mr. Sawyer). I take it that this Convention can adjourn *sine die* at any time it sees fit. I take it that all during the last session of this Convention it could have adjourned *sine die* whenever it saw fit. This Convention governs itself and it can adjourn without day. This rule is meant simply to apply to an adjournment to a day certain. The rule provides that we cannot adjourn for more than seven days, so a motion to adjourn for ten days or thirty days or three months, or until after the war, would be out of order, but a motion to adjourn *sine die* never would be out of order.

Now, having understood that, the question is whether it is wise to so amend these rules that we may adjourn for one month or for six months or for six years. I assure you it was with a great deal of hesitation, in the committee on Rules, that I assented to a change in this rule, and I believe that we either should stick to this rule or that we should place ourselves in the hands of a majority of the Convention. It now takes two-thirds to suspend a rule, so we cannot adjourn for more than seven days without a two-thirds vote. As I say, with hesitation I assented to the proposed change and decided it was best to rely on the majority of the Convention.

I think it is only fair for me to say that after I had assented to this change I was surprised to have the gentleman from Wellesley (Mr. Pillsbury) propose in the committee that we adjourn for the whole month of August, which seems to me an absurd proposition. We either ought to sit here and do our business or go over until after the war, if you please; but to sit here for a month, when we know we cannot get through, and then adjourn for a month, and then come back, and go on into the fall, seems to me unwise. Now, all the facts are before the Convention. I simply arose to make it perfectly clear that this does not affect the question of adjourning *sine die*, as I understand the rule.

Mr. SULLIVAN of Salem: We heard a good deal last session about the twenty-one wilful Senators. It seems to me the committee on Rules have sat, as we know, or some of us know, more or less regularly during the winter. They have given these changes in the rules careful consideration. The committee on Rules, as I look them over, are not any reactionary committee; they are a pretty representative committee of the different elements in this Convention, and they have recommended this change. I think we should adopt it. I do not think we should place ourselves in the position of having a wilful third of the Convention thwarting the will of a majority of the Convention. I hope that the report of the committee on Rules will be accepted.

Mr. PILLSBURY: I assume that the gentleman from Ware moves his amendment as a substitute only for the first clause of the proposed amendment to Rule 45; he does not intend, I assume, to interfere with the clause relating to the limitation of debate on adjournment to a day certain.

Mr. SAWYER: The gentleman is quite right. My whole purpose was to prevent the Convention adjourning more than thirty-five days at a time. I want to adjourn for the month of August, if the committee on Rules shall propose that later, but I do not want this Convention to have the power, outside of the rules, at any time to adjourn for six years or until after the war, or one year. I have quite as much confidence in the presiding officer as the gentleman from Milton (Mr. Bryant) but I recognize that there are methods by which parliamentary bodies may defeat the will of the presiding officer, even, and that we are not safe unless we adopt the rule in the shape that I propose it or allow it to stand as it now is. What would hinder, for instance, this Convention, if a motion to adjourn were ordered to the next legislative session, from adjourning to meet again on a new legislative day? There are plenty of devices whereby the will of the presiding officer, even under Rule 37, might be defeated.

Mr. PILLSBURY: The purpose of my friend from Ware is as I supposed it to be, simply to lay the ghost which gentlemen have raised here of an adjournment without day. I will leave the Convention to lay that ghost, and, accepting his explanation of his amendment as designed only to limit the period for which the Convention may adjourn at some time during the heat of summer, — and still trusting that it will not prevail because I do not think there is any occasion for it, — I move to substitute for his word "thirty-five" the word "forty", inasmuch as my friend on the left here has found by counting that thirty-five days will not cover the period of adjournment proposed by the order reported by the committee on Rules, while 40 days will cover it.

Mr. SAWYER: I ask unanimous consent to accept the change from 'thirty-five" to "forty", proposed by the gentleman from Wellesley.

The amendment moved by Mr. Sawyer of Ware was rejected, by a vote of 63 in the affirmative, 126 in the negative.

The question then came on the first amendment to the rule as advised by the committee: —

In Rule 45, by striking out the words "After July 17, 1917, until all amendments to the Constitution have been finally adopted for submission by the Convention to the people, no motion to adjourn for more than seven days at a time shall be entertained."

Upon this question more than forty joining in a call, the yeas and nays were ordered.

Mr. CREAMER of Lynn: I should like to rise to a question of parliamentary inquiry. Under the rules under which we are operating now does not an amendment to the rules require a two-thirds vote?

The PRESIDENT: The Chair would state that that is the general rule, or, at least, is a rule of the Convention, but these rules are reported under an order from the Convention itself, and that rule would not apply.

The Secretary called the roll, 130 voting in the affirmative, 123 in the negative, and the amendment was adopted.

The question then came on the second amendment proposed to Rule 45 as follows: —

By inserting after the word "postpone" the words "or adjourn", — so as to read as follows:

"45. A motion to adjourn shall always be in order; and that motion, or a request for the yeas and nays, shall be decided without debate. On motions to lay on the table, to take from the table, to close debate at a specified time, to postpone or adjourn to a day certain, to commit or recommit, and for suspension of any rule, and upon an appeal from the decision of the Chair, debate shall be limited to ten minutes, and no member shall speak more than three minutes. The statement of any question of personal privilege shall be limited to five minutes."

Mr. Anderson of Newton moved to amend by inserting after the word "debate" the words "but a motion to adjourn to an indefinite date or to adjourn *sine die* shall be debatable."

Mr. ANDERSON of Newton: The rule as proposed by the committee has the strange result that a motion to adjourn to a day certain can be debated for ten minutes, when the far more important motion to adjourn until after the war or some other indefinite date, or to adjourn *sine die*, is not debatable at all. It can be made and immediately the vote must be taken without debate, and the thing can be run through here in five minutes any time. It seems to me that the far more important motion to adjourn *sine die*, if debatable, should be debatable to an extent which is equal to that conceded any other important motion.

Mr. PILLSBURY: I think the solution of the difficulty of my friend from Newton is in the fact that he is wrong in his view of the parliamentary law. Can there be any reason to doubt that a motion to adjourn a legislative body of this character without day is a debatable motion?

The PRESIDENT: If the Chair is asked the question, the Chair understands that such a motion is debatable; that all motions to adjourn *sine die* or to a definite time under the present rules are debatable. The simple motion to adjourn without specification as to time is not debatable.

Mr. ANDERSON: The motion proposed, the new Rule 45 proposed, is this: "A motion to adjourn shall always be in order, and that motion . . . shall be decided without debate." I asked the gentleman from Wellesley whether that first sentence, "A motion to adjourn", included a motion to adjourn *sine die*, and he answered me that it did.

Mr. PILLSBURY: Oh, no. I made no such answer understandingly. If I answered to that effect I did not understand the question that was put to me, and I had indeed some difficulty in hearing what my friend from Newton said. My view of the question is that a motion to adjourn a body of this character without day is unquestionably debatable, and that the first clause of Rule 45 extends no farther than the ordinary motion to adjourn the session, — the pending session.

Mr. ANDERSON: May I ask the question where in the rules you find that dictum, that a motion to adjourn *sine die* is debatable? It seems to me that it says here that a motion to adjourn the session or to adjourn *sine die* shall be decided without debate, though it is not at all clear. Of course if we had unanimous consent that to adjourn *sine die* is debatable, I do not know but what that will do without the amendment; still I think I will persist in the amendment, to make the rule clear.

Mr. UNDERHILL of Somerville: Did I understand the Chair to rule that a motion to adjourn *sine die* was debatable at any time?

The PRESIDENT: The Chair does not understand that it is a case where he can make a ruling, but the Chair is of opinion that a motion

to adjourn *sine die* under general parliamentary law always is debatable, and that if there is nothing in the rules to the contrary it would be debatable. Under the rules as they now exist, and under the rules as they would exist if this motion is adopted, the Chair is of opinion that a motion to adjourn *sine die* would be debatable.

The amendment was rejected.

The PRESIDENT: The question comes on the recommendation of the committee, being the second recommendation as to the amendment of Rule 45, which is to insert after the word "postpone" the words "or adjourn", the effect of the amendment being, if it is adopted, only that it will limit debate on motions to adjourn to a special time, to ten minutes.

The amendment was adopted.

Mr. CREAMER of Lynn: I want to give notice that I shall move to have the Convention reconsider the first amendment to Rule 45. I should like to call the Chair's attention also to Rule 56, and to call to his attention that Rule 56, — in spite of the ruling he made that a change in the rules could be made by a majority vote, — that Rule 56 says distinctly that that rule shall not be dispensed with except by unanimous consent.

The PRESIDENT: That is not now before the Convention. The question is on substituting, for Rules 46 and 47, rules as recommended by the committee, which the Secretary will read.

The Secretary read as follows: —

By substituting for Rules 46 and 47 the following:

"46. The previous question shall be put in the following form: 'Shall the main question be now put?' Debate upon the main question shall be suspended until the previous question is decided. On the previous question debate shall be limited to ten minutes, no member shall speak more than three minutes, nor more than once without leave; and all incidental questions of order, arising after a motion is made for the previous question, shall be decided without debate, except on appeal, duly seconded, and on such appeal no member shall be allowed to speak more than once without leave. If the previous question is ordered, twenty minutes shall be allowed for general debate, no member to speak more than five minutes, after which the member in charge of the measure shall have not exceeding ten minutes, and the vote shall be taken forthwith upon amendments reported by a committee, upon other pending amendments, and then upon the main question."

Mr. QUINCY of Boston: I am asked to state for the committee that this somewhat long rule really contains only eighteen new words, namely, the words "twenty minutes shall be allowed for general debate, no member to speak more than five minutes, after which". All of the other words in the rule as proposed are in Rules 46 and 47 as now in force. The order of the language has been changed materially, Rule 47 as it now stands being moved back to follow the sentence "Debate upon the main question shall be suspended until the previous question is decided", as it seemed to the committee that this was the logical place to put it. Otherwise there is no change except as already explained, that as a matter of course twenty minutes is allowed for general debate after the previous question is ordered.

Rule 46 as recommended by the committee was adopted.

Rule 47 as recommended by the committee read as follows: —

"47. A member may move that the question be now put upon the pending amendment next in order, and if such motion prevails the member offering the amend-

ment and the member in charge of the measure shall each have not exceeding five minutes, and thereupon the vote shall be taken on the adoption of such amendment and amendments pending thereto."

Mr. QUINCY: This new Rule 47 does contain an innovation in parliamentary law. It is recommended by the committee in the belief that it will tend to more orderly and intelligent action in some cases on questions before the Convention. At present all pending amendments have to be put at the same time, or in succession rather, when the main question comes up to be voted upon, and there is no machinery by which any particular amendment or amendments can be taken out and dealt with by themselves, before the final vote is to be taken. This matter was discussed and a good deal of objection was taken in connection with one particular matter last year, which I will not refer to now, to the fact that it did not seem possible to take up a pending amendment and dispose of that before voting upon the main question. This proposition, Rule 47, introduces what is in principle a modified form of the previous question, and applies it to any particular amendment. There might be half a dozen amendments pending, it might be desirable before proceeding to vote upon the measure itself to take up one or more of those amendments and vote upon them, — so that the Convention may take action upon the amendment before it comes to the main question, and perhaps without providing for interrupting the debate upon the main question. Now, this proposed Rule 47 merely provides that, if it be the will of the Convention, — and it can be done only by vote of the Convention, — on motion of any member a pending amendment, or rather the pending amendment next in order, can be taken up by itself, voted upon and disposed of; and then the Convention can proceed, with the information thus obtained, to take up other amendments and finally the main question itself. We believe that this will tend to more intelligent action in some matters that will come before the Convention.

Mr. MAGUIRE of Boston: I should like to invite the attention of the Convention to that amendment. It seems to me it is the most drastic amendment that has been offered in this set of rules It strikes me that if it is adopted the Convention will be no longer a deliberative body, but will be subject to the tyranny of any temporary majority in the Convention. For instance, if any particular amendment happens to be pending and the temporary majority in the given session, for example, with a small attendance, is opposed to a particular amendment, and somebody rises and makes the motion that he is permitted to do under this rule, for those favoring the amendment the debate is practically cut off, limited to only five minutes. That restriction, coupled with the rule which immediately follows, preventing the suspension of the rules, after they are adopted, except by a two-thirds vote and then only after the matter is referred to the committee on Rules, makes the Convention entirely subordinate to this committee. Now, we labored under their rules in the last session. We had a whole lot of difficulty with them. Much of our trouble was due to this committee. I, for one, am not willing to follow blindly anything that they submit here. The adoption of Rule 47 will prevent delegates from discussing any of the amendments that they have presented to the Convention if at any given time a temporary majority in the Convention is opposed to consideration, except five minutes for the member who

offers the amendment and five minutes for the member in charge. I do not wonder that the gentleman from Wellesley (Mr. Pillsbury) turned the explanation over to the member from Boston (Mr. Quincy), but it requires much more subtlety than either of them have to convince me that the amendment ought to be adopted.

Mr. PILLSBURY: I rise only because my friend from Boston (Mr. Maguire) has invoked me, and only to say, regretting that the committee had so much difficulty in making itself understood by him, that he totally misapprehends the purpose and effect of this amendment. He describes it as drastic. It is exactly the other way. It is intended to relieve what I may call the drasticity, if there is any such word, — and if there is not I will create it, — of the existing rule. Let me illustrate it. Suppose a measure and a dozen amendments to it are pending. I hope I may have the attention of my friend in the third division (Mr. Maguire), because I expect to convince him. I assure him that he has misunderstood the purpose and effect of the amendment. Suppose a measure is pending, and there are half a dozen or a dozen pending amendments, a thing which has often happened within our experience. Suppose the Convention is tired and restless, and somebody moves the previous question and it is carried. That cuts off all debate upon any of the amendments and brings the Convention to an immediate vote upon the amendments and then upon the main question. The new rule is designed to relieve that situation, by allowing what is in effect the previous question, although we have not called it so, because we thought it would occasion confusion, — what is in effect the previous question to be applied to the debate upon a single amendment, whereupon debate on that amendment will terminate and the Convention will proceed to vote upon that amendment, without being committed to an immediate vote upon the main question or foreclosed against debate of any other pending amendment. I trust that I have made the explanation clear and that, I assure the Convention, is the only purpose or effect of this amendment.

The amendment was adopted.

The next amendment recommended by the committee was: —

By adding at the end of Rule 56 the words "; and Rule 35 shall not be suspended until the motion to suspend has been referred to and reported upon by the committee on Rules and Procedure", — so as to read as follows: "56. No rule or standing order of the Convention shall be dispensed with, altered or repealed, except by vote of two-thirds of the members present; but this rule, and Rules 22, 28, 37, 42 and 48, shall not be dispensed with except by unanimous consent; and Rule 35 shall not be suspended until the motion to suspend has been referred to and reported upon by the committee on Rules and Procedure."

Mr. PILLSBURY: This proposed amendment raises a question upon which there is undoubtedly room for difference of opinion, and on which I have no doubt much difference of opinion exists. It raises the question whether, and if so how far, the door of the Convention shall now be opened to the admission of new business. On the one hand, I presume that a majority of the Convention would agree that it ought not to be thrown wide open, so that we shall start in this month of June, 1918, with a hopper-full of entirely new business which the Convention has never before heard of. On the other hand, most of the members, I presume, would agree with the committee that he door ought not to be absolutely closed to the introduction of new business.

I have heard within the last few days of one or two measures which are likely, and which in my opinion ought, to be introduced and adopted. The committee on Rules, considering all that may be said upon this question, concluded that the judicious course would be to adopt the practice of the House of Representatives, which has been in force there for many years and so far as the committee can learn has worked to the general satisfaction, that is to say, of requiring the introduction of measures new to the Convention to be submitted to the committee on Rules for their examination and report as to whether they ought or ought not to come in here. That is the purpose and effect of this amendment.

Mr. HORGAN of Boston: May I ask the gentleman from Wellesley (Mr. Pillsbury) if under that procedure, the committee reporting unfavorably on a new proposition, it will require a four-fifths vote to supersede the report of that committee?

Mr. PILLSBURY: My present impression is that the rule could still be suspended by the ordinary two-thirds vote, but at a glance I am not able to assert that I am right. That is my present impression.

On a voice vote the amendment was adopted.

Mr. CREAMER of Lynn: Do I understand that my motion for reconsideration is now in order?

The PRESIDENT: The motion for reconsideration will go in the Orders of the Day for to-morrow. The Chair is in error.

Mr. CREAMER: You understood that I made a motion.

The PRESIDENT: The Chair is in error. On an incidental or collateral question the motion is in order at the present time.

Mr. CREAMER: I sincerely hope that the amendment by which we struck out the first part of Rule 45, that "After July 16", etc., will be reconsidered. I understand, or did understand when I made that motion to reconsider, that it would be placed first in the Orders of the Day succeeding. I should like to ask the President of the Convention if my understanding is correct?

The PRESIDENT: The Chair rules that such an understanding is not correct.

Mr. CREAMER: May I ask when that motion to reconsider can be acted upon?

The PRESIDENT: It should be made at the present time, before the report is disposed of finally. It can be entertained only before the report is disposed of finally, it being a motion to reconsider a question collateral to the main question that is before the Convention.

Mr. CREAMER: May I make a motion to reconsider and postpone consideration until to-morrow?

The PRESIDENT: You cannot postpone or move to postpone consideration of reconsideration of an incidental question, the main matter still being before the house.

Mr. CREAMER: May I make a motion to postpone consideration of the whole question until to-morrow ?

The PRESIDENT: A motion to postpone further consideration of the report of the committee until to-morrow would be in order.

Mr. CREAMER: I make that motion.

Mr. PILLSBURY: I hope that motion will not prevail.

On a voice vote the motion was rejected.

Mr. CREAMER: I then make my motion for reconsideration.

The PRESIDENT: Mr. Creamer of Lynn moves to reconsider the vote whereby the Convention adopted the recommendation of the committee, which was to strike out in Rule 45 the words "After July 16, 1917, until all amendments to the Constitution have been finally adopted for submission by the Convention to the people, no motion to adjourn for more than seven days at a time shall be entertained." The question is on reconsideration.

Mr. CREAMER: It seems to me that if the members of this Convention fully understood the meaning of this amendment those who are interested in the continuance of the work of this Convention could not possibly vote for it. Under this rule as amended it will be possible for a small number of men at some time when the attendance is light to adjourn without day or to adjourn till after the war is over. I should like to appeal to every delegate in this Convention who thinks that this Convention has important work to do now to vote for reconsideration, because unless he does so vote he, through some slight attendance on some occasion, may have no chance to see that work accomplished. I should like to have the Convention vote on this question of reconsideration with that thing fully and firmly in mind. If you want to adjourn, or if you want to put it in the power of a few men in this Convention to adjourn, at some time during some hot day when there are few here, why, vote not to reconsider; but if you believe that this is a time when the Commonwealth of Massachusetts should put its house in order, should endeavor in so far as this Constitutional Convention can accomplish it to have an efficient and a responsible government, then vote to reconsider.

Mr PILLSBURY: I presume it is unnecessary to delay the Convention farther upon this question, but this is simply another ghost. My friend from Lynn is mistaken in his view of the situation. He says that by adopting the amendment of Rule 45 we have opened the door to a snap adjournment of the Convention without day. It is no such thing. Under Rule 37, which also we have amended this afternoon, that is a motion upon which any member could ask that it lie over until the next day and it would have to lie over, and the Chair in his discretion would have power to lay it over, and it is impossible to believe that the Chair, even if no request were addressed to him, would entertain, at a moment's notice, a motion of that character and allow it to be finally disposed of. My friend from Lynn is disturbed by fears which are wholly imaginary.

Mr. CREAMER: I should like to ask the member from Wellesley (Mr. Pillsbury) if he means that under these rules as so far considered and adopted a motion to adjourn can be postponed till the following day on the bare request of one member.

Mr. PILLSBURY: Not a motion merely to adjourn the day's session, but an order or resolution to adjourn without day, which is the source of the fears of my friend from Lynn, as I understand them, and the Chair can lay over any such motion.

Mr. CREAMER: I should like to have the gentleman from Wellesley tell me if he means that that applies also to a motion to adjourn to a day certain.

Mr. PILLSBURY: I have already expressed that opinion as to the power of the Chair, who would undoubtedly exercise it if asked to.

Mr. CREAMER: I should like to have a ruling from the Chair on that.

The PRESIDENT: There is no question before the Chair for a ruling.

Mr. FLYE of Holbrook: It seems to me unfortunate, that on this, the first day of the reassembling of the Convention, there should be arguments advanced which are based upon the assumption that this Convention, or the working majority of this Convention, will act on considerations which are unfair and unjust and obviously dishonest. I believe that the Convention has confidence in the honesty and integrity of its working majority [applause], and therefore I hope that reconsideration will not prevail.

Mr. LANGELIER of Quincy: Mr. President, in your opening remarks you stated that the war had brought new questions for this Convention to consider.

The PRESIDENT: The Chair does not think the question of his remarks is before the Convention, but he dislikes to be misquoted. He made no such statement.

Mr. LANGELIER: Substantially, Mr. President, if I may correct that. As I sat here and noticed those who had talked this afternoon I noticed also that the war evidently has brought no new orators into the Convention. Therefore it is with some hesitancy that I start the ball rolling.

I agree that the result which is sought to be attained by the member from Lynn (Mr. Creamer) is right, but I disagree with him on the principle that he puts forth. I, too, agree with the member from Holbrook (Mr. Flye) in that every member here I believe has confidence in every other member, and it is too bad that we come here on the opening day with any idea that some one of our fellow-members is going to try to put something over on us. But this particular amendment is important, it seems to me, in this one particular, namely: You have heard the gentleman from Wellesley (Mr. Pillsbury) state that there would be a motion put into this Convention to adjourn the whole month of August. This amendment is the first skirmish, and he has won. Now, those of you who believe we should adjourn through the month of August should vote as you did before when you voted Yes, for that amendment. Those of you, it seems to me, who believe that we should sit here until our work is done this time, and that we should try to finish that work before September, should vote for reconsideration and then vote that amendment down. You remember last summer you heard the argument put forth here that we did not want to sit into September and beyond that, because the lawyers of the Convention would be busy, and the judges of the Convention would be busy, and the business men of the Convention would be busy. Now, if we are going to start this Convention to-day let us start it and keep it going until we finish the work, without an adjournment of one month [applause], and the only way to do that is to start it right, by voting down their amendment, thus keeping your seven-day rule.

Mr. UNDERHILL: I call to the attention of the Convention that last year the committee on Rules submitted rules for their guidance; that other members of the Convention, thinking their wisdom greater, made amendments to those rules, and the consequence was the mix-up which we had afterwards. Now, on this first day of the Convention

are you going to start with a reconsideration? If you are, you are going to continue to sit right straight through until the first of next January, and the next Legislature is not going to give you any salary.

On a rising vote, reconsideration was refused, 92 to 109. On a call of the yeas and nays, 116 voted in the affirmative, 127 in the negative, and the motion to reconsider did not prevail.

Length of Sessions.

The following report was submitted June 12, 1918: —

The committee on Rules and Procedure, who were authorized and instructed to report rules and orders for the government of the Convention, report recommending the adoption of the accompanying order:

Ordered, That unless it shall be otherwise ordered, the hour of meeting, except on Monday and Saturday, be 10.30 o'clock A.M.; that whenever the Convention is in session at 1 o'clock P.M. the President shall declare a recess until 2 o'clock P.M.; and that whenever the Convention is in session at 4.30 o'clock P.M., the President shall declare an adjournment.

Mr. Sawyer of Ware moved to amend by inserting after the word "Monday" the word "Tuesday"; and by adding after the words "until 2 o'clock P.M." the words "that on Tuesday the hour of meeting be 12.30 o'clock P.M.".

Mr. SAWYER: This amendment is for the benefit of the members from the western part of the State. Now the rules as proposed by the committee on Rules mean that we have got to come down Monday night in order to be here in time on Tuesday morning. If you will accept the amendment making the beginning of the session 12.30 on Tuesday, why, then we can come Tuesday morning and get here. This courtesy always has been extended to the five western counties on the part of the Legislature, they make the beginning of their sessions 1 o'clock the first day of the legislative week, and it appears to me that this Convention ought to extend the same courtesy to members from the western part of the State or from the Cape or other distant points, who otherwise will be compelled to get here the night before. This would mean, if the amendment be accepted, that the session on Tuesday shall be from 12.30 to 4.30, but on other days from 10.30 to 4.30. Already, without making any amendment, on Friday it will mean that some of the western members will have to stay and go home Saturday morning or get home about 10.30 or 11 o'clock that night. It seems to me that this Convention ought not to discommode members who come from a distance at both ends of the week. Give us the benefit of the first end of the week anyhow.

Mr. SMITH of Provincetown: I think that the gentleman's amendment ought not to be accepted in this Convention, for the reason that we do not come here of a Monday. He full well knows that we hold sessions of a Monday in the Legislature. Well, that leaves members an opportunity to be home on the Sabbath, and they get in here on Monday morning. Now, when we have got Monday, it does seem that every member of this Convention should be here and ready to go to work Tuesday. They have one full day. If we did not meet until Wednesday, why, then we would not want to go to work until half past twelve, according to his theory. It does not seem to me proper and right. We have had the committee on Rules make reports here

to-day that will facilitate this business, so that we will get through, and now the gentleman comes in and he wants to postpone it and cut out a few more hours on Tuesday. I hope that we shall adhere to the order first put in and the amendment of the gentleman from Ware (Mr. Sawyer) will be voted down.

Mr. SAWYER: I still want to reiterate before this Convention the unfairness of the order without this amendment. It absolutely means an additional expense and an additional day's time. In other words, the members of this Convention from Boston and near by are going to serve four days a week, and we from the western part of the State are going to serve five days a week. That is the whole situation. We are going to leave our homes Monday noon and come up on Monday in order to get here. We have got to lose a whole day, and the expense of that day at a hotel, in order to save one hour and a half in the afternoon. It is entirely unfair, and this Convention ought to be as fair to members from the five western counties as the Legislature always has been.

Mr. SMITH: I do not see how you can think it is unfair. There is not a gentleman who comes from the western part of the State nor even from the tip end of the Cape, there is no member of this Convention, but knew what he was doing. That is why they sent us here. I assure you that the members from the Cape will be here Monday or Tuesday or any time that the Convention sits, and it does not seem right to me. If we want to put this business through in a reasonable amount of time and with care I hope that we shall accept the order that has been read here and the amendment of the gentleman from Ware (Mr. Sawyer) will be voted down. Let us demonstrate to the people who sent us here that we are not commencing to quibble on the first day of the adjourned Convention to see how much work we can get clear of. I will say that if it takes another day of the time of the gentleman from Ware we are entitled to a little more credit, are we not? That is what we are here for. We want some credit for this. And to the gentlemen from the metropolitan district it is all right and proper. They knew what they were doing. If they work but four days and we work five, so much the better if we do it all for the Commonwealth.

Mr. LUCE of Waltham: In arranging the hours for the sessions of the Convention it is impossible to consult the convenience of everybody. It therefore becomes necessary to ask some members of the Convention to make more sacrifice than others. The proposal of the gentleman from Ware (Mr. Sawyer) is equivalent to asking the Convention to prolong its labors one week more than otherwise will be necessary. I respectfully submit that to accommodate gentlemen situated like the delegate from Ware at the expense of prolonging the labors of the Convention by one week is not reasonable. For my own part I should have preferred that this order would contemplate sitting as many hours a week as the Legislature sits when it is holding two sessions a day, namely, twenty-two hours and a half, but I may be pardoned for revealing the fact that a majority of the gentlemen on the committee thought twenty hours a week would suffice our needs. That is a gain over last year, when sixteen hours a week was our rule. It still falls short of the legislative schedule, and very far short of the schedule of previous Conventions, but perhaps twenty hours a week

is a reasonable compromise that will suit the convenience of the greater part of the members, and that is all we may hope to obtain.

Mr. Adams of Springfield moved to amend by the substitution of the following: —

Ordered, That, unless it shall be otherwise ordered, the Convention shall sit hereafter on Monday to Friday inclusive, of each week, and that the hours of its sitting shall be from 10.30 o'clock in the morning until 1 o'clock in the afternoon, and from 2 o'clock until 5 o'clock in the afternoon, of each of such days.

Mr. Adams of Springfield: We have had the experience of sitting in this Convention for some six months and of accomplishing by numerical computation rather less, I think, than a quarter of our work. It seems to me that it is the business of this Convention to finish what it has undertaken. Perhaps the people would not have asked us to undertake this work if they had thought it would take so long, but as yet they have done nothing whatsoever to call us back or in any way to affect their mandate or order or the commission they gave us. It seems to me that the work of this Convention should be our first business and our first duty, and that in these trying times, when many other people are giving so much more than we are asked to give, we should give all in the way of time for the accomplishment of these duties that is necessary to bring this Convention to as speedy a close as possible. [Applause.]

Mr. McLaud of Greenfield: I merely wish to state that the substitute motion meets with my approval. I do not know for whom Mr. Sawyer of Ware speaks, as to what members from the western part of the State. I have not heard any of the members from Berkshire, who are the most inconvenienced in attending this Convention, speak on this question. Personally I reside 106 miles from Boston. It is my desire to get this over as soon as possible, and instead of cutting down the hours I hope the Convention will vote to add to the hours and add to the service, so that we may conclude all the sooner.

Mr. Hibbard of Pittsfield: I hesitate to speak on this question now under discussion lest in what I say I may be thought selfish in seeking my private convenience, but I trust the motion made by the delegate from Springfield (Mr. Adams) may not prevail. It seems to me as if in these times, which the delegate properly called "trying times," we should have a little time to attend to our private business and the duties which some of us are called upon to discharge in aiding the Federal government in the furtherance of enlistments and the work of the selective draft. I do not believe we should gain anything by compelling some of the delegates to be in attendance on Monday, and in order to do so leave home Sunday night. Saturday is now practically a holiday and very little business can be conducted, so that the only day that many of us have at home on which to attend to private business, or even to public business, is Monday. I do not advocate delaying the opening of the session on Tuesday. Very few of the delegates from the western part of the State would have to leave home on Monday night to be here on Tuesday. Trains are so arranged now that we can reach Boston about 11.30 in the morning and that is the train we would take, unless there was something very unusual before the Convention which would require our attendance early Tuesday morning. I trust the recommendation of the committee will be ac-

cepted by the Convention and that we all will be in our seats promptly and proceed to discharge the business we are called upon to discharge in an orderly and intelligent manner.

Delegates from the western part of the State ask no favors and are prepared to attend two or even three sessions each day in order to complete their work. It is true we realized in part the duties we are called upon to discharge as members of the Convention, but many matters have arisen since this Convention assembled which take our time and thought and attention, and I do not believe it would be conducive to the public good and the public service to attempt to compel delegates to be in attendance on Monday. However, if the Convention thinks that Monday is a day on which we should sit, we of the western part of the State will sacrifice our private business and personal interests and be in our accustomed seats.

The record of the delegates from the western part of the State for attendance will bear comparison with any other part of the State during the last six months in which the Convention sat. [Applause.]

Mr. ADAMS of Springfield: I have been told that the Convention's printing cannot be delivered until half-past ten in the morning of each day. I therefore ask unanimous consent to substitute in my order for the words "ten o'clock" the words "ten-thirty o'clock."

No objection was made.

The amendment moved by Mr. Sawyer of Ware to the original report and the substitute offered by Mr. Adams of Springfield were rejected and the order was adopted.

Debate after Motion for Previous Question.

On the 28th of June, 1918, Mr. O'Connell of Boston offered the following order: —

Ordered, That the committee on Rules and Procedure consider the expediency of so amending the rules as to provide that, whenever the previous question is moved, the presiding officer shall not put the question to a vote until every member of the committee which has reported the measure under discussion shall have had an opportunity of speaking on the subject under discussion.

Mr. O'CONNELL of Boston: I moved this amendment to the rules after witnessing in this hall a disposition to move the previous question before a subject has been adequately discussed. Men are impatient and people are inclined to say there is a lot of talk. That may be true, but here is the situation that confronts us as a Constitutional Convention: A measure is reported out by a committee, two or three members talk about it, then some one rises and moves the previous question, as was done yesterday, when the previous question was asked before the gentleman from Northampton who was a member of the committee on Taxation had had opportunity to express his position on the measure.

What have we got here? This measure is not for the purpose of bringing into this Convention a lot of talk, it is not for the purpose of prolonging the debate, but it is for the single purpose of bringing to the debate the best information that the Convention may have. We are doing this by committees, and the best-informed men on any particular measure are the members of the committee. The committee

on Taxation went into these questions very thoroughly. The taxation problem is a scientific and a troublesome question, and all the information, all the light, that can possibly be brought to the subject ought to be brought to it, and it should not be cut off by any previous question or any rules of that nature.

You who are not members of the committee on Taxation have no appreciation of the various measures before you. You may read them but you do not grasp their significance; but the man who has been on the committee, who has listened to the arguments, ought to be given an opportunity. On all the committees of this Convention there probably are not more than four or five members who care to speak, and it does seem eminently unfair to me to cut off by the previous question any member who may desire to talk on it. I therefore have introduced that rule, hoping to obviate the difficulty that we are confronted with of having information cut off that ought to be presented to us.

The order was rejected.

ADJOURNMENT OF THE CONVENTION.

On the 28th of September, 1917, the following order, offered by Mr. Avery of Holyoke, came up for debate: —

Ordered, That the Convention continue in session until the fourth Friday of October next, and that it then adjourn until the second Tuesday of June in the year 1918.

THE DEBATE.

Mr. Avery of Holyoke: I do not wish to take up very much of the time of the Convention. I have no particular pride about the form of this order, nor have I any objection that it later be referred to the committee on Rules, but I want to submit to the Convention that it is a matter which should be settled. We have been in session since the 6th day of June; we have been in session four months. We have completed one matter to go to the people at this time. There are 168 measures left on our calendar. In the months of November and December there come election day, Thanksgiving day and the holidays. There are not more than thirty Convention days in those two months. The month of October will be consumed with this anti-aid bill, with the bill relating to the necessaries of life, and with the initiative and referendum. As a practical matter, we cannot complete the work of this Convention in the months of November and December, and we shall have to adjourn on the first or before the first of January.

I hold in my hand this little volume of the Constitution, and in the back of it is a diary. The last date is October 3. That illustrates the idea that was in somebody's mind when this Convention was proposed, — that it would take four or perhaps five months, some thought less, to finish the work of the Convention. It has taken much more, and it will take much more time if we give any thought or any deliberation. We have wasted time, we have made mistakes; but we have considered, and are to consider, deeper and more fundamental questions than any Convention of recent years in the whole United States, and it must take time, and it must take thought and care.

Now, we have reached this situation. There are many men in this Convention who cannot afford to come here much longer, but who are too proud to avow it. There are men representing the laboring interests of this Commonwealth who soon will have to absent themselves from the hall of this Convention. Now, is it fair? Is it fair to the clergymen, who ought to be back pretty soon doing their parish work? Is it fair to the lawyers and the courts, and to the other lawyers and to the clients, to continue this thing through the rest of this year? Is it fair to the business men and to the laboring men? We face a condition here, and not any theory of what our duty was when we took upon ourselves the duty of coming to this Convention. If we could

finish this work in two months we all would stay, but we know we cannot finish the 168 measures in that time.

Just look at some of the measures. All the questions relating to the judiciary, to municipal home rule, municipal ownership, street railways, the question of housing, the question of social insurance, the question of State insurance, the question of hours of labor, advertising and bill-boards, building construction, the great question of liquor, the great question of taxation, a budget of finance, the constitution of the General Court, the Governor's Council, methods of representation, of suffrage, of the executive, of biennial elections, of judicial power and procedure, and of the amendment and codification of this Constitution. Can you do that in thirty days at the rate at which we have been going? It is impossible as a practical matter, and it is not fair to a great many men in this Convention to attempt it. We can do some things in October if we will work better than we have. Then we can come back, dedicated to devote next summer to it, with the lessons that we have learned from the mistakes we have made. Our committee work will have been done, we will know what the faults of our procedure are, and we can finish and complete our work in an orderly, in a dignified, and in a scientific manner. [Applause.]

Mr. WEBSTER of Haverhill: I want simply to add a very brief word of endorsement to the suggestion of the honorable member from Holyoke. In my opinion, there is more common sense and good taste and good judgment in the remarks he has made here than in anything we have listened to in all the deliberations of this Convention. [Laughter and applause.] It goes without saying, as he has said, that we must drop this work when the Legislature comes in the first of January, and certainly it would be too much of a strain on the optimism of any gentleman here, I am sure, to assume that we possibly could take care of all the matters that he has enumerated in the few days that are available for our work between October and January.

The gentleman has spoken of the injustice to members of the Convention. True; many of them would feel it perhaps a hardship to be obliged to sit here continuously now. But I should like to call attention to the injustice which would be worked upon the people of the Commonwealth should we attempt in the time which is at our disposal between now and the next convocation of the Legislature to dispose of this mass of important propositions which the gentleman so impressively has spread before us. Why, we know that if we have to deal with them at all they must be subjected to that well-known process of "throwing them out of the window."

Now, it is not fair, it is not right; and while it may impose a considerable hardship upon us to come back here and spend another summer, if we are true to our duty and our sense of propriety in our positions here, I believe, sir, we shall endorse the proposition of the honorable member from Holyoke.

Mr. CHANDLER of Somerville: It seems to me that we can get along faster if I should move the previous question at this time. I therefore move it.

Mr. HARRIMAN of New Bedford: What has been said is absolutely true, and there are men in this Convention who cannot afford to stay here the time that we should reasonably attend to business. There are several phases of this question which should be discussed; and if in

order, I would move that the matter be referred to the committee on Rules and Procedure.

The PRESIDENT: The question is: Shall the main question be now put? The motion to commit is not in order when a motion for the previous question is pending.

Mr. SULLIVAN of Salem: I should like to have a ruling from the Chair if this comes under Rule 45, page 14 of the book on rules, the last part, where it says:

After July 16, 1917, until all amendments to the Constitution have been finally adopted for submission by the Convention to the people, no motion to adjourn for more than seven days at a time shall be entertained.

The CHAIRMAN: Mr. Sullivan of Salem raises the point of order that under Rule 45 the order is not in order. The Chair rules the point of order well taken.

Mr. SULLIVAN: What I want to do is this. I want to make an amendment to this in the second line so as to strike out the word "adjourn", and insert the words "take a recess", so as to read "That the Convention continue in session until the fourth Friday of October next, and that it then take a recess."

The PRESIDENT: The Chair would rule that that also would be in violation of Rule 45.

Mr. AVERY of Holyoke: I move that we suspend Rule 45.

Mr. BROWN of Brockton: I wish to ask if this is to be taken seriously by this Convention? If so I think the time ought to be made longer than the last Friday of October.

On a rising vote, on the question of suspending the rule, the monitors returned a count of 161 in affirmative and 54 in the negative, and more than two-thirds having voted in the affirmative, the rule was suspended.

Mr. LUCE of Waltham: Permit me to express the hope that the motion for the previous question will not prevail, but that it may be rejected, in order that then a motion to refer this matter to the committee on Rules and Procedure may be entertained. It is manifest that so important a question as this ought not to be decided without preliminary consideration by the members of the Convention itself, for it very gravely affects the future of our work, and there ought to be time given for reflection, consideration, and a comparison of views. Therefore I hope the motion for the previous question will be rejected, in which case I shall move that the matter be referred to the committee on Rules and Procedure.

The PRESIDENT: The Chair will state that, under the ruling of the Chair, the order was declared out of order, and when it was so declared the motion for the previous question fell with it. Subsequently it was moved again under a suspension of the rule, or, at least, a member moved to suspend the rule in order that the matter might be brought before the Convention. The order is now before the Convention under suspension of the rule.

Mr. LUCE: I move that the matter be referred to the committee on Rules and Procedure.

On a rising vote, the monitors returned a count of 162 in the affirmative, 32 in the negative, and the motion to commit prevailed.

On the 16th of October, 1917, the Convention considered a motion of Mr. Samuel W. George of Haverhill that the Secretary of the Commonwealth be directed to place on the ballot at the coming State election, Tuesday, November 6, the following question: —

Shall the Constitutional Convention be discharged from the further consideration of amending the Constitution?

THE DEBATE.

Mr. GEORGE of Haverhill: I think that the members of this Convention fully appreciate that this is an inopportune time to carry on a Constitutional Convention. We now are engaged in war. There is a demand for every citizen, every member of this Convention, to do something, either in behalf of the Nation or the State or his city or town. It seems to me that if we had adjourned when this Convention had convened until next June, and then adjourned until the war is over, we should have been in a position where we could have attended to the duties of the Convention with some public interest in our work. As I understand the situation, there is no public interest in this Convention. I have asked 115 people within a week, as I met them on the train and on the street, and 110 out of the 115 were of the opinion that this was an inopportune time to hold a Constitutional Convention; that we could better serve the State and better serve the Nation by adjourning. A gentleman in the corridor told me this morning that he had made inquiries in the town of Stoughton, and he said it was practically the unanimous opinion that this Convention's work should cease.

Now, we find ourselves in this position. More than one-half of this Convention cannot afford to sit longer than this month. More than half of this Convention believe it would be wise to adjourn until another year. I rather object to that proposition, because I know if we adjourn to the first Tuesday of next June it means that the Legislature is to duplicate the present appropriation for the work of this Convention, and I came here with the intention of sitting here until we cleaned up the work. But when the people voted in favor of this Convention a year ago we were not at war. I believe if this proposition was on the ballot on the first Tuesday in November, the people would not vote in favor of holding a Constitutional Convention at this time.

Of course, it is a rather delicate question to put up to the members of this Convention, as to whether or no they are going to adjourn until next year; but it seems to me that the people originally voted in favor of holding this Convention. Now, if we put this proposition on the ballot, and they vote to discharge us, we have done our duty and they have done their duty. On the other hand, if they do not vote to discharge us, we can sit here the balance of the year and try to do the work the best we may. But I think it is a reflection on the Convention, to sit here five months and a half, spend the entire appropriation, and then go to the Legislature for more money; yet some of our members have set themselves up as models as members of parliamentary bodies. I do not think there is a Legislature that ever came to any such conclusion as this, or ever brought about any such condition as this.

In view of the fact that there are so many members here who have

such undying faith in the people, we can put this on the ballot and let the people say whether or no they want us to sit longer, and come back another year and spend another three or four hundred thousand dollars, when we ought to be doing something else at less expense to the Commonwealth.

The motion was negatived.

On the 17th of October, 1917, the Convention considered the following order offered by Mr. Harold A. Besse of Newburyport:

Ordered, That, after the final disposition of the amendments that are to go on the ballot this year, nothing be considered but the initiative and referendum; and that, after this amendment has been finally acted upon, the Convention adjourn until the first Tuesday of June, 1918.

The Convention also had before it the following order offered by Mr. Josiah Quincy of Boston:

Whereas, Under the orders heretofore passed by the Convention, the final payment of salary to its members will be made at the end of the month of October, leaving no provision for payment of any further salary thereafter; and

Whereas, It appears impossible for the Convention to take action before the first day of November upon the 170 reports of its committees which still await consideration, 23 of such reports recommending the adoption of amendments to the Constitution, many of which are of great public importance; and

Whereas, It is claimed that many members of the Convention will be financially unable to continue their attendance after the close of the month of October, unless provision is made for a continuance of the salaries of members at the rate of one hundred and fifty dollars a month heretofore paid, and all members of the Convention are fairly entitled to continue to receive such salary during such reasonable time as may be necessary to enable the Convention to finish its business; and

Whereas, It is against the public interest that the Convention should be led to adjourn, without reaching most of the matters before it, through the financial inability of many of its members to continue their attendance, and it is also undesirable that the Convention should be obliged to continue its work with many of its members necessarily absent; therefore, it is hereby

Ordered, (1) That members of the Convention shall be entitled to be paid for their services during the month of November, if the session of the Convention shall extend into said month, at the rate of one hundred and fifty dollars for the whole of said month;

(2) That the committee on Contingent Expenses and Pay-Roll be instructed to make up and certify to the Auditor of the Commonwealth, prior to the end of the month of November, or at such earlier date in said month as the Convention may adjourn, a pay-roll covering the amounts payable to the members of the Convention under this order;

(3) That, in case the Treasurer and Receiver-General shall deem that it has no sufficient authority of law to apply any money in the treasury to the meeting of such pay-roll, then the President of the Convention be requested to petition the next General Court, on behalf of the Convention, to make such appropriation as may be necessary for the meeting of such pay-roll; and be it further

Ordered, That all officers and employees of the Convention shall be entitled to be paid for their services for the month of November, or for such portion of said month as the Convention may remain in session, compensation on the *per diem* basis heretofore fixed, in the case of those paid *per diem*, or, in the case of officers or employees paid a fixed sum, at the rate of one-fifth of such sum for the whole month of November, or a *pro rata* amount for any portion of said month during which the Convention may remain in session; that the said committee make up and certify in like manner a pay-roll covering such payments; and that, if such pay-roll is not met by the Treasurer and Receiver-General, the President of the Convention be requested to petition the next General Court in like manner to make such appropriation as may be necessary for meeting such pay-roll; and be it further

Ordered, That the Convention, in the exercise of the powers vested in it, hereby declares that the Commonwealth is legally liable for the payment of the amounts which may become due in accordance with the foregoing orders and with the pay-rolls made up in accordance therewith.

THE DEBATE.

Mr. AVERY of Holyoke: The committee on Rules has been trying to do something with this question of the continuance of the Convention and the arrangement for some plan of program, so that we shall know where we are in the matter of recess or adjournment. I understand that after a great deal of discussion they may be able to report something to this Convention, which will be definite, on which we can act. I think that everybody here wants that our acts should be in consonance with the dignity of the Convention and the work that we were called upon to do. We ought not to do anything hastily, we ought not to do anything that we shall regret, but we ought to know where we are. If we are going to sit here till the day before Christmas we ought to know it. If we are going to adjourn in three weeks from now we ought to know that. If we are going to meet two weeks every month next year, we ought to know that. If we are going to come back in June we ought to know that. The time has come when we ought to have a definite plan here, so we can plan our business and make our arrangements.

The people who come here week after week are doing their duty. They are not staying away from this Convention, like certain great and prosperous people who seldom are seen here.

Now, at the request of the chairman of the committee, and of the President of the Convention, I am going to move that this order, introduced by the delegate from Newburyport, be referred to the committee on Rules, so that that order, and the order which I introduced and the order which I understand the gentleman from Boston in this division introduced, can be considered together and a definite report made. I make this motion in the hope that the committee on Rules will be able to make a report, so that we can consider it tomorrow morning in this Convention. [Applause.]

Mr. BESSE of Newburyport: I understand from reliable sources that the committee on Rules will report unanimously against any order to adjourn this Convention until it is through its labors. I think that the sentiment of this Convention is for adjournment, but I do not believe that we should break into the argument on the initiative and referendum. For that reason I trust that this order will not be given to the committee on Rules. They have not reported on the order of the gentleman from Holyoke, although I have noticed in the newspapers that they were opposed to it. It seems very peculiar to me that these newspapers should have advance information, before this Convention. I do not think it is fair to the members of this Convention that these things should get out. I trust that the rules will be suspended and that my order will be debated.

Mr. Ross of New Bedford: I think the gentleman who has just taken his seat is reckoning from wrong premises. I think I can state that the committee on Rules is not unanimous in the sense he speaks of. I also feel, after discussion in the committee this morning, that it would be better to have these orders referred to the committee on Rules, who in my opinion could report in twenty-four hours, or not much more, and I think that the Convention will be very much more satisfied with the results after they have heard the report of the committee on Rules. I also am satisfied that if the gentleman who last

spoke was acquainted with all the facts he would favor the disposition of this question as moved by the gentleman from Holyoke. I hope the motion will prevail.

Mr. Besse: I should like to ask the gentleman why the committee on Rules has not reported the order of the gentleman from Holyoke (Mr. Avery).

Mr. Ross: I think the gentleman from Holyoke can answer that question better than I can.

Mr. Avery of Holyoke: One reason why the committee have not reported is because I asked them not to. I did not want anything to come into this Convention to disturb the work that was trying to be done last week. I thought that was the most important work of the Convention, to determine what matters should go on the ballot and the way in which they should go on the ballot, and a matter like the question of adjournment could well afford to wait.

Mr. McLaud of Greenfield: I would move to amend so as to read that the committee on Rules and Procedure shall report to-morrow morning, on the motion of the gentleman from Holyoke, and on the motion of the gentleman from Newburyport.

The amendment was adopted, and the motion to commit the matter to the committee with instructions prevailed. Thereupon Mr. Avery of Holyoke moved that the order offered by Mr. Quincy of Boston be committed to the committee on Rules, with the same instructions as to the time at which they should report.

Mr. Pillsbury of Wellesley: I rise to ask my friend from Holyoke (Mr. Avery) if he will not omit the latter part of the motion. The order offered by the gentleman from Boston in this division, to which his motion relates, involves some very delicate and possibly difficult questions, which reach very much farther than the immediate object of this order, and they call for careful consideration. They relate to the powers of the Convention, and they are questions of a character on which the Convention ought not to take a position until it is sure it is right. There is no occasion that I know of for a report to-morrow morning; and while the committee is entirely in accord with the reference which my friend from Holyoke has moved, — I indeed had intended to move it, — I trust he will withdraw the mandatory part.

Mr. Avery: I am very glad to withdraw that part of it.

Mr. Quincy of Boston: I merely wanted to say one word, giving my entire assent to the motion to refer to the committee on Rules. I had no doubt when I offered the order yesterday that it would be so referred, and it ought to be so referred. My object in moving it independently of the committee on Rules was merely to bring before the members of this Convention in a concrete form the fact that certain propositions might be made, and good reasons urged in their support, looking to some action to meet what I believe to be a present need of the situation. I feel assured that the committee on Rules will deal with this matter expeditiously and seriously, and that the Convention will have the results of the deliberations of that committee shortly.

Mr. Sawyer of Ware: I move that the matter be referred to the committee on Rules, with the following amendment: That wherever the word "salary" occurs it be stricken out and the word "compensa-

tion" be substituted; and that in the section where it says they shall be "paid for their services during the month of November," there be added "and the month of December;" and at the end of that clause there be added the provision, "provided, that final adjournment of the Convention shall be not later than December 15."

The PRESIDENT: The Chair rules that the amendment is not in order, the form of the order not being before the Convention.

Mr. PILLSBURY of Wellesley: Will my friend from Holyoke (Mr. Avery) join in his motion the committee on Contingent Expenses? There is an obvious propriety in joining that committee for the consideration of the order offered by my friend from Boston in the third division. Will the gentleman from Holyoke agree to that?

Mr. AVERY: I shall be glad to.

The motion prevailed.

Thereupon Mr. Sawyer of Ware offered the order of the gentleman from Boston (Mr. Quincy), which had just been referred, amended by striking out the word "salary", and substituting the word "compensation", wherever it occurred; by adding after the words "paid for their services during the month of November," the words "and the month of December;" and by adding at the end of the clause the words "provided, that final adjournment of the Convention shall be not later than December 15."

Mr. SAWYER of Ware: In offering this order and moving that it be referred to the committee on Rules and the committee on Contingent Expenses, I do so because I think there are decisions that it is impossible for members in State employment to draw two salaries at one time. It has been found necessary when members of the Legislature received additional pay for summer recess work to call it additional compensation rather than a salary. The act that we adopted which authorizes the Convention to sit, limited the salaries specifically to $750, and therefore the order must be changed so that it shall be "compensation" rather than "salary," if we are to get any additional pay.

Also, there are two propositions before us; one for adjournment until next summer, one to stay here and finish our business. In order that we may vote intelligently upon the proposition of staying here and finishing our business, we want to know that we are going to finish it this year. If we set a final date for adjournment beyond which we shall not sit here, it means we will finish our business even if we have to hold evening sessions. I think there are a lot of us here who would like to set a date and stay here and finish our work. But if it be indefinite, and we merely stay here one month, and receive that additional pay and then adjourn to another summer, why, it is another proposition. I trust that this order may be referred to the committee on Rules and the committee on Contingent Expenses, to be considered with the other propositions before them.

The motion that the matter be committed to the committee on Rules and Procedure and the committee on Contingent Expenses and Pay-Roll, sitting jointly, prevailed.

On the 18th of October the following report was considered:

The committee on Rules and Procedure, to whom was referred the order that the Convention continue in session until the fourth Friday of October next, and that it then adjourn until the second Tuesday of June in the year 1918, report recommending that the same ought NOT to be adopted.

THE DEBATE.

Mr. AVERY of Holyoke: I rise to a parliamentary inquiry. A vote of "Yes," as I understand it, would sanction or adopt the report of the committee?

The PRESIDING OFFICER (Mr. Underhill of Somerville): The gentleman is in error. The question is on the adoption of the order, the committee on Rules recommending that the order be NOT adopted. Consequently a vote of "Yes" would be in favor of adopting the order notwithstanding the report of the committee, and a vote of "No" would be to substantiate the report of the committee.

Mr. AVERY: I would move to amend that order, that the Convention adjourn until the first Tuesday of June after it has completed final consideration of all matters relating to the initiative and referendum.

The PRESIDING OFFICER: The Chair is informed that there are other reports from the committee on Rules which may have a bearing upon this amendment as offered by Mr. Avery of Holyoke, and if the gentleman cares or agrees to withdraw his amendment at this time there will be another opportunity to offer the amendment if he so desires.

Mr. AVERY: If there is another opportunity I will withdraw it, but the rules have been suspended on that order; they have not been suspended on any other order, and I do not want to lose the advantage of the suspension of the rules.

The PRESIDING OFFICER: The gentleman is correct in his assertion. If he desires still to insist on offering his amendment the Chair will entertain the motion. In the meantime, if the Convention desires, the other order as prepared by the committee on Rules might be read for their information.

Mr. AVERY: I am willing that that should be done.

The Secretary read as follows:

The committee on Rules, to whom was referred the order that, after the final disposition of the amendments that are to go on the ballot this year, nothing be considered but the initiative and referendum; and that, after this amendment has been finally acted upon, the Convention adjourn until the first Tuesday of June, 1918 —

Mr. Avery addressed the Chair.

The PRESIDING OFFICER: The Secretary will read now the amendment as moved by Mr. Avery, as the Secretary understands it.

Mr. AVERY: May I make an inquiry? What was that which the Secretary just read? Was that a report?

The PRESIDING OFFICER: That was the order as offered by Mr. Besse of Newburyport, and reported on adversely by the committee on Rules. The Secretary will read the amendment of Mr. Avery of Holyoke.

The Secretary read as follows:

Mr. Avery moves to amend by the substitution of the following order:
Ordered, That nothing be considered but the initiative and referendum, and that after this amendment has been finally acted upon the Convention adjourn until the first Tuesday of June, 1918.

Mr. PILLSBURY of Wellesley: It seems to me that for a clear understanding by members of the Convention, it should be said to them, — what has not yet been said so far as I understand, — that the committee on Rules has found itself compelled to report against both orders, the Avery order and the Besse order, and that both of those reports are in the hands of the Chair.

Mr. SAWYER of Ware: Do I understand that the rule has been suspended on the order allowing adjournment from October 26th, so that a majority vote would carry it?

The PRESIDING OFFICER: The rules have been suspended on the order offered by Mr. Avery of Holyoke.

Mr. SAWYER: So that a majority vote —

The PRESIDING OFFICER: So that only a majority vote will be necessary at this time.

Mr. POWERS of Newton: The order offered by the gentleman from Holyoke provided for an adjournment to the first Tuesday of June, I understand. Of course that is on the assumption that the Legislature will not be in session on the first Tuesday of June. It seems to me that it would be better if the order provided that we take an adjournment subject to the call of the President of the Convention, within a week after adjournment of the Legislature. I should like to ask the gentleman from Holyoke if he will accept an amendment of that character.

Mr. AVERY: I shall be glad to do so.

Mr. POWERS: I move that the order be changed so that it will read that the Convention take an adjournment subject to the call of the President within one week after the final adjournment of the next session of the Legislature.

The PRESIDING OFFICER: Mr. Powers of Newton moves to amend the amendment of Mr. Avery of Holyoke, striking out the words "until the first Tuesday in June," and substituting therefor "subject to the call of the President of the Convention within one week after the adjournment of the Legislature."

Mr. POWERS: A suggestion is made to me by the gentleman from Boston in this division (Mr. Parkman) that the call should come from the Secretary of the Convention rather than the President.

Mr. PARKMAN of Boston: The President also.

Mr. POWERS: Well, then, I will put it "President or Secretary."

Mr. LEONARD of Boston: I would suggest using "General Court of 1918," rather than the word "Legislature."

Mr. POWERS: I shall be glad to accept that, — "The General Court of 1918."

The PRESIDING OFFICER: The Chair will ask, as so many amendments have been offered, that those who move further amendments will please put them in writing in order that they may be correctly stated to the Convention. The Secretary will now read the amendment offered by Mr. Avery of Holyoke as amended by Mr. Powers of Newton and accepted by the gentleman from Holyoke, Mr. Avery.

The SECRETARY: The order under consideration is the order offered by Mr. Avery, reading as follows:

Ordered, That the Convention continue in session until the fourth Friday of October next, and that it then adjourn until the second Tuesday of June in the year 1918.

Mr. Avery now moves to amend by substituting the following order:

Ordered, That after the final disposition of the amendments that are to go on the ballot this year, nothing be considered but the initiative and referendum; and that, after this amendment has been finally acted upon, the Convention adjourn until the first Tuesday of June, 1918.

Mr. Powers moves to amend this amendment by striking out the words "until the first Tuesday of June, 1918," and inserting in place thereof "subject to the call of the President or Secretary of the Convention within one week after the prorogation of the General Court," so as to read:

Ordered, That after the final —

Mr. AVERY: My amendment was not correctly stated.

The PRESIDING OFFICER: Will the gentleman please put his amendment in writing?

Mr. AVERY: I will.

Mr. SAWYER of Ware: This is a very important matter to the delegates of this Convention. Every delegate is interested in it, and there ought to be due warning to all delegates that we are to act upon this matter. This matter ought to be considered also in the light of the other order, offered by Mr. Quincy yesterday. I think that if we could delay action upon this until next week the committee on Rules might be able to report the other order, and the alternative matters would be before the Convention, and the Convention be warned. And as we have other matters pending I move that further consideration of this matter be postponed until Tuesday next, first in the Orders of the Day.

Mr. AVERY of Holyoke: I do not think we ought to delay this matter any longer. We ought to know pretty soon where we are at. This is a further delay, and it has been delayed, — part of which I asked. I expected this morning a constructive report from the committee on Rules, and I expected that would come in first so we could see what the committee really did think. The only thing that did come in was an adverse report on the order which I introduced, and if that was acted on then all the advantage of the suspension of the rules would be lost. Now, I ask for fair treatment, and I ask that this thing be settled now and that there be no further delay. [Applause.]

Mr. WHITE of North Brookfield: I realize as well as any one how much it is costing the members of this Convention to be here, and perhaps those who can best afford to be here are noticeable by their absence. I appreciate as much as anybody how much it is costing members of this Convention to stay here and do the work that remains for us to finish. Now, let us pause a moment at this time. I desire to appeal to your patriotic spirit. It is costing us a great deal to remain here, but how little in comparison with the sacrifices that are being made for us by our boys, and many thousands of men and women scattered all over this Commonwealth, in order to maintain the principles on which our government was founded. Let us stand

by our guns, and not think of retreating just at the time when we are doing more efficient and better work than at any time since the Convention convened. I have the highest respect for the member, my friend in the second division (Mr. Avery), and I regret exceedingly that I am obliged to vote against his amendment.

Mr. Boucher of New Bedford: May I ask to have the Secretary read the order as amended?

The Presiding Officer (Mr. Underhill of Somerville): At the request of the member the Secretary will read the order as amended.

The Secretary read as follows:

Mr. Avery moves to amend the order by striking out the words "the fourth Friday of October next," and substituting therefor the words "final action has been taken on the resolution to provide for establishing the initiative and referendum;" also by striking out the words at the end of the order "until the second Tuesday of June in the year 1918," and substituting therefor the words "subject to the call of the President or Secretary of the Convention to meet within one week after the prorogation of the General Court of 1918," so as to read:

Ordered, That the Convention continue in session until final action has been taken on the resolution to provide for establishing the initiative and referendum (doc. No. 359), and that it then adjourn subject to the call of the President or Secretary of the Convention to meet within one week after the prorogation of the General Court of 1918.

Mr. Luce of Waltham: It is customary in the consideration of questions in legislative bodies for the proponent of a measure to advance the affirmative reasons why it should be acted upon favorably. May I ask if the gentleman from Holyoke (Mr. Avery) will favor the Convention with the reasons in support of the proposition he advances?

Mr. Avery of Holyoke: If I understand the question before the Convention now, it is postponement of consideration of this matter until Tuesday.

The Presiding Officer: The gentleman is correct.

Mr. Avery: And on that I have spoken. To that I am opposed. I do not think the main question is up for discussion at the present moment.

Mr. Sawyer of Ware: If we are fully determined upon adjournment to next summer of course we do not want to postpone, but if we still are open to reasonable considerations I think we ought to postpone, so that we may consider this matter next Tuesday in the light of the alternative matter, which is that we shall stay here and continue our business to a finish. There are eminent lawyers in the committee on Rules who tell us that there are legal points that require careful consideration, and that they could not bring in a report upon the alternative matters this morning. What harm will it do to postpone this matter to next Tuesday so that we can know what we can do on the other matter? It may be possible we can do nothing on the other matter and the only thing is to adjourn to next summer. Why not wait until next Tuesday so we can act intelligently, with both propositions before us? I think that there is no need of this unseemly haste. I understand the proponent of this order asked the committee on Rules to delay for two weeks, and the two weeks are not yet up. Why has there been a change of front? Why do they suddenly want to ram it down our throats in this way? What harm will be done if we wait until next Tuesday so we can act intelligently?

Mr. Knotts of Somerville: We have not been hurrying very rapidly

on this matter, and I cannot quite grasp the mental processes of the delegate from Ware when he thinks that we, or the committee on Rules, have been making any undue haste in regard to this question. Did not this Convention refer an order to the committee on Rules almost two weeks ago, and have we not waited here day by day to hear some syllable from that committee?

Mr. Luce of Waltham: I think the gentleman from Somerville may not have been present yesterday when the gentleman from Holyoke (Mr. Avery) explained that the delay in the report from the committee on Rules was at his request. With that information before him, would he still think that the committee on Rules have been at all delinquent in the matter?

Mr. Knotts: All the more reason then why we should proceed now and go directly ahead, because this Convention is becoming impatient with the delay in regard to this matter. It makes no difference who the obstructor is. There are men here who are unwilling to trifle any longer on a simple proposition. If there are any legal questions involved in this order, why this Convention cannot adjourn, — and that is something entirely new to me, — I think if there are any such questions involved in it, the chairman of the committee on Rules ought to state them to this Convention, and state them now, so that we may understand what we are doing. I, for one, have done my best to take this entire Convention in a serious way. In a very large measure I have been here to attend to my duties. I have other duties resting upon me which are of a distinct public nature.

The motion to postpone was negatived.

Mr. Avery of Holyoke: I do not intend to take the time of this Convention to state reasons for this order. Those reasons have been stated here repeatedly and the members of this Convention have discussed with one another and with members of the committee on Rules, day after day, the reasons why this order should be passed.

In the first place, in the balance of this year, cut up by holidays as it is, tired out as we are, stale as we are, we cannot finish the work of this Convention as it ought to be finished [applause], and that is the big reason why we ought to take a recess. This Commonwealth has spent almost $275,000; and now, because we are afraid of some newspaper, because we are afraid of some private criticism, are we to stay here under the whip and the lash, and rush through matters that ought to have the most careful and the most serious consideration? [Applause.]

Another thing. There are a good many people in this Commonwealth who think this Convention ought not to have been held in war times, but after war times. Our minds are not here. Our minds are with our friends and our brothers and our sons, who are doing duty elsewhere, and we are thinking about them. The people of this Commonwealth are not thinking about our work. They are thinking about the work that the boys of this Commonwealth are doing, and the boys of this Nation. We have not got and we cannot get a clear glimpse of the problems that are ahead of us now, and we all know it, if we had courage to say so and to act upon it. [Applause.]

Now, we can come back here next year. We can cut out our oratory, we can improve our methods, and we can do business better

than we will do it if we try to stay here now. I am not going to say anything about the distress of a good many of the members of this Convention who cannot go home every night, who cannot talk to their clients until half-past ten, take lunch with them at noon, meet them at four o'clock, and have conferences with them in the evening, and be subject to telephone calls every moment of the time that they are here. But there are men here who cannot carry on their business that way, and who come here day after day and week after week at a personal sacrifice, not only of their income, which they do not care so much about, but of the very principal of their business.

Those men ask a fair chance. Those men ask fair treatment of you men in the Boston district, who can carry on your business, who can see your families at night, and who do not appreciate and cannot appreciate the circumstances under which perhaps one-half the members of this Convention are laboring at the present time. [Applause.]

Mr. Luce of Waltham: The decision in this matter must be dependent so largely upon individual judgment that I do not conceive it to be the function of the committee to whom you entrusted it to go very far beyond laying before the Convention certain facts that may not have come to the notice of all of its members. The importance of these facts is such, and my anxiety that they be laid before the people of the Commonwealth is such, that I trust you will pardon me if, with the deliberation necessary for our friends in the reporters' gallery, I state them in such fashion that they not only may be appreciated by the Convention but reported adequately.

The Convention now is sitting its sixty-second day. It has bee sitting sixteen hours a week, — so far as I know the shortest number of hours a week ever given to the revision of any Constitution since the first Constitution was framed. In sitting sixteen hours a week we have established a procedure comparing with that of other legislative bodies in this Commonwealth as follows: The Legislature now sits in its closing months twenty-one hours and thirty minutes a week. Fifteen years ago it sat twenty-three hours and ten minutes a week. The Convention of 1853 sat thirty-three hours a week. In other words, we have been sitting less than half the number of hours a week that our grandfathers used in a similar task, and in the later part of their deliberations they sat thirty-seven or thirty-eight hours a week. Therefore, when we face our own consciences in this matter, as well as when we face our constituents, let us frankly say that we have been working only half time. I say this with no idea of criticism whatever. Conditions have changed greatly in the last two generations.

The improvements in methods of transportation have so altered conditions that whereas probably three-quarters of the delegates to the last Convention visited their homes only on Sundays, to-day I imagine that from three-quarters to four-fifths of the delegates reach their homes every night. I think the gentleman from Holyoke (Mr. Avery) perhaps had not given sufficient reflection to the matter when he intimated that one-half of the delegates find it necessary to be absent day after day from home and office. I think he will find that, so far as hardship comes from that source, it concerns from one-fifth to one-fourth of the members. The effect of this upon the Legislature has been that whereas in olden times the men came to Boston and worked morning, noon and night until their work was done, as is still

the case in all State capitals of the land that are located in towns or in small cities, to-day the greater part of the members of the Legislature, as of this Convention, are able after a fashion to continue their ordinary pursuits and to prevent serious loss of clients or of business. And therefore it is that no criticism is to be cast upon Legislature or Convention by reason of the small number of hours a week that it devotes to the work.

But in facing the immediate problem, it must not be forgotten that we have accepted compensation, if for the moment that word may be used, from the people, on a basis that properly might have been assumed to be that of a full week's work. It has been intimated that on some future occasion we might suggest to the General Court that we receive additional compensation. The delicacy of this subject makes me ask your patience if I am somewhat cautious in explaining the situation. Will you imagine the embarrassment a member of this Convention might feel if before a committee of the incoming General Court it were pointed out to him that, after working only sixteen hours a week for sixty-two days he came before the committee with the suggestion that he had not been adequately compensated?

Let us consider this matter of compensation. Compensation it is not, in reality, for any legislative body, since no attempt can be made to weigh the services of members. It is a recognition of the fact that some members of an American legislative body (and now it is true of the English Parliament) can be secured, for the desirable representation of all parts of the community, only if some payment is made. Therefore it has been the endeavor of the General Court of this Commonwealth to determine what ought to be a fair amount to award to meet that condition. The Legislature in recent years has come to the belief that $1,000 a year is a proper sum. Could it have foreseen that our deliberations would be extended as they have been, undoubtedly it would have assumed that the members of this Convention might properly receive the same sum; and I may add, with reference to the action of your committee on Rules and your committee on Pay-Roll, sitting jointly, when they come together, it is my expectation that a majority will be found favoring such procedure as ultimately will secure to the members of this Convention the same payment as that received by the members of the Legislature.

The assumption that there will be adequate compensation for the work we shall have performed brings up the important question which in part may be decisive on the present issue, — as to how much work we have yet to do. I find that the Convention of 1853, for a task precisely like our own, required about four hundred hours; that we already have devoted to this task almost exactly two hundred and fifty hours; and this I desire particularly to be understood, and so I will repeat it; for it strikes me as our duty, in conversing with each other as well as with our constituents, to give the people of the State the right basis of fact upon which to base their judgments. If we say to each other that we have been dilatory, it is sure to be reported among the people of the State and we shall suffer an unfair judgment. So let me emphasize once more the fact that so far we have devoted only five-eighths as much time to our task as was given by the Convention of 1853, and therefore there can be no shadow of justice in any criticism if, in turn, our deliberations should cover four hundred hours.

So far I have seen no reason to think that we cannot complete our deliberations in nearly the same time that they consumed.

If a gentleman interested in the mathematics of the question should take his pencil, he would find that, going ahead at the rate of sixteen hours a week, and taking into account the holidays, election day included, we should be able to complete our labors on the 26th day of December. But I find a very general impression among members that there would be no substantial hardship in a rearrangement of the program that should make our hours approximate those of the Legislature, which would add about one-third each week to the time spent in deliberating. And my judgment is, — of course no man can predict with certainty, — that with the legislative schedule of hours, adding one-third to our opportunities, and with a reasonable provision for the restriction of debate, — a reasonable provision, nothing in the way of a gag rule, but with a reasonable provision, — we very easily may conclude our work in the month of December. And I may intimate to the Convention that previous orders laid before the committee on Rules in this matter have not been neglected, that further consideration will be given to the subject, and at the opportune moment, if we continue to sit here, a schedule will be submitted that will secure the completion of our work in reasonable time.

I have been discussing this matter from the point of view of personal convenience. May I now ask the attention of the Convention while I try to take the question away from that somewhat selfish point of view in order that calmly, without impatience, we may ask ourselves, not what is our duty to our families, not what is our duty to our pocketbooks, not what is our duty to our comfort, but what is our duty to the Commonwealth of Massachusetts? [Applause.] We came to this Convention, it is to be assumed, without the purpose of consulting ease or comfort. We came here prepared to make sacrifice. There is not a man here whose attendance at this Convention is not a matter of sacrifice in the performance of duty. You have just listened to men telling to you the lesson of duty. Every newspaper spreads this before you every morning. Duty is the motive of the hour as never before in our time. And let me appeal to the members of this Convention not to permit it to be thought for one moment by our constituents, by the people of this State, that we allowed ourselves to decide this issue on the basis of individual comfort.

What, then, is the duty of this Convention? Can any man contest that it is the duty of this Convention to complete its labors within a reasonable time? Consider, if you please, what may be the result if we do not come together until next June. Will any man hazard the prediction that less than three months can be required then to pick up the loose ends, to catch up with the arguments, to refresh our memories, to renew this spirit of work which now encompasses us? Three months from the first of June will bring us into September. We have decided deliberately that some of the most important matters before this Convention should not go on the ballot this year, because we have felt that the people ought to have time to study, to reflect, to discuss and to deliberate.

Shall my appeal to duty fall on deaf ears? Shall my appeal to duty fall upon ears that prefer to avoid listening to the arguments in this matter? I appeal to the sense of duty because it ought to be para-

mount in this Convention. I appeal to the sense of duty in order that every man may go forth from here with a clear conscience, with a belief that on such a question as this he had given his answer with the interests of the Commonwealth paramount.

So I ask you to remember that we have just decided to put on the ballot this year only emergency measures, or those exceptionally situated; and shall we establish a program that will confront us a year from now with precisely the same problem? Will you say that the great bulk of the work of the Convention shall go out to the people next September without that opportunity for them to read the debates on the subjects, without an opportunity for discussion in the forum and in the market-place, in the club and in all halls where men gather? Shall you say that thus you will perform duty?

Why, sir, it must be manifest on a moment's reflection that having put our hands to the plough we ought not to turn back; that having once accepted the obligation it ought to be fulfilled.

In summary, let me say I have tried to make it clear to the Convention that, properly and legitimately from the modern point of view, we have been devoting but half our time each week to the duties of this Convention; that, certainly, from that point of view, we have not reached a position where we may satisfy our sense of propriety by adding very largely to our compensation; that it would be just and proper for us to take the steps necessary to put that compensation on a level with the compensation received by the Legislature; that with reasonable expedition we confidently may hope to complete our labors before the end of the year; that in so completing our labors we shall have fulfilled the expectation of the people of Massachusetts; that we shall have accomplished the purpose they had in mind when we consented to perform this duty; that if the performance of this duty is postponed now it will result in an imperfect transmission of our views to the people of the Commonwealth next year; and I may add that it will in no way that I can understand lead to the better performance of the remainder of our work. It is true that our minds are not now on what we are doing. But where will our minds be next summer, when the wounded are coming across the seas and when perhaps the death of sons or brothers has so quenched interest in all things human on the part of some of our members, — which God forbid, — that they will be unable to give any thought at all to our labors; at a time, perhaps, when we shall have to redouble the efforts we now are making for the conduct of this war; at a time when in all human probability our individual interests, the making of a living, will more distract and engross us than now, when the burden of taxation will rest so heavily on every shoulder that men no longer will find it possible to keep away from the shop or the office? Who can read the future? Ah, who with an imagination, if he attempts to read the future, can fail to know that it is the duty of every man in all his affairs, whether they be political or private, to carry to a conclusion at once that upon which he is engaged in order that his hands and his mind may be free for the greater tasks that confront him? [Applause.]

Mr. Leonard of Boston: I desire to take for the text of my remarks a few verses from the Journal of the Convention, Chapter of July 20, beginning with the third verse [laughter]:

Mr. Luce of Waltham, for the committee on Rules and Procedure, who were authorized to report rules and orders for the government of the Convention, reported, in part, recommending the adoption of the following order: —

Ordered, That, unless it be otherwise ordered, the hour of meeting shall be half-past ten o'clock A.M.; that, whenever the Convention is in session at one o'clock P.M., except on Fridays, the President shall declare a recess until two o'clock; and that, whenever the Convention is in session at one o'clock P.M. on Fridays, the President shall declare an adjournment until the following Tuesday.

The report was read; and the order was considered, under a suspension of the rules, on motion of Mr. Luce, and was adopted.

Now, it seems to me that the gentleman from Waltham is as fully informed as any member of the Convention as to the relation between hours and the work that was being done and what had been done at former times. And also that if we were to be treated to this argument with its comparative statistics of hours of labor with what our grandfathers did, that very well might have come at a much earlier date than the present time.

The gentleman has appealed to our conscience and has asked how we are going to appear before our constituents. I wish to say that I have been here, I think, at every roll-call excepting one, and at all times I have voted for more time and for longer sittings in our deliberations, and besides, I have given time to this Convention, also considerable time to my committee work. I desire to say this: We did not contemplate the long session in this period of the year. We came here expecting something of a summer task. Perhaps in that we were mistaken. We did not realize the full duty that we had before us. We felt that the framers of the State were hardy folks; they were wood choppers, ploughmen, and the like, and we thought perhaps that this Constitution ought to be brought down to date and could be adjusted readily, and we looked upon that as a somewhat pleasant occupation. But I think as time has gone on it has been demonstrated that John Adams, who was the chief draftsman, we are told, of the old Constitution, used considerable finesse and skill as well as good timbers in his structure, and we have had a great deal of difficulty in adapting our modern alterations and improvements to this ancient constitutional edifice. We even have heard in this chamber men who have something of the ancestry of the Adamses tell us what we ought to do, that we should do so and so, or else go home. And the rest of us, when we realize that we are only successors and assigns in one way or another, domestic or imported, to this job, have had a very difficult task to perform. So at the very outset, aside from the manner in which we have done it, it has been a very difficult piece of work to alter the ancient constitutional structure.

As to the time and manner in which we have gone to it. There was a time in this chamber when the party lines were drawn perhaps more closely and when there seemed to be something of a partisan feeling here present, — for if you remember, we came here not as Democrats or Republicans, — still there was a line of cleavage between the Conservatives and the Progressives, but now there seems to be a third party developing, a third party which you might call the Alternatives, because we have so many alternative measures that the Alternatives really seem to threaten to engulf the other two parties. Three or four weeks ago, when we were struggling, and making every possible effort to complete a very important piece of work, and to get that piece of

work upon the ballot at the coming election, was there any suggestion made from any member of the governing committee that we should sit longer hours, that we should spend more time in deliberation in order that we might help to complete our work? And I ask you this, — I think it is a fair question: Let us assume that we had spent thirty or forty hours a week in consideration of these matters, looking back at the alignment as it existed a month or two ago, does any delegate suppose, — looking back to when we would debate as to whether we would adjourn to a time certain next week, or would take a roll-call at 12.30 as to whether we would take a recess at one o'clock, — do you suppose if we had had thirty or forty hours a week of work we would be any further advanced than we are at the present time? I submit that it is a very proper question for consideration. There has been a lot of display and considerable fluency of discussion. It seems to me you have got to expect that in a deliberative body; and we are a deliberative body, — at times we have been a very deliberative body. [Laughter.] I think in the earlier days of our deliberations there was more zest and more vim. We were drinking of the wine of debate in those days, whereas the last few days things have got more easy and affable and it has seemed as if there was nothing but the dregs of discussion that remained.

Mr. Sanford Bates of Boston: I want to interrupt the gentleman long enough to ask whether he favors the report of the committee on Rules or whether he opposes it, or whether he is a member of the new party that he has just described.

Mr. Leonard: I am in favor of the motion as proposed by the gentleman from Holyoke, that we should complete the present task that is before us now and that then we should adjourn over until a more seasonable time. [Applause.]

There has been considerable said about the time wasted and consumed in our deliberations. I remember it was only a few weeks ago that the gentleman from Waltham on the floor of the Convention cried out in a very fine dramatic manner, "A plague o' both your houses!" The gentleman has played many parts in the Convention and played them all with skill, but I thought at the time perhaps he was not acting the part truly, because if you remember, in the play, Mercutio lay dead after condemning the two Houses of Verona. [Prolonged laughter and applause.] The gentleman from Waltham came very much to life and he dealt just as good and lusty blows as ever the living Mercutio dealt for the house of Montague.

Now there was another incident I should like to refer to. I think I may do so properly, although it was not intended to be a cause of delay. And yet there was one very serious cause of delay in our deliberations. A gentleman in the third division (Mr. Churchill) got up back in the heated term, before noon time one day, and delivered an address. He said it was not an argument. Nobody accused him of making an argument. [Laughter.] And yet, from the time that that address was delivered until the present, about a half or two-thirds of the time of the Convention has been consumed in answering the argument which the gentleman says he did not make. [Laughter.]

There was a certain substantial business man in our city, a member of one of our military organizations, who went with his company to another city where they had some exercises in honor of the occasion,

and the citizen in question dined and wined not wisely but too well. A parade was held after the postprandial exercises and the grateful citizens had erected an arch through which the company was to pass. The gentleman in question, after approaching the arch and making several ineffectual attempts to pass under it, finally succeeded in going around it; and he afterwards had the temerity to complain to the city authorities of that place against their erecting a structure on a public street that an ordinary load could not pass under. [Laughter.]

That is the situation we found ourselves in after the argument of the gentleman, — not the argument, excuse me, the address, of the gentleman from Amherst. Jointly and severally we would approach that address and we would stand in contemplation of all its rhetorical architecture and its beauty of coloring and, being unable to answer the gentleman's argument or address or go through it, we have passed around the structure and, believe me, it has taken a lot of time. Lately the gentleman has taken to arguing and it has not taken so much time to answer him.

I am in favor of the proposition of the gentleman from Holyoke, I am from Boston and he has referred to the ease with which the gentlemen from Boston may transact their business affairs compared with those from out of town. I think there is considerable in that, but nevertheless I think the Convention ought to go over to such time as we can give the proper attention to our duties.

An appeal has been made to our patriotism. I have been up to the camp and I have seen some of my own kith and kin and I have asked them what they are doing, and they say they enjoy it and are learning everything except how to retreat. We are not going to retreat; we are going to do our work irrespective of what is going to happen. There should be a time and season for everything. I have served on a committee that has done a great deal of work, which hardly has been mentioned on the floor of this Convention. There are a dozen or fifteen other committees similarly situated and some of the matters we have yet to consider are of importance. I think in many a Massachusetts homestead back yard there is a wood pile upon which some of the delegates would like to move the previous question and the women folks are getting pretty tired of doing the extra chores, with Tom, Dick and Harry and Pat and the other boys in camp, and it is time for us to return to our ordinary duties. We were chosen to do this work in the season that is past and we were not prepared to lengthen the session until the present time; and as I believe we cannot do the work to the best of our abilities and to the best interests of the Commonwealth now, we should adjourn over to a more favorable and seasonable time. [Applause.]

Mr. Washburn of Worcester: After dwelling for a moment in this delightful oasis in the dreary desert of our deliberations, it is my painful duty to recall the attention of the Convention to some of the serious aspects of this question. For it would be idle for any one to deny that a very serious condition exists. We have been in session now for about four months and are not nearly through with our work. Many of the members of the Convention are seriously embarrassed by business engagements. Some of our associates are embarrassed by considerations of a pecuniary nature, very real and which we

ought not to treat lightly. We are confronted now with the question: What does our duty demand of us?

As a member of the committee on Rules I voted against the adoption of the order of my friend from Holyoke in the second division (Mr. Avery), not because I did not appreciate the gravity of the situation which I know to exist but in the hope and in the expectation that within a very few days the committee on Rules might be able to formulate a course of procedure under which we might continue, at least during the next two months, in the hope that we might complete our duties before the end of January.

I do not think that I altogether sympathize with the views expressed by the chairman of the committee (Mr. Luce) that we heretofore have devoted too little time to the duties of the Convention. I think we have spent all the time that we could have spent profitably, and I, for one, do not think that we have wasted any time. I know it has been suggested by the proponents of the measure now pending that at times there have been indications of undue deliberation in our proceedings, but I repudiate the suggestion that our consideration of this great question has been in any way delayed beyond that calm, dignified, judicial treatment which always should be accorded to a great question. We shall speedily reach a conclusion upon that measure and then can pass on to the consideration of other matters left upon the calendar. Our rules can be modified in such a way as to expedite the transaction of our business without unduly restraining the desire of any member to express his feeling on any question. And underlying this whole proposition is this indisputable fact: We did not come here under duress; we came here, some of us eagerly, some of us willingly, some of us reluctantly, but we came here because we were willing to come, and we shipped for the voyage [applause], whether the voyage should be a short one or a long one. We came here in response to the mandate of the people of the Commonwealth, and as I view it we are bound to render to them the faithful and the continuing service that they have a right to demand. Is there any man here who possesses the gift of prophesy sufficiently to say that next June conditions are going to be more favorable to the deliberation upon the questions that are yet to come before the Convention? Up to this time, while we have had to face serious situations, while we have seen our young men take ship for the battlefields of Europe, — up to this time we have not been compelled to stand with bowed heads awaiting the return of the wounded and of the dead from the battlefields of Europe. Does any one say that we are put to great personal inconvenience? Why, there are hundreds and thousands of men in cantonments in this country who are put to great personal inconvenience. There are thousands of surgeons and physicians in Europe who are put not only to great personal inconvenience but to great pecuniary loss. Shall we be any less faithful to our trust than they are to theirs?

Now some one asks what my personal view is of this situation. It is this: To defeat the measure proposed, — but in no hostile spirit. I know full well that a majority of the Convention must settle this question in order that we may see if a program cannot be agreed upon under which we can proceed during November and December in the

hope that by that time we may complete satisfactorily the business of the Convention. I appeal to the sound common sense of the Convention with a full appreciation of our duty to the Commonwealth, to take no hasty action dictated perhaps by personal inconvenience or by slight temporary pecuniary embarrassment, but with a view, and a view alone, to the standing that this Convention will have in the history of the Commonwealth. [Applause.]

Mr. Ross of New Bedford: I want to say first to the gentleman who has last spoken that we shipped for a voyage, it is true, and were told that the voyage would take some two or three months. Later it was said it might take four. We now have been aboard ship for nearly five months and we are told now we are not half way through the voyage.

Mr. Washburn of Worcester: If in the old days any one had shipped from Boston to go around the Cape to San Francisco and the voyage, he thought, was getting unduly long and he left the ship at some intermediate point, he would get the rope's end. And we do not want to get the rope's end of public opinion. [Applause.]

Mr. Ross: If I were before the mast on that ship the captain and officers would go overboard and I would steal the ship. [Great applause.]

I am extremely sorry that my mind is not obsessed with the desire to move the previous question rather than to make a speech. I think that is the thing that ought to be done. But I do want to say a few words with regard to the speaker in the first division on my left (Mr. Luce). I noticed that he had a great deal to say, and I want to say this: I yield to no man in this Convention or out of it in my esteem and respect for the gentleman from Waltham. I know him. He spoke truly and for his colleagues who were situated similarly to that condition in which he is situated. He spoke for my friends in the upper regions on my left, and undoubtedly it will be noted, — I notice very little attention is given to my friends throughout the State and I am greatly concerned as to what is printed in Boston about us, but throughout the State very little. But I have no doubt there will be a great deal said about what is taking place to-day. I am not gravely concerned about the sixteen hours a week; the thing that I am complaining about is, not that we worked sixteen hours, worked here sixteen hours, but that we did not work eight hours out of the sixteen. Sometimes I am in the habit of yielding my judgment to that of some other men. I am extremely sorry that over two months ago I did not start in as I threatened to a number of gentlemen about this building and move the previous question on matters before us. I remember the gentleman once speaking and asking that the debate be reopened. I want to point out to you that the men who are suffering now because of length of time are not the men who lead this Convention. I remember the time when the gentleman asked for reopening a debate because forsooth some men who for anything we know might have been in the chamber, came in from the lobby to vote, and I remember the gentleman saying it was hardly fair to expect them to vote intelligently, because coming in from the lobby they had not heard the debate. I think the debate on that matter had been continued then six or seven weeks and I was tempted in the worst way to get up and say a delegate to this Convention was in a better position to vote on that ques-

tion if he had not heard one word of the debate. [Applause.] I want to say, too, we are told now we can get through the business in some two months and twenty days. I remember the gentleman from Waltham making the statement, — or at least it was reported to me that he had made the statement, — that after we had been in session about five or six weeks we would be out of here with all business done after about thirty more days. Here we are at the end of nearly five months, with not half the business done, and any man here has on his hands a bigger job than he ever undertook if he wants to try to convince me after my experience in this Convention that we can get through this work or half of it before the first of January next.

Now I want to say this while I think of it: The committee on Rules are not unanimous on this matter. I say this because of my statement yesterday to the gentleman in the fourth division (Mr. Besse). I do not want to be misunderstood. The committee on Rules are not unanimous in their desire to continue the session. And so I do not want it understood that I am breaking away from the committee, that I am breaking faith with my committee in speaking as I am. But I want to say this: There seems to me no possibility of getting through the work of this Convention before January 1. The committee on Rules know full well that I have not been one of those who have wanted to adjourn, that I have been one of those who have been willing, under circumstances which I think will prevail eventually, to stay here and complete the work. But my position is like that of a good many others here. It is not necessary for me to adjourn now and go to employment. My employment continues; I am not injured or hurt in that way. But I do know this: That there are fifty or sixty men in this Convention who cannot come to this Convention after this month unless provision is made for them or adjournment made, and that is the line on which I would vote compensation for those men who could not come back.

Now, then, another matter confronts you, and it is this, and it is entitled to just as much consideration as the other matter: That many of the men here have left a small business or a practice which they were trying to build up in a profession and they are threatened with extinction as far as their business is concerned unless they can get back and attend to it and make provision for a further absence of several months. Remember, it is not a matter of five or six hours a day that we are working. Most of us have got to travel two and three hours here and the same back. It is a whole day, from seven in the morning until eight at night. The gentleman who spoke prior to the gentleman from Waltham, the gentleman from Holyoke (Mr. Avery), did not misstate the matter by any means. There is the situation confronting us, and it does seem to me at this time from what I have learned that the best thing to do now is to adjourn; and the principal criticism will not be on the adjournment, it will be on the method of work of this Convention. And I am sorry to say I am afraid a good deal of it will be deserved. The criticism will not be on the adjournment, in my opinion, altogether, but on some other phase of it. It seems to me the best thing to do now in order to have this thing done now and done properly, is to adjourn after the disposition of the matters which have been mapped out for immediate action, and then take up the matter next summer and do the work in the same or-

derly and satisfactory way, with less continued and lengthy speeches; and I, for one, threaten, if I am alive, to do all in my power to shorten the session. [Applause.]

Mr. HARRIMAN of New Bedford: I trust that in addressing this Convention you will realize that I came here as consciously willing to give my time to this Convention as any man and when it is said in this Convention or even intimated that any man who thought it wise to adjourn this Convention until next June was doing a cowardly act, I repudiate any such idea. I came here as many other men, delegated by the citizens of this Commonwealth to perform a certain duty, and I thoroughly believe that if it is in our judgment that the work can be done better by adjourning, we are in duty bound to carry out that judgment of ours if it should prevail. Something has been said about the length of time the Legislature are in session. I want to call to the attention of this Convention when we are talking about the Legislature and how long and how arduously they labor, whether the recess committees pay any more attention to work in hours and efforts than have certain members of this Convention.

Something has been said about compensation. I want to call attention to the fact that this is the first and only Convention of the Commonwealth that ever has been limited in its expenses by any act of the Legislature. The Convention of 1820 and the Convention of 1853 were allowed to fix their own compensation and govern themselves as they saw fit in regard to their financial affairs, and this Convention has not been so situated. Now what has been the situation? And I am talking now as a man who has had no experience in legislative affairs. I came here like many other men, schooled in rather a practical way of running Conventions so far as labor men were concerned; and we listened to the wisdom of men who have been in the Legislature. Who is to blame that the Committee of the Whole took up all this time? It is not the men of my stamp in this Convention. The labor men came here not as a group, but I submit to you that they have taken as little time and they have brought as much wisdom and as much common sense into this Convention as any men in any other walk of life in this Commonwealth, and I for one am proud to belong to that class.

Something has been said and will be said about the money consideration of this Convention. I want to say frankly that the labor men ask no charity. The working-men are willing to do their duty. But it is a physical impossibility for many of them to attend this Convention when their compensation ceases. They have absolutely no other ground to take. And there are men in this Convention who can afford to stay here, — stay here any length of time. And I say to you that it is not fair to this Commonwealth to allow a certain proportion, and particularly the working class of this State, to be unrepresented in this Convention because of this condition. I am not disturbed at what the Legislature may do with compensation, but I want to say to you that the labor men will come here if this Convention sits, but for one I would rather come here next summer for nothing than to stay here for the rest of the year for that same compensation.

I want to say again that I do not believe that this Convention's work can be finished. The honorable gentleman from Worcester (Mr. Washburn) said we must be calm, we must be judicial in all these

great questions, and then he says we can finish it, finish these great and important questions before us, we can finish them before the first of the year. It is not reasonable, if we are going to give the time that ought to be given. Let me tell you, too, that so far as the future welfare of this Commonwealth is concerned it is not alone the matters that are under discussion or have been discussed that are important. Your judiciary, the right of injunction, the social matters that are to come up, that the people are demanding and that they need and that they are going to have whether you give them to them now in this Convention or not, demand a careful consideration by us because we were elected here for that particular purpose. I would not tire this Convention longer only to say this, — that in my humble judgment it is a physical impossibility for us to finish the work as it should be finished before the first of the year. And so I say to you delegates in all sincerity and in all truth that this is the proposition that is before you: If we have erred in the past and if we are to gain the criticism of the people of this Commonwealth or a part of them, let me say to you that to-day I would rather receive that criticism than to have history record, — and history is impartial, — twenty-five or fifty years from now, that this Convention met and then adjourned or hurried through its work and did not do its duty. That is the question; and the question for this Convention, for us to settle, is this: Whether or not in our opinion we can do the work and do it right between now and the first of the year, or be manly about it and say we cannot do it; if we have made mistakes in the past we are willing to shoulder them and we think we will adjourn and come back next summer and sit as men and finish our work and condone if necessary the mistakes of the past by giving to the people the full fruits of our best effort in finishing every measure in a cool and judicious manner in a session which, I believe, to accomplish that result must be held next year and cannot be finished between now and the first of January. [Applause.]

Mr. Hart of Cambridge: If, as we are credibly informed, the Lord hates a quitter, heaven must look down upon this Convention with interest. For the proposition of the gentleman from Holyoke, made in absolute good faith, doubtless supported by many members of this Convention, is substantially a proposition that this Convention shall quit because, having sat four months, it is dissatisfied with its own results, and therefore adjourns to a distant epoch. I am against that motion, because I came to this Convention not in order to adjourn in the midst of our work but in order to assist in bringing about a result which would be helpful to the Commonwealth.

It is not a creditable performance for 320 men to assemble here from day to day during a period of 135 days, — for I believe this is the 135th day in the calendar since the first day of our meeting, — with the grand result of submitting three propositions after immense difficulty, with another proposition pending which may be submitted on a future ballot in a future election if, meanwhile, somebody does not change his mind. I do not feel proud as a member of this Convention of the work which I as a member of the Convention have participated in doing. [Applause.] I should have felt proud, no doubt, if some of my fellow-members of the Convention had allowed the business of this House to proceed to the point where there was an opportunity of doing additional tasks. I do not feel proud because I have the same respon-

sibility that other members have. We have sat here now for months together and have not yet developed a method of doing our own business by which we can arrive at results in any reasonable time, and we as a Convention are responsible for that state of things. I submit that our present condition is not a condition in which we can take joy and pride; that if the Convention were to adjourn now the Commonwealth of Massachusetts might have reason to feel that we had failed to do that for which we were sent here.

It is perfectly true that there are members of this Convention who up to the final vote a few days ago still had a remote hope that the Convention would adjourn without doing anything. And I speak advisedly, remembering a remark made very recently by one of the most distinguished conservative members of this body, who said frankly that this was still his hope. We have come here, spent half a million, spent month after month, 320 people together, and yet the gentleman hoped we would adjourn without doing anything. And there are many other members in this Convention who would be pleased likewise if we did the least possible; they should be somewhat well satisfied, considering that we already have done the very smallest amount that is conceivable under the circumstances and in the time.

How have we got into this unfortunate state of things? If any member of the Convention is satisfied with our progress and satisfied with the work that we are able to show as a result, and is willing to stop at this time, or even after passing on one more proposition, and adjourn, — if any member thinks that is a desirable thing in itself to do, I cannot agree with him, although I have the very keenest sympathy with members of this Convention who find it difficult to remain here under the circumstances. To that point I will return.

I want to say a few words now in regard to the manner in which we have carried on what seems to me to be an unfortunate *impasse*. We have put ourselves in it. As a member of the Convention said to-day, we are the people who wanted to come here. We were not obliged to come here. The people of Massachusetts, except on one or two questions, one of which has gone on the ballot and the other we hope will be adjusted eventually, were not frantically desirous of a Constitutional Convention, — I will admit that freely, — but most of the people here were desirous of there being a Convention, and if there were to be a Convention which was brought about by a pressure in which they did not share, they wanted to be a part of it. Therefore it is we ourselves who are responsible for the present situation. That situation has arisen because of a lack of a common-sense system of dealing with our work.

Let me illustrate. Here is a board of directors of a railroad corporation. A great question is up, — of building a branch, or altering the system of running the road. What would you think of a board of that kind which reached a decision on a branch road apropos of the question of the proper section of a new rail or the type of a new locomotive or a change in the organization of the auditing office? Why, people who do things on a large scale have to come to conclusions on a large scale. This board, this Constitutional Convention, throughout its existence has acted upon the principle that it will decide nothing until it is presented to it in a specific measure that is reported by a committee, favorably if possible; and then in the debate upon the details of that

measure it will decide finally upon its outcome. Take the question of the initiative and referendum. Why might not this Convention in its early days have held a general debate of a week, if you like, upon the pending measure, and then have come to a series of resolutions? If they desired an initiative and referendum of some kind they might have said so. If they desired it to extend to constitutional questions they might have said so. That is the way in which the great Federal Convention of 1787 operated, and if it followed on our plan the Federal Constitution never could have been made.

The truth is that we have made no general decisions. We shun general decisions. The question that we are discussing to-day is one of the few that ever has been brought to this Convention for its decision after a reasonable debate upon its merits without being complicated with details. Why, if I am planning to send my boy to a scientific school I sit down and talk it over with him. I may spend weeks and months on it. Finally I make a decision. I do not wait until the last day and then argue as to whether I shall buy him a boat ticket to New York, which will take him to Columbia, or a rail ticket to Ithaca, which will take him to Cornell. I decide the main question first.

Furthermore, there has been too much lost time. We all feel that. There has been more waste time in the Convention, apparently, than would have been necessary if we had had a surer grasp on our own problem. Our rules are good rules, but somehow or other they have allowed a terrible amount of what seems like debate upon very small issues. No Legislature could get on that could not accomplish more that was positive in the same length of time than we are likely to accomplish. While we have been sitting here and with a courageous effort producing three positive results which have gone on the ballot, the Congress of the United States has been passing the most momentous measures in its whole history. Day after day, week after week, — never such a volume of legislation. Why? Because they knew that it absolutely had to be done, that the country needed it, and they then found a way of action, which consisted of the turn of a screw from day to day and week to week by a skillful hand, which compressed the present Congress of the United States to the needs of the country.

How can we avoid falling into just the same trouble again? If we should adjourn until next June we probably shall meet exactly the same experience; that is, we again shall refuse to decide any general questions, we shall consider miscellaneous orders and we shall take up numerous amendments, and then we shall discuss the minute details before we reach the question of whether, when all those details are settled, we are to adopt any particular measure or not. And that is one of the reasons why I am against an adjournment until next June or to any distant period. I do not believe that we shall come back focussed as we are now or as we should be at the time of adjournment. I do not think it is humanly possible for us to resume our task where we leave off, or anywhere near it.

It is perfectly true, as has been said here, that during that time, between now and June, there may be very great changes in the country, there may be a variety of incidents and accidents. Nobody knows what is going to happen in the next eight months. But one thing is certain; that nothing will happen in the next year with

regard to the improvement of our Constitution unless we do it. It is true also that there is a vast amount of business before us. Thirty-five measures at least are pending, most of them favorably recommended by a committee, upon which more or less debate is necessary. Is there no way by which this Convention can organize itself for that work?

Perhaps there is. We hear rumblings of suggestions from the committee on Rules that it is going to bring in a plan. Well, God bless it, why does it not bring in a plan? Why did it not bring in a plan at the beginning of the Convention, or three months ago, or two months ago, or one month ago? It is perfectly possible for a body even as large as this to devise a plan of business by which it can reach first of all the things that are most important, then those that are less important; by which there shall be a reasonable limitation on debate, understood beforehand, by which there shall be a fair opportunity to clear up the accumulation of amendments. I will own that I get confused when I read the calendar every morning and see a new maze of propositions, one amendment on top of another, amendments changing amendments like oysters in an oyster bed.

Another reason why we have not done as much as we might, and unless we reform shall not do what we ought in the future, is our fussy interest in small details of unnecessary kinds. I do not think it is very creditable to me that I, along with the rest of us, should have been interested in a proposition which finally went almost to the enacting clause and then was stopped by the cogent objection of one powerful judicial mind. That objection might have been made earlier, perhaps, and have prevented a long debate. But my point is this: This Convention goes through all the throes of debate, it reaches a result, and then discovers that it has left out something which is absolutely essential, which vitiates its whole work. The other day, in the evening session, after we actually had engrossed a measure in order that it might go on the ballot, a gentleman in the first division (Mr. Balch) arose and proposed that we pass a vote explaining our own action, we should with one hand give the constitutional amendment, with the other hand another document, and let the voter decide which one expressed the opinion of this Convention. Why, such a proposition simply would lay up a store of constitutional questions for the courts, which would last for years.

This on the whole is a good-natured Convention, and that is lucky for us. Of course we all know that the most important measure that has gone through was arranged by a magic and delightful combination of the jaw of the gentleman from the fifth ward (Mr. Lomasney), and the smile of the gentleman from Newton (Mr. Anderson), and the marvelous good temper of the gentleman from Boston, the chairman of the committee (Mr. Edwin U. Curtis). That is a combination that does not often happen.

Now, the question is, what can we do if we do not accept this motion, which has many elements of strength, particularly the question of men who no longer can afford to sit in this Convention? Of course nobody expected that we were going to sit beyond four months. Why, the little diary given to members was made up for us with no date beyond October 3. That is what the man who made that diary supposed. We voted ourselves a salary for four months, and I feel per-

fectly sure that we did not intend to outstay our own salary, as we now are likely to do.

For these reasons I submit that adjournment at this time to a period so distant as next June or to any far period, or an adjournment from the first of November to such a time, is simply refusing to meet the work for which we were designated, for which we were elected, for which we have accepted a money compensation. Unless we do this work nobody will do it; except as I feel confident, if this Convention fails eventually to do something fundamental with regard to this Constitution, another Convention within a few years will take up the work which we have left undone. I should like to be a member of a Convention which did a good, wholesome, substantial and reasonably complete job. [Applause.]

Mr. William H. Sullivan of Boston: On the sixth day of June we convened here, and after carefully reading the provisions of the law which brought us here, the gentleman from Medford, the mayor, who spends his time here periodically, made the motion that we take for our compensation the limit, $750, — the limit of the law. At that time I, the only dissenter, suggested that we charge so much a month, give the unprotected old Commonwealth a chance. The delegates wanted the limit, and they got the limit, and it has averaged $2.50 an hour. I know it is a brutal thing to say, but $2.50 an hour is more than many of the delegates ever got before, more than any of us deserve for our work here, and more, I hope, than any of us ever will get again for a like service that we may perform. Now, they took the limit, — $750. I was the only dissenter, and I want that to go in the record now, for at that time no record was kept. They said: "We have no limit. We are going here." As the delightful after-dinner speaker in this division said in the only attempted argument in favor of adjourning: "I thought it was only a summer's task." Seven hundred and fifty dollars for a summer's idling! The gentleman from Holyoke (Mr. Avery), who moves adjournment, with tragic eloquence, such as he used the other day when he said: "We are barring from the State religion and education", in the same vein to-day says: "We ought to have the adjournment to go home and see our families." In the summer, — he cannot recall, because he was not here, but I can recall, because I was here and have been here every day, even during the hot spell, — it was suggested that we adjourn for a week because the weather was too hot for deliberation, that we ought to adjourn and wait for the cool weather in which to sit and talk and listen. He was not here to vote that day, perhaps staying away in some cool retreat to avoid the hot weather.

Mr. Avery of Holyoke: I should like to state that I was not here because I was putting in my days and my nights as chairman of an exemption board. [Applause.]

Mr. Sullivan: I said he was not here during the hot spell, and he was not here. Now he suggests he will come in next summer, because summer is the proper time to assemble.

On the sixth day of June, or rather it was the thirteenth day of June, because we could not get to it any quicker, but just as soon as we could get to the salary question we reached it and voted for the limit. I contend that at that time we entered into a contract with dear old Massachusetts to serve her in this Convention for $750, and at the

rate of $2.50 an hour it has since developed. Even if we were not doing any work but talk, we were getting paid $2.50 an hour just the same. We entered into a contract with Massachusetts to serve her during the summer and the winter months, and I, sir, never have wasted any of the time of this Convention. Perhaps it is because of the inconspicuous position I occupy here, but I have not been recognized very much. However, I have not wasted any time, nor have I voted for a dilatory measure, nor have I filibustered, but I have come here to do my best to serve honestly. The men who have filibustered are going to vote for postponement, the men who have been the cheer leaders here are going to vote for postponement. Two dollars and fifty an hour for leading the cheers!

The gentleman from Waltham (Mr. Luce) made a most magnificent address, but it was not listened to, because the time for argument had gone by, and indeed there never was a time when a real argument would be listened to. The only thing we need here, and have needed since the second week of this Convention, is a prayer, not an argument, — a fervent, potent prayer that the delegates would be faithful to their duty and to the people. That prayer has not been uttered, but there have been arguments or speeches. The gentleman from Waltham in this delightful and patriotic address, to which no one listened, appealed to the delegates if they had any ideals to listen to him. Discouraged, he sat down. He made a magnificent appeal. But you listened to the after-dinner speaker, you listened to his stories, and felt it was a strong appeal for postponement. And you listen to me, not perhaps because I am advancing an argument, but because I am giving the plain unadulterated truth.

The gentleman from Waltham (Mr. Luce) has well said that the burden of proof is on the delegate who proposes adjournment, and he says: "Bring us your proof. Convince us with sound argument." And what is the contention made? This advocate from Holyoke, who was not here during the hot spell for some reason or other, says our orators have grown stale. That is one argument, — our orators have grown stale. But we have just had convincing evidence from the gentleman who has preceded me, that all the orators have not grown stale, and if they have grown stale that is the strongest reason why we should stay and finish, because now we can do business.

And do not forget to take into consideration as additional compensation you probably will get free a copy of all these speeches. Do not forget that.

As further evidence and argument the gentleman from Holyoke says his thoughts are all about the war; but the war had begun when we started the work of this Convention, and it was the sentiment then of the Convention to proceed, and the strongest argument that can be urged is that we should finish this Convention before the real truths and horror and distractions of the war are brought home to us.

Some thoughtful or thoughtless citizen may say: "Why, they are going to adjourn because they have collected all they can get." Perish the thought that anybody here would consider adjourning for the sake of getting another fee or salary! No, no delegate to this Convention had such a thought in mind. But it is a strange coincidence that this is the last month's salary we will collect. Some ungodly person, who does not know the character of the members of this

Convention, will say: "They are grafters. They gave nothing but hot air for the $750 we paid them, and now they are coming out for adjournment, adjournment to get another salary." I say the strongest advocates in favor of adjournment never in their lives would be paid $2.50 an hour by anybody for the work they have performed here. On $2.50 an hour they could have saved something for these rainy days. What did they expect when they came here? During the lean summer months, when there is no other business, they expected to be paid this $2.50 an hour, and to quit when all their compensation was paid.

We have wasted time. I am glad to get that on the record. I complained of that in the second week and of the nauseating hot air to which I was subjected, but I felt bound to stay. Why? Because I think, now that some of the filibusters are satisfied with oratory, we can do something. It is for that reason and for the further reason that we have entered into this contract with Massachusetts that I oppose adjournment.

Mr. FEIKER of Northampton: I come from the hills of Hampshire, where the air is pure and all politicians are honest. I am not going to take up very much of your time, because I am trying to be honest with this Convention. I have spoken to this Convention but once in this session, and that was on the anti-aid question, and on that question I took an unpopular side in this Convention; but I believe that I can go home to my people stating that proposition, and I feel that my people will back me up in my vote as it was given at that time.

I came down here to do my duty, and although I want to get back to those dear Hampshire hills, and although I want to get back to my work and my family, I am going to do my duty by this Convention, and I want to have the men in this Convention also do their duty and stay on the job. [Applause.] I came here, and if I got stuck I am willing to take the consequences.

A little personal history, if you will abide with me for a moment. I was elected mayor of the city of Northampton for five years. I was told when I took that job that I would have to spend one or two hours a day on the job, but my time sometimes was occupied twenty-four hours a day. But I did not quit for a minute. I stayed with the people, and I believe I was elected every year because I attended to my duty. Now, then, I believe that if I have got to stay in this Convention until the first of January to do this work I should stay here, and I should not go back to my constituency and say that I quit on the job. I have heard a good deal of talk about the dear boys who have gone to the war, and I believe that they are not going to quit on the job. They are going on, and across the trenches, and are going to win out. There is no question about that. We want to stand back of those boys in this way: To say to them that this Constitutional Convention stood by its job and is going to cross all the trenches that it has got to meet, also.

We have got some hard work before us. I am anxious to do all the work that I possibly can, but if we go on with this Convention I want to have some order passed at this time to meet the demands which are necessary, and that is to have men who have been elected to this Convention come here and do their duty. You know just as well as I do that there are men who sit in this Convention and who have been

drawing the salary of $750, who have not attended to their duties. You know it, Mr. President, as well as I do. There are men who have not been excused for the two days for which they have a right of excuse. They have not asked this Convention to be excused. I have been here almost every day; I am willing to stay the limit, and I am sorry that I cannot agree with my friend from Holyoke (Mr. Avery). I think that I am affected just as much as any member, because I come from the western part of the State and have to spend most of my time in Boston. I know my salary is small. I know that my business has to suffer. But at the same time I believe that my duty is to this great Commonwealth. I was elected to fill this position, and I am going to do so to the best of my ability.

Mr. Sullivan of Salem: In view of the remarks made by the gentleman from New Bedford (Mr. Ross), that the report of the committee on Rules was not unanimous, I should like to inquire as to either the number of dissenters or the vote in that committee. I think that the members of the Convention are entitled to know the division there was in the committee on Rules, and I should like to have the Chair so inform the Convention if he can.

The Presiding Officer: The question is not a parliamentary question. The Chair cannot answer.

Mr. Hale of Boston: I hope that this question will be decided on its merits, and not on the merits of extraneous questions which are being dragged into it. In the first place, various gentlemen who have spoken against adjournment have commented on the waste of time. Every man in the Convention knows and recognizes clearly that we have wasted time. Most people know why, to a large degree, we wasted time. We have wasted time, but that is past. That has absolutely nothing to do with this question now facing us, because we cannot undo the waste. In the second place, I cannot see for the life of me what this question of salary has got to do with the question now before us. We have got a certain amount of work still to do. The question whether we are going to get paid for the amount of work we still have to do is just as pertinent if we do that work in the next three months as if we do it in the three summer months. You cannot duck that question of extra compensation, but I say it has absolutely nothing to do with the question we now are considering. And in the third place, as a man who has been on the liberal side and probably will be in all the fights in this Convention, I cannot see for the life of me, — I do not know for the life of me, — which side, the conservative side or the liberal side, will benefit by this adjournment. It was introduced by a man who is on the liberal side. A large number of the men who have spoken for it, and who are going to vote for it, are men who are on the liberal side. A large number of the men who have opposed it are on the conservative side. I cannot see for the life of me how it has anything to do with any of these principles, how one side or the other will get any advantage by the delay. In the fourth place, I cannot see how there is going to be any delay as far as the actual work of the Convention is concerned, with one possible exception. Nothing can go on the ballot now until 1918. I think the Convention has learned its lesson pretty well in the summer of 1917, and that when we meet again in 1918 we shall not make the same mistake we did this year. In other words, every single thing that we have got

to do, if we adjourn, can go upon the 1918 ballot, and if we keep on working in the next three months it cannot be placed anywhere except on the 1918 ballot. In other words, there will be no delay, as far as the matter of getting into the hands of the voters is concerned, with, as I said, the one possible exception of our calling a special election, and I do not believe there is a man in the Convention who is in favor of calling a special election during this next year to vote on these matters. In the fifth place, another thing has been talked about with a great deal of eloquence, by some of the gentlemen, particularly by one of the gentlemen who last spoke, about our duty to the State and our contract with Massachusetts. I do not believe there is any difference of opinion among the delegates as to that. We all are here to deal with these public questions before us. If I prefer to deal with those public questions during the months of June, July and August, I cannot see why I am not fulfilling my public duty and living up to my contract with the State, just exactly as well as if I do those things in the months of November, December and January. I do not think there is anything particularly sacred about the months of November, December and January as against the months of June, July and August. I think that whole question of staying on the job (it sounds beautifully) and doing our work, fulfilling our contract with the State, is political oratory and nothing else. I think it has absolutely nothing to do with the question at issue.

Now, what is the question at issue? It is purely a simple matter of common sense. We know the make-up of this Convention. We know that most of us are a great deal busier during the winter months than we are during the three summer months. I, for one, am very strongly (and I think I represent a great many people in this Convention) in favor of concentrating our work in this Convention at a time when most of us have less of other things to do. I do not think it is a case for political oratory, or for waving the American flag, or for patting ourselves on the back as being patriots of Massachusetts. It is simply a question of picking out that time of the year prior to the election of 1918 when we can live up to our contract with the State and fulfill our duties as members of this Convention, and not interfere any more than we have to with our other business. For that reason I hope that we shall adjourn till June.

I have submitted an amendment which covers a point which has been accepted, as I understand, by both the gentleman from Newton (Mr. Anderson) and the gentleman from Holyoke (Mr. Avery) and which will make it clear that the Convention must be called in June and cannot be put off indefinitely.

Mr. Hale moved to amend the amendment moved by Mr. Avery by striking out the words "subject to the call of", and inserting in place thereof the words: "and shall be called by", so as to read:

Ordered, That the Convention continue in session until final action has been taken on the resolution to provide for establishing the initiative and referendum, (document No. 359), and that it then adjourn, and shall be called by the President or Secretary of the Convention to meet within one week after the prorogation of the General Court of 1918.

Mr. McCarthy of Marlborough: In rising to speak upon this question I do so without expectation of influencing the opinion of any member of this Convention. I have not even the slightest desire to

influence any member of this Convention. But I do feel that it is my duty as a delegate to this Convention to say a few words upon the question from my own particular personal point of view.

I have not the slightest desire to embarrass any member of this Convention by obliging him to continue the work of the Convention, but I do feel that it is my right and my duty to give to the Convention and to the people whose votes sent me to the Convention my reasons why I believe I should continue here doing the work. Each of us knows that when we became candidates for the position of delegate to this Convention we had certain fixed ideas and thoughts regarding it. I have no wish to imply or insinuate the term "slacker" upon any member of this Convention, but I do say that I believe the people who sent me to this Convention might be justified in calling me a slacker did I desire to put this work over to another summer. One of the fixed ideas which I had was that I was to be a delegate, in the event of my election, to a gathering of men of this Commonwealth such as had not been had in sixty-four years. I did not have the slightest idea how long it was going to last. I could not have the slightest idea how long it was going to last. I was given to understand that for my services in this Convention I was to receive the sum of $750, at least that was the maximum sum I was to receive. I was elected to this Convention and I came to this Convention with those ideas and those opinions, that I was coming here to pass upon certain great problems of fundamental government, representing a certain group of citizens of this Commonwealth, those citizens in the district in which I was a candidate. I knew that the people of my district believed that in the event of my election I should support certain questions which would come up in this Convention, the initiative and referendum and others. I believe that those people who voted to send me here believed that I was to come here and during a period of a number of months I was to vote for them upon certain great questions which have been before the public for some time. Up to the present time I have not had the privilege of voting upon what in my opinion are the most important questions for which I was sent here in the opinion of my constituents. I have discovered from conversations with my constituents their idea and belief upon certain great questions and upon the general conduct of the Convention, and being fortunate enough to represent a constituency which it is possible for me to meet largely day in and day out I have had no difficulty in determining the opinions and the ideas of those people who voted to send me here. And so for that reason, as I said in the beginning, I believe it is my duty to state specifically here to-day why I propose to vote against adjournment until another year.

As I have said, I have not the slightest desire to change the opinion of any man, I have not the slightest desire to embarrass any member of this Convention, but I feel that, as one who, perhaps, can afford as ill as any man here to be in this Convention further, I am speaking honestly and fairly when I say that I believe that it is my bounden duty to serve here continuously until those great questions are passed upon, even though I am obliged to come here without pay.

It has been said that we are growing stale, and in that connection let me compare briefly this Convention with the great war which is being waged. The first great contest in which this country was en-

gaged was for the establishment of a government of the people, by the people and for the people. The pages of history tell us that in those days the forefathers were willing not only to sacrifice their property and their means, but to give their lives if necessary in defence of the great principles in which they believed. The second period of great danger to this country was when the nations of the earth saw liberty attacked by the hands of some of her misguided sons. Those same nations looked on, expecting to see fulfilled the prophesy of former years, — that a government such as ours could not stand. It is not necessary for some of us, perhaps some within the sound of my voice, to go to the pages of history to learn the facts of those days. There are men within the sound of my voice who were part and parcel of that great army of Americans who went forth imbued only with the idea that it was their duty to offer all that man can give, — wife, children, father, mother, home, — in defence of those principles instituted by the forefathers. We now are face to face with a third period of great danger to our country, and if we are less ready to make sacrifices than were the men of '76 and '61 then again that liberty and that freedom which we prize and enjoy may be in serious danger. I believe that our duty and our sacrifice, as we are here to-day, lies in this Convention, and I believe it would be just as sensible for us to say that our armies in France have grown stale and that we should postpone the battle until next summer as it is for us to say that we should give up this work in which we have entered in order to come back here next summer and complete it.

That briefly is my view of the situation. I care not what any one may think of my public acts. I have been in public life long enough to know that the only possible thing a man in public life can do is to satisfy himself and his own conscience. But I believe that upon the records of this Convention, in view of the fact that I never before have taken a minute of time of this Convention, I should have placed my belief, and my reasons for my belief, that I should continue here to serve my constituents.

I am grateful for the attention which the members of the Convention have given me. [Applause.]

Mr. YOUNGMAN of Boston: I shall take but a very few minutes, perhaps only a few seconds, of the time of this Convention. I believe that this is a question of individual judgment, and the collective result of that individual judgment is something we ought to get pretty soon, and we all ought to make up our minds cheerfully to abide by it. I am in favor of the motion offered by the gentleman from Holyoke (Mr. Avery), because I believe that our paramount duty is to the Nation, and I believe that every day and every hour the demands made upon us, each of us, to help in the great national work are increasing, and I think that we are a long way behind in our performance of many of those national obligations. I have a great admiration for some of the men who have spoken in opposition to adjournment, and I have just as great an admiration for some of those who I believe are still to speak in opposition to adjournment; but I submit that it has not been pointed out to the members of this Convention that there is on our docket, after we have met the demand that is claimed for some enactment on the initiative and referendum, without which the Commonwealth cannot continue long, enough to have the citizens of

the Commonwealth do their duty by the government of the United States and maintain the oath that we all took here at the beginning of this session to the Constitution of the United States.

Mr. HAINES of Medford: To those of us who were elected by our constituents for the purpose of determining the status of the initiative and referendum any attempt at adjournment seems to be a subterfuge to avoid meeting the real issue when victory seems to be within our grasp. [Applause.] The motion made by the gentleman from Boston (Mr. Hale) seems to me to meet with the requirements of this Convention and with the demands of our constituents, that we immediately, or at the soonest moment possible, determine the situation in regard to the initiative and referendum, and then our work is finished. For that reason I speak in favor of that motion. I think that the people of this Commonwealth, the people certainly with whom I have been familiar as constituents, will be well satisfied if this Convention in its present mood would go through with the initiative and referendum and then consider itself discharged and its work well done. Certainly there was no agitation for any other action. Certainly at the present time there is but little demand for any other action. All of this delay has been caused by the attempt to keep from the ballot certain measures this fall, and it is not upon any member in this Convention who favors this particular project that the blame for adjournment, or for an attempt to adjourn, should fall. I hope that the Convention goes on, performs its duty in an orderly manner, and is passed down in history as a creditable Convention instead of as a huge joke, as it will be if we do not determine this measure.

Mr. CLARK of Brockton: My own personal feeling has been favorable to a continuation of our work until we shall have completed it, but I have allowed myself to endeavor to find an excuse for voting for adjournment until next year, for the purpose of relieving the situation of my many friends in this Convention hall. But, after studying the question more carefully, and after listening to the arguments that have been made here to-day, I am very doubtful as to the advisability and the wisdom of adjourning, and one of the strongest arguments against adjourning was made by the honorable member from New Bedford, who thought he was arguing in favor of it. [Laughter.] His argument was this: That if we sat here till January we would not have completed more than half the work that now is left undone. If that be the case, where will we be if we adjourn now and meet next summer? We will not be able to complete the work next summer before the November election. We will have to go over to a third summer if that be true.

It is proposed to adjourn this Convention subject to the call of the President or the Secretary after the General Court of 1918 shall have adjourned. When is it likely that that General Court will adjourn? Listen. In 1898 the Legislature adjourned on the 23d of June; in 1900 on the 17th of July; in 1901, the 28th of June; the next year the 26th, and so along down. In several years it went well into July, and in 1911 to the 28th of July. When can this Convention reassemble in this hall? Nobody knows. With the most gigantic war upon our hands in which this Nation ever has been engaged, and with the probabilities that the problems will be greater one year hence than to-day, I think I am justified in saying the Legislature of 1918 very

likely will occupy this chamber until well into the summer, and perhaps through the entire summer. Then where will be the opportunity for this Convention to sit and do its work?

If my memory of history serves me correctly, something like 2400 years ago this time there was another Constitutional Convention. It sat in Rome. History reports that that Convention extended its time, that it extended it again, and that finally that Convention voted that it was the government of Rome. Is there any such purpose in this Convention, to extend, to prolong, to continue to extend and finally declare that this Convention is the government of Massachusetts?

But there was a sequence to that. The people of Rome arose and ousted the usurpers, and my opinion is that unless this Convention shows a disposition to deal fairly by the people of Massachusetts, to do its work along the line it was expected to do it, and in a reasonable time, the people will arise and in some manner oust this Convention forever.

Mr. Hibbard of Pittsfield: I hesitate to trespass upon the time of the Convention, but coming, as I do, from the very extreme western end of the State, farther, I think, than any other delegate, but one, and having attended every session of this Convention, every committee meeting but one, I feel that I have a duty to perform in stating my views to the Convention. I do not speak of my attendance here boastfully, neither do I claim any credit, because I was elected for the very purpose of coming here and serving the Commonwealth to the best of my ability, whatever might be the time demanded.

I am opposed to the motion of my friend from Holyoke (Mr. Avery) much as I regret to differ with him. I do not believe this Convention would be doing its duty if we take a recess until next June. The fundamental difficulty with this Convention is that there are too many delegates living in the immediate vicinity of Boston. Now, then, has there been time wasted? I need not answer that question. At four o'clock each afternoon the delegates hasten to take the train home and I do not blame them, but, if we had got down to business and had been willing to work reasonable hours, we would have been farther advanced than we are now. I believe there can be such rules formulated that this Convention, if the delegates mean business and are willing to give reasonable time to their duties, can make much more rapid progress than has been made in the past.

I appreciate all that has been said about the neglect and the delay, but whose fault is it? It is our own fault and not the fault of the Commonwealth. With these new rules, I believe we can discharge our duties and dispose of the different measures now before us before the first day of January. If the gentleman from the third division who has just spoken is right in his contention, after the initiative and referendum is out of the way, there is very little more which would occupy much time. With the initiative and referendum out of the way, I believe the Convention can get down to business and do business. I would not be understood as finding fault, but I do say that it is not very comforting to a delegate who has traveled 150 miles on Sunday night or Monday night to be here on Tuesday morning, and remains here until Friday night, to look around day after day upon these vacant seats. If the delegates think they are discharging their duty by the Commonwealth that is their privilege.

I am willing to come here and serve to the best of my ability from now until the first of January, and later if necessary, in order to complete the work which we have in hand. What is the advantage of adjourning over until June at this time? Will conditions be any different then? Will the delegates be any more willing to give up another summer, losing their vacation and all the advantages which come to them, — especially to us in the hills, — during the summer months, to spend possibly three months as we might have to do, than to remain a few weeks longer at this time? If we cannot complete our business before the first of January, we then could adjourn *sine die* and there will be general approval, in my opinion, on the part of all the people.

I am opposed to taking a recess. I know the sacrifices that many delegates are making. I know the loss of business, no delegate better, but I entered into a contract, — although some of the delegates have ridiculed the idea of a contract, — with the Commonwealth and my constituents, and I propose to stay here as long as it is necessary and to work continuously until the work is completed. I ask my fellow-delegates from the western part of the Commonwealth, who, although they have sacrificed more than the delegates from any other part of the Commonwealth, to vote against this resolution.

President John L. Bates of Brookline (having taken the floor) [applause]: I thank the members of the Convention, and I assume that this manifestation is because they recognize that I, too, like many of those who have spoken to-day, can say that I have not taken up very much time of the Convention in previous debates. [Laughter.] You notice I limit it to debate. I have much feeling of sympathy for the men in this Convention, of whom there are many, who find it exceedingly irksome to go on with the business of the Convention at this time. I have a feeling of consideration for those men who have come here, representing portions of the community, who earn their bread by the work of their hands, and I know that it is a hardship to them to ask them to continue here without further compensation. I also have much consideration for the business and professional men, who find that their business and their professional interests are being greatly interfered with, and in some cases jeoparded, by reason of their continuance in their duties here. I have nothing but admiration for the men who, notwithstanding this condition, have continued to come here day after day, and have kept not only a quorum to do business but so large a number, considering the size of the Convention, as to reflect the greatest credit upon it.

We have been a Convention that has deserved well of the people, notwithstanding the criticisms that some of the members of the Convention are inclined to make of it. When you consider the whole situation, those things which are not stated in the newspapers but which we know about, you will be compelled to come to the conclusion that this Convention has done well. It has not neglected its public duties. It has been a deliberative Convention in the best sense of the word. I say without fear of contradiction that there has been no Convention and no parliamentary body in the history of this State or of any State, that has acquitted itself better than this Convention has up to the present time. [Applause.] We are just on the eve, as it were, of more rapid advancement. If there have been delays, they

have been occasioned by circumstances over which we have not had control. We are just ready for the advance, and I see no reason why it should not be rapid. Rash indeed would be the man who would venture to prophesy as to when we can complete all the work that is before us, and yet I think it is quite possible to complete it during the month of December, and to do it well, and I would not have it completed unless it is done well and with the same deliberation, the same discernment, that has marked the proceedings of this Convention up to the present time.

I referred a moment ago to the fact that these members had come here notwithstanding the hardships that their coming imposes upon them. Now let me say, fellow-members, if you will stop and consider for a moment, you will find that while there is a difference in degree there is hardly a member of this Convention who is not, as the result of attending it, incurring more or less embarrassment in his business and more or less financial loss. But we were elected for a public duty. We were elected to discharge that duty beginning last June. We were not elected to hold a Convention next year. It was assumed that the business that was coming before this Convention was business of such importance that it demanded the attention of a Constitutional Convention now, and not next year. We were elected in order that we might give our time and our best thought to the consideration of these matters.

Now, what is the reason that is urged for postponement? I have listened carefully to the debate. I recognize that every man here is as conscientious in his endeavor to discharge his duty as I am, but I ask you to analyze the reason that is given for postponing the further proceedings of this Convention after the conclusion of the matter that is before us. It is simply this: That to come here interferes with our business, and that our private business must be placed above the public business. Can you go back to your constituents and give them any other explanation? Is not that the whole story? Are you willing to say that you believe that, although you accepted the position in the Constitutional Convention and were elected by the people of this State, you have found that the business that they put into your hands to do was less important than your own private business, and therefore you beg to be excused until a more favorable time, in order that you may go about your private business? [Applause.] That is the whole story as I see it, and I think if you will analyze it in your own minds at the present moment you will see that that is the only reason that we can state to ourselves for postponing the further proceedings of this Convention. If that is so, then you will agree with me that we ought not to postpone it.

Mr. O'Connell of Boston: I do not like to interrupt the speaker, but I should like to ask him this very pertinent question, which I think his extended experience will justify him in answering: Is there anything that could prevent a reconsideration next summer of all the questions that we have gone over, including the initiative and referendum, if a majority so elected to take it up in some form next summer?

Mr. Bates: I believe that the answer which is suggested by the question of the member from Boston in the second division is one of the most substantial reasons why this Convention should not adjourn

over until next summer. You may not be able to reconsider a matter upon which you have passed, finally, but you can do as was done in the case of the anti-aid resolution. You took up another matter that came from another committee, and found it conflicted, and there was nothing, except the judgment of the Convention, to prevent the Convention from adopting that resolution and submitting it to the people. There will be nothing to prevent these matters coming up in other forms next summer if the Convention then meets, and that would necessitate doing the work all over again, or a large part of it. I want to say that the time which we will save now will be more than offset by the time that you will lose next summer. There would be a lack of public interest in a Convention which had been adjourned over.

Mr. WALKER of Brookline: In view of the speaker's answer to the gentleman's question, and in order to clear up the situation, I wish to ask the speaker if he understands that, if, for instance, the initiative and referendum should be completed, entirely completed, and the question of putting it on the ballot in November next should be decided, and no further act left to be done by the Convention, the matter in any way could be reconsidered next summer.

Mr. BATES: I see no reason why the Convention could not adopt other resolutions of amendment that would completely nullify the amendment which had been worked over and submitted as the result of the work of the Convention at the present time.

Mr. WALKER: Then I understand the gentleman to reply that the resolution so completed would go on the ballot, but that other resolutions in conflict might also go on.

Mr. BATES: That is exactly as I understand it.

Mr. SAWYER of Ware: There being only two minutes left for debate, I move that the time be extended to give the present speaker as long a time as he wishes.

Mr. BATES: I trust the Convention will not do that, at least not out of personal consideration for me. I will bring my remarks to a close at once, although I thank the gentleman for his courtesy in making the proposal.

I look upon it as a case where we have the work well in hand, that private business and private interests will interfere next summer, that it would be difficult to get the Convention back here in such large numbers as we have now, that they would have to go over much of their work again, much of what we now have gone over would be for nought. And I believe also that if the Legislature should refuse, as I believe it will, to authorize a salary for another session of this Convention, it would be very difficult to get even a quorum at times next summer to carry on the work of the Convention. Instead of going out of existence as a Convention which had done its duty nobly and well, and in accordance with the reputation which we now have, we should be a Convention in which the public would have lost interest, and it would be damaging to the reputation of this Convention.

We have had many references to the sacrifices of the present hour. We have been, if you please, in the trenches, and we all are tired, but it seems to me that if we ever are going over the top we must stay here and go over it now. [Applause.]

The time for debate having expired, Mr. Avery of Holyoke asked and received unanimous consent to consider all of the amendments as having been accepted by him. The Secretary read the order as thus modified: —

Ordered, That the Convention continue in session until final action has been taken on the resolution to provide for establishing the initiative and referendum, document No. 359, and that it then adjourn, and shall be called by the President or Secretary of the Convention to meet within one week after the prorogation of the General Court of 1918.

By a call of the roll, the order was adopted, 143 voting in the affirmative, 134 in the negative.

On the following day (October 19) the Convention considered a motion of Mr. Carr of Hopkinton that the vote whereby the order of Mr. Avery of Holyoke was adopted, be reconsidered.

Mr. AVERY of Holyoke: I had hoped yesterday when we took up that order that there might have been a program from the committee on Rules on which we all could have agreed. Through perhaps some misunderstanding no such program was brought before the Convention. The only thing we could act on was its adverse report.

Since the action of yesterday I have been talking with some of the members of the committee on Rules, trying to see if there was not a program on which we could agree, and I wish to make this statement: That if this motion to reconsider shall prevail I shall offer this order:

Ordered, That the sessions of the Convention continue until Wednesday, November 28, and that, if all its business be not then disposed of, it adjourn until called by the President or Secretary to meet not later than within ten days after the prorogation of the General Court of 1918; and until the time of such adjournment on November 28 the resolution to provide for establishing the initiative and referendum shall, whenever upon the calendar, take precedence over all other matters in the Orders of the Day; and provided further, in case final action has not been taken on the said resolution on or before the said 28th day of November, the sessions of the Convention shall continue until such final action has been taken, and upon the taking of such final action the Convention shall adjourn subject to call by the President or Secretary as aforesaid.

By a call of the roll, the motion to reconsider prevailed, 136 voting in the affirmative, 114 in the negative.

Mr. AVERY of Holyoke: I simply want to make a statement. In my opinion, under the order that we passed yesterday we would be here the greater part of the month of November, or until at least November 28. We might be able to adjourn some time sooner. This gives us a definite time and also protects the initiative and referendum at all its stages. I understand that the committee on Rules is ready to report a revised form of procedure, with a different schedule for hours of work, and is ready to give some suggestions so that we can proceed with our work and do it better than we have done before. I understand also that the committee on Rules and Procedure and the committee on Contingent Expenses and Pay-Roll are ready to take up the question of compensation for such time as we shall be here in the month of November; and, contrary to what was said yesterday, contrary to what the newspapers say, the members of this Convention have a right to compensation just as much as the Governor, the Judges, and members of the Legislature.

Those are questions that we ought to take up. This would give us a clean-cut basis on which to work. I would have agreed to such an

order yesterday if the committee on Rules had presented it; and, despite any criticism, I present it as a workable basis on which this Convention, if it wants to, can agree, and upon which it can go before the people without any fear of criticism. The committee on Rules has voted unanimously in favor of this, and we now have a procedure on which very many of us who have been opposed can agree, and which will do away with a line of division and cleavage in this Convention which was beginning to appear and show itself yesterday. I do not care about any criticism for myself, whether inside or outside this Convention. I want to see the work of this Convention done right, and I want to see the members of this Convention in substantial accord and harmony. In that spirit I offer, for the sober consideration of the members, this amendment to the order.

Mr. CHURCHILL of Amherst: As I sat here and heard the discussion yesterday, and listened to the stirring appeal of our President and of the delegate from Waltham (Mr. Luce) calling us to a recognition of our duty, appealing to us to fulfill our duty, I presume my feelings responded to that appeal as fully as that of anybody in this Convention. The difficulty which I have experienced in seeing my way clear in this whole matter has not been the difficulty of responding to a call to duty. It has been the difficulty of seeing exactly where and how one's duty is best to be fulfilled.

In my consideration of this matter, there has been but one issue in my mind. When the problem of calling this Convention was before the people, unlike some others, I was anxious to see a Constitutional Convention called. In a circle where there was some doubt as to the wisdom of calling such a Convention, I argued to the best of my ability the desirability of such a Convention. I argued the necessity of change in certain lines of our government. I endeavored to point out the necessities of to-day, which are apparent to me in some things at least, — the necessity for progress and reformation in certain departments of our government. I felt that those things were necessary and I was anxious to see a Convention that would deliberate thoroughly upon those things and work out a wise and successful change.

When this question was before us, as to whether we should continue now or adjourn until next summer, there was just one question at issue. It is our duty to turn out the best results we can. It is our duty to deliberate as long and thoroughly as we can upon these important matters. It is our duty not to be hurried. It is our duty not to be so pressed that we toss over things because we are in haste, because we say we cannot see our way clear in this thing, and we have not time to think out a clear way.

When the immediate motion was before us yesterday I faced this question: In the month and a half left to us in this year is it possible, without haste and without undue pressure, to secure wise and right and ripe results upon matters of such extreme importance? I am not going to take the time of the delegates to recount these matters of extreme importance; but as I sat down and asked myself: "How long is it going to take for this Convention properly to work out results upon this subject and upon that," I could not see, and I cannot see at this minute, any possibility of fulfilling our duty to reach wise and well-thought-out results upon these important matters in a month and a half. I felt that my response to the call of duty meant to vote for such

length of deliberation as would give us the time to do those things, and I could not vote otherwise, therefore, than I voted yesterday.

But there was one extremely unfortunate result. That was that this vote was a very narrow vote. We had a very great difference of opinion about it. When we came to the final decision we found that there was a majority of nine for one way over the other. Although I agree in the result, I do think it is extremely unfortunate that we cannot work out a result which will seem to a considerable majority the wise method of procedure. What I want to know this morning is, what is this method of procedure which is proposed? How are we expected hereafter to conduct our proceedings? What shall we accomplish by it, — so that I may see, and the other members of this Convention may see, that the proposed procedure will help us on our way better than adjourning the first of November, or after the I. and R. discussion is over; will help us on our way to a full, deliberate and complete consideration and wise conclusions upon these large and enormously important matters? If that can be made clear to me, I shall be delighted to vote for such a motion as this. But I ask that the committee on Rules shall explain to us what they propose in this procedure, and make plain to us that the call to duty, the duty of deliberation, the duty of getting results, the duty of wise conclusions, can better be brought out by the proposed motion than by adjourning and securing three, four or five months, rather than sitting for a month and a half longer in this present state of our feelings.

Mr. William H. Sullivan of Boston: In view of his position on the initiative and referendum, and his desire to protect the minority, I should like to ask the gentleman if he would be satisfied with an adjournment achieved by anything less than a majority vote of the total membership of this Convention. There were 143 votes in favor of adjourning, which is much less than a "mere" majority of the delegates to this Convention. In view of his position on the initiative and referendum, I should like to ask the gentleman if he will be satisfied to have an adjournment by any vote less than a majority vote of the whole Convention.

Mr. Churchill: I am very glad to answer the gentleman, but I shall decline to take any view on the initiative and referendum into account, because I do not take it into account upon this matter. I have made my position plain with regard to this vote; that, while there is a majority vote for the original order, I think it is unfortunate that we cannot come to a conclusion which will command a very substantial majority of this Convention. That is my answer to the gentleman.

Mr. Luce of Waltham: Yesterday there devolved upon me the duty of laying before the Convention the views of the majority of the committee on Rules and Procedure. This morning I am glad to say that I report, for both those who favored and who opposed the order yesterday, a unanimous opinion that the order as presented by the gentleman from Holyoke (Mr. Avery) will be a happy solution of the present situation. I am content to confine myself to this simple corroboration of the statement of the gentleman from Holyoke, not that his statement needed corroboration, but simply that it seemed to devolve upon the committee on Rules to make the statement; but the request of the gentleman from Amherst in the third division (Mr. Churchill) calls

upon me to modify in a slight detail one remark of the gentleman from Holyoke. The committee on Rules and Procedure has not yet reached a conclusion as to the recommendations to which the gentleman from Amherst refers. Drafts have been made of possible changes in the rules and time schedule, but this morning we trespassed altogether more than was our wish on the time of the Convention, delaying the opening of the session unduly, I fear, in order that we might be able to report to you a unanimous support of the order of the gentleman from Holyoke. Therefore no vote on the other matters was reached in the committee; and when the committee does reach a conclusion it still will be within the power, of course, of a majority of the Convention to accept its suggestions or alter them as it sees fit. I may intimate, however, a personal view in the matter, which I think will meet the approval of the gentleman from Amherst, for his own experience in the Legislature I think would lead him to conclusions corresponding to my own. That in the course of many years the Legislature has worked out a time schedule that conduces to the greatest convenience of the greatest number. If, however, the conditions under which we are working, in spite of the desirability of somewhat more speed, should not commend the Legislative schedule, for one I should accept very cheerfully the judgment of the Convention.

Furthermore, it is suggested that now we have taken out of the Committee of the Whole the initiative and the referendum, there will not be so great occasion in regard to other matters for a procedure prohibiting the legislative use of the previous question. Also, we probably have reached a point in our deliberations where we may view with equanimity a reasonable time limit on the speeches on the main proposition, in the hope that gentlemen will be able to express their views in somewhat less than the space of an hour, although I hesitate even now to suggest a definite limit.

It is by the reasonable limitation of debate, by the reasonable extension of hours, if it should meet the approval of the Convention, that, if we choose, we may somewhat expedite our work, but that rests altogether with the wish of the Convention in the matter. As I said, it has been my intention and desire to trespass upon your time this morning only to the extent of saying that the unanimous opinion of the committee on Rules is that the suggestion offered by the gentleman from Holyoke is a happy solution, to which we all may agree, and which will set ourselves right before the public, and will conform to the traditions of Massachusetts, — the proper and orderly conduct of our work.

Mr. WALKER of Brookline: I find in consultation with the Secretary and with the President that the substitute order offered by the gentleman from Holyoke (Mr. Avery) is in conflict with two rules of this Convention; with Rule 38, in regard to unfinished business, and with another rule in regard to reconsideration. In order to suspend the rule in regard to reconsideration unanimous consent must be had. In order to suspend Rule 38 a two-thirds vote must be had. I understand that the gentleman from Holyoke, and as far as I personally am concerned, — and I speak for nobody but myself, — with my consent, will modify his order so as to except questions of reconsideration. And in order that the matter may not run up against Rule 38, I move that Rule 38 be suspended, and then, upon the suspension of that rule, if it

is suspended, this order may go through. I move that Rule 38 be suspended.

Mr. Cusick of Boston: There are a number of delegates no doubt who do not have the privilege of consultation with the various members of the committee on Rules so that they may know exactly what is going on. I feel very glad indeed that the sober second thought of this Convention has led to the reconsideration of the vote passed yesterday, and while we have yet time I hope that we shall take some means now to induce the committee on Rules to bring in such rules for the acceptance of this body as shall permit this body to conduct its business in a more efficient manner than what was described by the chairman of the committee on Rules yesterday. I do not know whether he meant it or not, but his mathematical deductions, that did not tell the whole story of the work of this Convention, have led to quite considerable comment unfavorable to the work and efficiency of this Convention, which I do not think is right.

That we may avoid that in the future, while we have yet time, let us consider the wise words, the arguments and statements of our presiding officer yesterday. No wiser advice could be given either to the Convention as a whole or the delegate as an individual. He struck the keynote of this matter when he said: "Do not let us at this time permit private interests to interfere with our duty."

What is our duty? Our duty is to finish the consideration of matters before this Convention. And while we have been told that by a number of delegates, no definite manner has been suggested by which we can speed up the matters under consideration. I suggest that the committee on Rules, who most thoroughly understand the feelings and sentiments of this Convention, that brought us to a point where we almost disgraced ourselves, — I hope now that they will take this matter in hand and bring to this Convention such modification of the rules as will permit us to do efficiently the business of this Convention. It may be done in a number of ways. I admit the individual sacrifice of members of this Convention. I believe, however, that with proper rules we can meet cases which are absolutely necessary for absence from this Convention and still efficiently pursue the work of this Convention. I believe that we can start Monday and do our work. I believe, further, that we can stay here Fridays until four o'clock; I believe some way may be devised that will permit us to speed up now, and now is the psychological moment to do it. If we stay now we will complete our work. If we adjourn we probably never will get together again and do the efficient work which we are able to do now. And I ask you to follow the advice given you yesterday by your presiding officer. No wiser words ever were uttered in regard to this Convention than were stated by your President. Let us stay here, under proper rules, and do the business of this Convention.

Mr. William S. Kinney of Boston: I listened to the debate yesterday with much interest, and observed the attitude taken by the President of the Convention and by the chairman speaking for the committee on Rules. I was disappointed in the character of the debate and with the attitude taken. I had hoped that instead of conceding the fact that the Convention had wasted time, that it had been careless or dilatory in the performance of its duty, there would have come from those high sources rather a note of praise; for I believe that in

achieving, for instance, the conception and formation of one of the amendments which we submitted to the people, the anti-aid amendment, if that amendment alone should be adopted as one of the results of this Convention the Convention would have justified its existence. I remembered how long it took, for instance, for the committee on Bill of Rights to reconcile its members to the terms of that amendment, and then I remembered how long it took the rest of us members of the Convention to agree upon the terms of that amendment, how it became necessary for us to consider it in all its phases. Then when I realized that perhaps there were only two amendments before the people which would have led to the calling of this Convention, the anti-sectarian amendment and the I. and R., I had supposed that men interested in this Convention would have said that if we had sat here, as we have, for five months, and if we were willing to sit here until we have completed our labors on the I. and R., we at that time would have completed the real work which the people called upon us to do.

I was surprised that there was a demand for a continued sitting, together with a suggestion that we now speed up our work. What is the most bitter criticism to which the Legislature can rightfully be subjected? Is it not that during the closing hours of the Legislative session this same tendency to speed up is put into effect by presiding officers, and as a result we annually place upon the statute-books of this Commonwealth legislation of which the courts are obliged to say, as they said in regard to the Lien Law, that they are unable to interpret it?

Mr. Lomasney of Boston: I hope we shall not suspend the rule. And why? Because it is a very important order, it does many things, and we are entitled to see it in print. That is one reason. Secondly, because if we do not at this time suspend the rule the committee on Rules will have the opportunity to get together and consider changing the rules; then we shall have the privilege, if I may use the word, of seeing them before we pass any more orders as to when we shall adjourn.

It seems to me that is the proper thing for us to do. The ordinary members have some rights just as well as the gentlemen of the committee on Rules, who are responsible for where we are now; and while I do not like to say "I told you so," you know what happened here in the beginning, you know the way we got into this situation. They told us: If you will do this, we will do that some other time and everything will be all right. I say let us put this matter on the table; then let them bring in their report. [Applause.] We are not servants of the committee on Rules; we are here entitled to have all these matters submitted to us.

Do not suspend the rule to-day. Let them get together this afternoon, or let them get together to-morrow, just as our committee and other committees have done, and agree among themselves before they ask us to do any more backing down. God hates quitters. [Applause.] We discussed this question, and we voted, — to do what? To adjourn this Convention, properly and in accordance with parliamentary law. The President exercised his rights, and in a fifteen-minute able address tried to defeat the order but failed. The Convention showed

that they desired to adjourn. And now are we to be guided by one man, — the one man who, changing his mind since yesterday, deserted those who followed him, and allowed himself to be taken into the committee on Rules and chloroformed?

Mr. Hale of Boston: With all due deference to the committee on Rules, I think their habit of suggesting compromises has been carried a little bit too far. Let us analyze this proposed compromise, let us see what it really does.

Mr. Luce of Waltham: May I correct the gentleman's apprehension? This compromise neither originated in nor was suggested by the committee on Rules.

Mr. Hale: Let us analyze this compromise which has been accepted by the chairman of the committee on Rules, and by most of the members of the committee on Rules and by the gentleman from Holyoke. Does that meet the objection of the gentleman from Waltham? What are we asked to do? The people who objected to adjournment yesterday, and particularly our President, told us that we are negligent in our duty to the Commonwealth unless we stuck to our job until our job was done. I should like to ask the President of our Convention, I should like to ask the chairman of the committee on Rules, whether either one of them has the slightest idea that by November 28th our job will be completed, no matter how beautiful a schedule of speeches and time is arranged by the committee on Rules, and if a single man in this Convention honestly believes that by November 28 our job will be done?

Therefore I say that this compromise in no way meets the argument of the President of our Convention and of the other men who voted against adjournment, that we stay on the job until we finish the job. And does it meet the objection of those others who favor adjourning? As we come to this next two months or three months, it will be the hardest time for all of us to attend the Convention, and it will fall particularly upon those who do not have as much money as the rest, who are dependent on their work, and who cannot afford at this time to stay away from home. Does it meet the objection of those men? It does not. It simply gives us thirty days more. I have been thinking of the matter and analyzing this report, and the only object that I can see is an attempt to patch up a compromise to save our faces by letting us sit a little bit longer, until after November first, the day when the pay expires.

Mr. Ross of New Bedford: I am just about beginning to wonder whether I am not on this question like Mahomet's coffin, — suspended in the air. I got the impression, while sitting with the committee, that the purport of the matter now before this Convention, or to be brought before the Convention, the order of the gentleman from Holyoke (Mr. Avery), was for the purpose of disposing of the initiative and referendum and some other matters that might be forced upon the Convention and otherwise could not be considered. I want to say the matter of a new schedule of time for the purpose of forcing the other matters through without due consideration, after giving excess consideration to the business of the initiative and referendum in the Convention, has not been mentioned in my presence before, and I want to say I have not the slightest idea of voting for any such thing.

I want to say before I forget it that the committee on Rules and Contingent Expenses were to meet and provide for the month of November, and they cannot provide for it unless you sit in that month.

The Convention refused to suspend the rule.

President JOHN L. BATES of Brookline (having taken the floor): I move to amend the order before the Convention by the substitution of an order which is substantially the same as that offered by the gentleman from Holyoke (Mr. Avery), except it strikes out the words "except motions to reconsider", and inserts in place thereof "except as otherwise provided in the rules of the Convention." The only difficulty with the order as offered by the member from Holyoke was that it attempted to give those members of the Convention who desire to have the initiative and referendum the right of way, exactly what they wanted. The disposition of those who agreed on the order as offered by the member from Holyoke was to make certain, so far as they could, that that business should have the right of way in the Convention. They therefore put into the order as it was offered by the member from Holyoke that the initiative and referendum resolution, whenever it was on the calendar, should take precedence over all other matters. That was a violation of Rule 38, which provides that unfinished business shall take presedence on the calendar, and also of Rule 48, which provides that motions to reconsider shall be placed first in the Orders of the Day. Inasmuch as the Convention has refused to suspend the rules so as to allow the initiative and referendum to take precedence of those matters, it seems to be only fair that the order should be adopted so far as is consistent with the rules, and the form in which I offer the order is consistent with the rules, and the only thing that would be given precedence over the initiative and referendum if this order is adopted in the form in which I offer it would be those two matters which are required by the rules to have right of way, namely, unfinished business and a motion to reconsider, if there is any such motion before the Convention.

Mr. LOMASNEY of Boston: Does not the gentleman think, with this controversy over the rules and all of these other matters, that the best thing to do is to have the motion laid on the table and have it printed, and let every man in the Convention see for himself what it is? I move that we lay the matter on the table, and that it be printed.

Mr. WALKER of Brookline: I wish to make my position clear in this matter. I have confined myself strictly in this Convention to the initiative and referendum matter, and have tried to keep out of all other matters until that is settled. Now I wish members of this Convention to understand that I am expressing no opinion whatever as to whether this order ought to go through or not go through. I am interested in this, namely, that the initiative and referendum shall not be side-tracked, and that was our agreement with the committee on Rules, that the initiative and referendum should be the first thing in the Orders of the Day. That was the only agreement that I had, and I insisted upon that. Now I say that if the suggested plan of the President of the Convention goes through, the initiative and referendum will not be disposed of before January, in my opinion.

Mr. AVERY of Holyoke: I think this matter has come into some-

thing of a tangle by reason of the conflicting views of the members of this Convention, all of whom are honest and none of whom is a quitter, so far as I have been able to size them up. When I stood up here all alone yesterday, without any of the so-called leaders with me and fought this thing, nobody can accuse me of being a quitter. I am not a quitter to-day any more than I was yesterday. But the order which I introduced had certain difficulties about it. It was a question whether, when we were waiting for the committee on Phraseology to fix up the initiative and referendum, we could do any other business or not. It was a question how it left this Convention. It was a question how it left the question of paying compensation for such time as we might have to spend here in the month of November. I did not have time to consult with all the members of this Convention. I did not ask anybody's advice. I drew this thing up, went to the President of this Convention and offered it for the consideration of the committee on Rules, the only committee that I knew that I could go to as to some measure on which we could meet and agree. Some members have said the time is too late, we had better adjourn the week before Thanksgiving. I have no objection to that. I will agree to anything that will protect the initiative and referendum, and so far as I am concerned withdraw opposing anything that jeopardizes the initiative and referendum. Now, that is the situation. I have not the slightest objection to the motion of the gentleman in the third division from Boston, that this matter be laid upon the table, because when it is completed I want it completed right and in a way that we will not regret after we have closed our proceedings and gone away. Now, let us do this thing right. We all of us are honest, we are not any of us cowards, and we are able to come together on as plain and simple a proposition as how and when we shall adjourn, and under what conditions.

Mr. Thompson of Haverhill: I think there have been so many blunders on this matter this morning that the only thing for us to do is to lay it on the table and take it up the first of the week, and have it printed. The Rules Committee, as I understand the gentleman from Holyoke, got together this morning and agreed on a form of procedure. Those who voted for the adjournment yesterday were not consulted on it at all. Some of them voted with the gentleman from Holyoke this morning, and others voted against him, and *vice versa*. Now they do not know where they are at, simply because the Rules Committee have not said a single word except either to agree to or dissent from it. Now, we do not expect to hear any more from the committee on Rules, but we can do this: We can get together either for or against it between now and next Tuesday and discuss what we want to do. We certainly want a larger majority one way or the other than we had yesterday, but the way it looks now we cannot expect a large majority either way. Some expect adjournment, and others do not expect adjournment. Some want to set a date certain, and others do not want to set a date certain. It seems to me that the only sensible thing has been suggested by the gentleman from Boston, and that is that the matter be laid on the table, and then we can see how many of us can agree.

Mr. Edwin U. Curtis of Boston: I like occasionally to be in agreement with the gentleman from ward 5 (Mr. Lomasney) and I think he

has made a very fair and sensible suggestion. There are many members of this Convention who have not read the order, who do not understand the order, and I think it is only fair that it should go over until Tuesday, when we can vote intelligently on it, and use up the remaining hour here in work on the initiative and referendum.

Mr. Leonard of Boston: I am in favor of the motion made by the delegate from the Fifth Suffolk District (Mr. Lomasney). I do not wish to refer to any epithets at all, but I find it very difficult to play the game of follow the leader here. When the gentleman from Holyoke (Mr. Avery) first arose several days ago upon this matter of continuing our deliberations until another year, I think he made a very impressive statement as to the large amount of work that still remained upon the calendar. Members will recall that. He specified, he enumerated and particularized all these large and important matters that would require deliberation before we could conclude, and we know from our experience that on each of those matters upon which we are going to take affirmative action, there are at least four debatable stages through which they must go, one more stage than they would have to go through in the legislative body. Again, I will have to refer to the chairman of the committee on Rules, because I think he took a very prominent part in the committee that has had the governing of this body, and it seems to me that the attitude of some of the men has changed like a turn of a kaleidoscope. They were arguing a few weeks back about the importance of long deliberation.

I am one in this issue with the gentleman from Amherst. I think he has put forth the case exactly as it should be put. It is not a question of compensation or salary. I am sure I was not thinking of that. [Laughter.] Why should you be worried, oh ye of little faith? [Laughter.] I do not like this word "wages" or "salary." There is an old term they use in the professions called "honorarium," whereby if a person renders good service, one who benefits by that service makes a recognition of it. In this period of depression that we are entering into at the present time, although it is not entirely psychological, nevertheless I do not think that that should enter into our deliberations.

Some time ago a motion was made to take from the Committee of the Whole all consideration of the initiative and referendum, and what did the chairman of the committee on Rules say at that time? If you recall the discussion and the debate when that first came up, did he not say that if we were to take the matter from the Committee of the Whole and put it in the Convention we were trying to stifle the free debate and the free discussion that Anglo-Saxon people have contended for for several centuries? I think that is correct.

Again, I will call your attention to another occasion when a reconsideration was moved upon some matter, I have forgotten just what, and the gentleman argued that we should not vote on that occasion because some delegates who had come in from the lobby had not heard the discussion.

Mr. Brown of Brockton: When the delegate rose some days ago and proposed adjournment I said: "If this is to be taken seriously I want it debated. I am opposed to it." The other day, on a motion to adjourn, I voted to adjourn. This morning I voted to reconsider, and I am no quitter. No man should quit when he is doing what he

thinks is right. A man ought to quit if he thinks he is wrong, even if he stands on his head one minute, and some other place the next minute. The only question here is what is right. We should have more good feeling here. We shall not get anywhere unless we restore that good feeling. The men with whom I agree should not tell me that I have changed my mind by talking with the committee on Rules; there is no foundation for the statement.

The motion of Mr. Lomasney of Boston, to lay the pending matter on the table, prevailed. It was taken from the table October 23.

President JOHN L. BATES of Brookline (having taken the floor): Before speaking on the order which is before the Convention I wish to offer an amendment to the substitute order that I moved. The amendment is to change the date from Wednesday, November 28, to Friday, November 23, the object being to prevent the necessity of members coming here during Thanksgiving week and spending only a portion of the week. I therefore ask unanimous consent to change the date wherever it occurs in the order to Friday, November 23d, instead of Wednesday, November 28.

There being no objection, the change of date was made.

Mr. BATES: Now, I offer another amendment, which I will state does not change the effect of the order at all. It is merely a preamble, and the preamble is offered in the hope of our getting together.

Mr. Bates moved to amend by inserting at the beginning of the order moved by him as a substitute the following:

Whereas, A majority of the members of the Convention have indicated their belief that the remaining business before them cannot be satisfactorily completed during the present calendar year; and

Whereas, The Convention has now been in continuous session for a length of time exceeding that anticipated by any of its members, many of whom find it necessary to devote themselves for a period to their business and professional duties; and

Whereas, There is no measure undisposed of that may properly be termed an emergency measure; and

Whereas, It will now be impossible to place upon the ballot at the November election any other resolutions of amendment than those already favorably acted upon, and

Whereas, The Convention has the unquestioned power to adjourn from time to time at its pleasure, as recognized in the Convention Act; now, therefore, be it

Ordered, etc.

Mr. BATES: I ask unanimous consent to have my motion amended by the incorporation of the preamble as read.

No objection was made to the incorporation of the preamble.

Mr. BATES: I recognize from my talking with many members, and also from what I have seen, that many of them have gone almost to the limit of what they feel they can do at the present time. They believe that an adjournment is necessary in order for them to attend to their private business for a period, that it is absolutely necessary, and they believe, some of them, that they can do better work if they can have the cares and anxieties of their private business removed by being allowed to attend to it for a period. I recognize that situation, and I have offered this substitute order after conference with the member from Holyoke who offered the original order.

I might state that this order, apart from the preamble and the date, is the same as the order that was presented at the last session of the Convention, with the exception that it recognizes that there are two rules of the Convention which the order of the gentleman from Holyoke (Mr. Avery) contravenes, and one of which at least the Convention refused to suspend. Therefore I have incorporated in the order the words "except as otherwise provided by the rules of the Convention." That is, this order gives precedence to the initiative and referendum on any stage except where that precedence would conflict with the rules of the Convention. The two rules that it would conflict with are Rules 38 and 48. Rule 38 is the one which provides that unfinished business, that is, the business upon the discussion of which we have entered, shall have precedence in the order of the next day. That rule can be suspended only by a two-thirds vote, and the Convention refused to suspend it the other day for the order as offered by the member from Holyoke. Rule 48 provides that on any measure where there is a vote to reconsider, the motion for reconsideration shall take precedence in the orders of the next day. The debate on it is limited to half an hour, so in any event it could not greatly prolong the sessions of the Convention. The reason, therefore, why those words are put in, "except as otherwise provided by the rules of the Convention", is so as to make this order in accordance with the rules of the Convention, and so that it cannot be ruled out on a point of order.

The reason why there is precedence given to the initiative and referendum resolution probably is obvious to you all. In the first place, the order which was passed the other day, and which is under reconsideration at the present time, provided that we should adjourn when that resolution had been finally acted upon. That was a recognition by the majority of the Convention of the fact that it desired so far as it could to complete its action on that measure. It has been under consideration for many weeks, and it would seem as if it ought to be finally completed before we adjourn, and therefore, in recognition of what the majority of the Convention the other day voted, and in recognition of the long debate upon the matter, it is given precedence in this order so far as it can be given.

Some one has asked me why the words "subject to the call of the President or Secretary not later than within ten days after the prorogation of the General Court", were put in and he wanted to know if that would not make it possible for the President to call the Convention together immediately if he saw fit to do so. I told him he had rightly interpreted the possibility, but that it was far from a probability. The elasticity given in this order is desirable. The President would not assume after the vote of this Convention to call it together at any time prior to the adjournment of the next General Court, unless some great emergency demanded. One of the reasons that has been urged privately why this Convention should adjourn over to next summer after completing a portion of its work has been that we are in the midst of a great war that may raise problems which will require for their solution some modification of our Constitution, and that it might be of advantage to call together a Convention that could act immediately upon such a proposition of amendment. That is the reason why, in drafting this substitute order, the power was given by which the President could call the Convention together at any time

prior to or within the ten days succeeding the adjournment of the Legislature. I am satisfied that you believe that unless some such emergency arose neither the President nor the Secretary of this Convention would assume to call the Convention together prior to the prorogation of the General Court.

Now as to the advantages of this order and the reason why it was offered. It was not offered on the suggestion of the committee on Rules. The suggestion came from those who had favored the adoption of the order that was adopted the other day, but who said subsequently, and I think with wisdom and with fairness, that they felt that the action of the Convention should be more unanimous than it was in deciding that matter, and that there should be some way by which the Convention could get together with tolerable unanimity. They recognized that there were some matters which perhaps ought to be completed and should be completed in the various stages while we are waiting for the initiative and referendum proposal. They said that they would like to vote for a measure of this kind. It in fact was stated to the members of our committee and stated to me that they had understood that a proposition similar to the one now before you was to be offered. It was through a misunderstanding that it was not offered. We had understood that it was not satisfactory to those who had proposed the other order, and so we did not offer it, but it had been proposed prior to that time. When, however, that representation was made to the committee on Rules, they considered it a duty to see whether or not such unanimity was possible as would commend the action to the people of the Commonwealth.

This order, if adopted, in the first place fixes a date for adjournment subject to only one condition, and that is that the initiative and referendum proposal shall have been finally disposed of at that time. I think it is tolerably certain that it can be disposed of finally by that time. By fixing this date, November 23, men are enabled to make engagements ahead which they could not make if no definite date was fixed, which they could not make even under the order as adopted the other day, which had no definite date fixed for adjournment.

In the second place, this keeps the Convention in session practically to the time of the holidays and I do not think that there can be any fair criticism on the part of the public or of the press of the Convention adjourning at that time, with the unusual conditions which prevail at the holidays and the particular unusual conditions which will prevail at the holidays during this present year. I would not in a matter of principle desire to avoid public criticism if I thought I was right, but this is not a matter of principle so much as a matter of judgment, and if we continue our work, practically down to the 23d of November, then I think we shall avoid public criticism.

In the third place, as I already have suggested, it is desirable that we present to the public a larger unanimity than that which appeared the other day, and this order makes possible such unanimity.

I already have said that it provides for the completion of the work on the initiative and referendum so far as we can complete it, which is desirable from every standpoint, but particularly from the standpoint that so much time already has been expended upon it that, in a measure, would be lost should we postpone final action upon it to next summer.

Further, this order recognizes in the preamble that those measures

which were regarded as urgent by the press and the public have been attended to, that the work which is left is work, important to be sure, and highly important, but not of such an urgent character as was the absentee voting amendment in particular, or as the so-called food amendment. It recognizes the fact that the remaining work can be postponed without detriment to the Commonwealth. I am aware that there are individuals here who are interested in certain proposals of amendment, who regard them as urgent, and it may be that they are urgent, but they have not appeared to the public or to the press as being emergency measures. They are important, but not urgent, and therefore can well be postponed until the Convention can come together again and devote more time to them.

I do not know that it is necessary for me to say anything in regard to the criticism that has been made in certain quarters of the Convention or of the committee on Rules. I always have found that it was easy for those to criticize who were not in the positions of responsibility. But I do want to say again what I said the other day, that I do not think there has been any action of this Convention that fairly can be criticized adversely. It is true that there is a great fundamental principle of our government involved in the proposal of the initiative and referendum. It is true that the Convention is so evenly divided on it that delays undoubtedly result, but it is true that the men on each side, for the most part, have been doing what they were doing absolutely because their consciences told them either that this was something that ought not to be adopted in the interests of the public or it was something that should be adopted. I do not believe that a proposal of this kind ever was more thoroughly considered, ever was more thoroughly argued or ever more completely analyzed by any parliamentary body in this country or in any other, and it is to the credit of the Convention that on a matter of fundamental principle as this is, it has been determined to go slow and to make sure that it was right; it is to the credit of the men on both sides, that they have insisted on the most careful consideration of this matter, and that they now insist that it shall be considered carefully to the very end. When you take into consideration this peculiar situation it must be recognized that the Convention has not wasted time; it has been doing its whole duty as it saw it.

Comparisons with the General Court are hardly fitting comparisons. I have a very high regard for the standing of the General Court in the history of the Commonwealth of Massachusetts, notwithstanding some things that have been said in the heat of debate on this floor. But its work is of an entirely different character from that of this Convention. Its work is of a more temporary character. It can change the statutes from year to year. It can pass quickly on measures not fundamental, and it can pass on many of them in a single session. But Constitutional Conventions come only with the lapse of decades. They treat of the fundamentals of democracy. They require slow, patient deliberation, to the end that no mistake may be made.

When you consider these matters it must be recognized, not only by the members of the Convention but by the press and by the public, that this Convention, sitting far beyond what was expected of it, nevertheless has done its work well and is determined to do its work well to the very end. [Applause.]

Mr. Fisher of Westford: I arise to offer an amendment which I trust our honored President will consent to accept. I first offer the amendment, and then in a few brief words will explain to this Convention why the same is offered.

I desire in the preamble to strike out the word "and" between "business and professional", and insert after the word "professional" "public and patriotic".

I want to disavow any words that have been attempted to be placed in my mouth as a member of this Convention, that I voted on Thursday last to adjourn on account of professional or private business. I voted as I did because I felt strongly that the duties of the members of this Convention are greater at home, attending incidentally to private business but chiefly to the public duties incumbent upon us at this time, than in spending our hours here. I am one of those who believe that those men who voted to adjourn on Thursday were of a more patriotic disposition than those who voted against it. I do not mean that those who voted against it were intentionally unpatriotic, but let us diagnose the situation for just a moment. Are we performing any patriotic duty by staying here when we have disposed of our emergency measures? I think not. I am going to be in accord with the order before this body if this amendment is accepted, but I do not want to see this body go on record through history as saying that we are adjourning merely for private or professional interests. That is not true. That is not the motive which occasioned us to vote that way on Thursday last. The man to-day who goes home and attends to his private business is doing a patriotic duty, because he is placing himself in a position when called upon to respond to the patriotic duty incumbent upon us both financially and in a business way. Is not that the fact?

It seems to me that we should consider carefully how we place ourselves on record here at this time. I have met man after man who spoke to me on the street, men of high standing in this Commonwealth and in my community, who said: "I thought you voted to adjourn. The best thing your Convention can do is to send its members home among us, where you can be performing the duties which this great war calls upon you to perform." Thirty-five million dollars is what we must raise in this country beginning with the eleventh day of November. Many men in this Convention, — I think our honored President is one of them, — are interested in that campaign. Other campaigns are running thereafter, and I am going to stand here and say that our greater duty, above public and professional interests, is at our homes.

Some one has asked: "What are we going to do next summer, when our wounded soldiers are coming back from abroad, when our attention will be needed for them and their dependents, and their welfare will occasion and require our presence in our respective communities?" I will answer that question, and I will answer it in two or three words, and that is, when that occasion arises let us stay at home, where we belong, and I think that is a patriotic duty.

I think that a solution of this problem has been reached in the order offered by our honored President. I stand here as one of those who were most ardently in favor of adjourning under the order of the gentleman from Holyoke, but I also believe that in a great assembly like

this it is the part of duty of the delegates to give and take. I believe now we have reached a solution of this situation which will allow us to depart to our respective firesides, to our respective offices, to our respective places in the line of public duty and service, if the amendment that I have suggested is adopted.

Mr. Fisher moved to amend by striking out in the second paragraph the word "and" and by inserting after the word "professional" the words "public and private", so as to read:

Whereas, The Convention has now been in continuous session for a length of time exceeding that anticipated by any of its members, many of whom find it necessary to devote themselves for a period to their business, professional, public and private duties —

Mr. FISHER: Not "private." The Secretary could not read my writing. I wrote "public and patriotic."

The SECRETARY: "Professional, public and patriotic duties."

Mr. BATES: I think the suggestion of the member from the third division is a good one. It improves the preamble, and I ask unanimous consent to accept it.

There being no objection the language of the preamble was changed.

Mr. THOMPSON of Haverhill: There is one matter which stuck in the minds of some who are in favor of adjournment, and that is whether on this order unfinished business can so interfere that the initiative and referendum cannot be finished by the 23d of November, and inasmuch as the question of the rules was brought up the other day and defeated that aggravates it somewhat. I understand, though, that by a majority vote unfinished business can be postponed or laid on the table. I should like to ask the President of the Convention, through the Chair, — I think he can explain it very well, — if it is not possible when the time arises by a majority vote to postpone or lay on the table the unfinished business that happens to be before us, so that we can go ahead and there will not be any danger of crowding out the initiative and referendum in that way.

Mr. BATES: The member is entirely right. If there is any unfinished business which under the rules has been placed first in the orders of the day, when it is reached the Convention, by a majority vote, can postpone its consideration, and give the initiative and referendum the right of way.

The order was adopted as amended.

COMMITTEE TO CONSIDER CHANGES WROUGHT BY THE WAR.

On the 25th of October, 1917, the following order, offered by Mr. Brooks Adams of Quincy, was considered: —

Ordered, That, this Convention having voted to adjourn until next spring, previous to its adjournment the President shall appoint a committee of not more than 15 nor less than 12 members, who shall proceed during the recess to consider, so far as time will permit, —

1. The economic, social and legal changes which have been already wrought in our domestic and foreign relations by the present war, together with those of the greatest importance which seem likely soon to supervene;

2. If, by their labors, the committee shall reach the conclusion that, by some comprehensive treatment of the whole of our constitutional law, — not only that which is contained in the Constitution itself, but also that which is to be drawn from the judicial interpretation which the same has received, — it may be possible for said committee to develop some cohesive plan by which the people of this Commonwealth shall be placed in a position to deal more effectively with the increasingly strenuous pressure of modern competition than they otherwise could, then the committee shall report the same to this Convention so soon as it shall reconvene, and the Convention shall forthwith proceed to deliberate upon the same;

3. The committee shall be empowered to ask from the General Court an appropriation sufficient to pay for the necessary expense which the Committee shall incur in the performance of its functions.

THE DEBATE.

Mr. Adams of Quincy: I voted with great pleasure the other day for the order which you proposed in regard to the adjournment in November. I did so with the greater pleasure because I have had serious doubts as to the legality of an absolute adjournment of this Convention without providing something for the Convention to do, as it were, to keep it alive for so long an adjournment as six months. If the Convention has the power to adjourn in that way, I can see no reason why it should not perpetuate itself. But if the Convention adjourns simply for the purpose of completing its work, I cannot see how any objection can be made from any quarter.

Therefore this adjournment gives me an opportunity to offer the order which appears on the calendar, the object of which is to allow the Convention, so to speak, to complete its work during the recess. I cannot imagine that any member of this Convention who has watched the European war during the last six months, and who has followed our own debates, can doubt for a moment that we are now in the midst of a revolution which is going to change our institutions fundamentally, and change our institutions in conformity with the changes which are going on in the rest of the world and which are absolutely unavoidable. We may not like them; but every revolution of this kind, every vast movement of this kind, leaves changes which cannot be avoided and which must be accepted. The only thing men can do, their only course, is to shape their own movements in such a way as to cause them to incur as little loss as possible. After our civil

war, for instance, we had fundamental changes which lasted fifteen years, I should say, at the least.

Now, the proposition is to have established a committee, which shall be appointed by the President, whose object shall be, as it is stated in the calendar, to follow as well as they can such changes as have been incurred already and which shall be put in such form by the committee that the Convention, when it meets, shall have something which is trustworthy to go on, in forming an opinion as to what is the proper course for them, that is to say, the Convention, to pursue in regard to those changes in the Constitution which probably must finally supervene.

I have been particularly careful not to give this committee any power to do more than suggest a framework on which the Convention as a whole might work with some degree of confidence that they were on solid ground. I take it that the President of this Convention may be trusted to name such a committee as shall have the confidence of this Convention. There are almost an infinite number of questions which are raised by the present war, both at home and abroad. How serious they are, how profoundly they go into the very depths of our society, any man may judge who will look at the propositions which already are before this Convention, and which must wait determination until we reconvene. It is impossible, — it is humanly impossible, — for a body of over 300 men to consider those propositions in detail with the care and patience with which they ought to be considered. It is the universal habit, as I understand, for bodies such as this, from the English Parliament down to our State Legislature, when they are in a position at all approximating ours, to establish a committee or a commission of some sort, in order to present to the main body which is responsible for what is done, a cohesive plan, something which shall serve as a basis for the large body to work upon; and that is the idea with which I present this proposition or this order.

Now, Mr. President, you will permit me to say, with due regard to your presence, that I conceive that this Convention stands in a peculiarly favorable position for organizing such a committee or commission as I propose. I speak with a great deal of freedom on this subject, because I was not a supporter of our President for the office which he holds; therefore I consider that I am an impartial judge. I myself feel that since our President has assumed his office he has behaved in a manner which no member of this Convention can fairly question as having been of great value, as well as great dignity and great justice. [Applause.] I conceive that there is no man in this Convention, no man can have sat in this Convention, and listened to what has gone on, and doubt that the President of this Convention has been absolutely fair between all parties and all interests. I, for example, have watched his course with great care, and I cannot at this moment make up my mind as to which side he stands on, on any of these controversies, excepting perhaps the question which arose the other day on adjournment. That is the man whom we need, a man of that kind, who takes all parties into consideration, and I conceive that we ought to make the utmost use of him that we can. And I propose, if the Convention sees fit to approve this order, to nominate our President as the chairman of that committee, in order that he may carry on the work which he has conducted hitherto to its legiti-

mate end, for I consider that above all men he is the one who is best calculated to do it. [Applause.]

Mr. Pillsbury of Wellesley: Out of personal respect for my friend from Quincy I shall take no general attitude of opposition to his resolution, though I am widely at variance with him as to his general views of what changes in our government existing conditions ought or are likely to produce. I must decline at present to accept the proposition that there ought to be any changes at all, for I believe that republican representative government is the best system that the mind of man has ever yet devised, and the system to which we ought to adhere without any impairment whatever, if it can be made to work permanently, which I agree is not yet certain.

But I rose principally to ask my friend if he will not drop the third paragraph of his resolution. There are in my mind serious objections to putting the Convention before the Legislature in the attitude of a suppliant for more money. In my opinion, the Convention has power to pledge the credit of the Commonwealth for all necessary or reasonable expenses, without leave of the Legislature. I think there may be reasons, not relating to the immediate purpose of this resolution, which make it highly inexpedient for us to go before the Legislature asking for more money if we can avoid it, and it is not yet clear to me that we cannot. It is clear that we ought to if we can. And as I do not think the necessity exists, and as I exceedingly dislike to see the Convention put in that attitude unless and until it becomes necessary, I trust that my friend will drop the paragraph, which otherwise I shall feel obliged to move to strike out.

Mr. Adams of Quincy: I have no objection to omitting the paragraph. I should prefer, however, very much to have it left discretionary with the chairman as to the use of such a paragraph in my order. Personally I have not any objection whatever to omitting it if, in the judgment of the chairman of the committee, it was considered desirable to do so.

Mr. Washburn of Middleborough: This is a matter of the utmost importance, and already some difference of opinion has developed as to the phraseology of this order. Under the circumstances, therefore, I would move that the order be referred to the committee on Rules and Procedure for report.

Mr. Willett of Norwood: I hope that the motion will not prevail, at least until there has been full discussion of this question as a whole. The matter of the phraseology is comparatively unimportant. The real question is as to whether this Convention will accept the general principle that is embodied in this resolution, and it is on that matter that I should like to say a word. It is hard, perhaps, for some to appreciate the difficulty which a business man faces when he attempts to present his views to the 320 members of this Convention, — half of whom are lawyers. It is a real difficulty, however, and it is a genuine handicap to many men who have had little or no experience in taking part in a public body like this.

There is a great question involved in this. Some of us here have been called socialistic. We have been told that we are breaking down the sound structure of our Constitution, and are tearing down that which has existed for a century or more as the foundation of our prosperity in Massachusetts.

That is not true. You know, I believe, that it is not true. I would have you know that for one at least, my thought is of a constructive nature, that I am seeking only that which is for the best good of the Commonwealth, and for its industries as a whole. The fact has been brought out here that while wages in general have been advancing, they have been going backward as compared with the entire United States of America. That is a definite problem which we have to meet regardless of the war.

If there is opportunity for this Convention to do anything which will strengthen the economic situation of Massachusetts, let us not turn our backs on it. Let us discuss it. Let us take definite account of it and make the most of it. Every proposition that has been brought up here looking toward helping the industries of Massachusetts, or improving her economic situation, has been set aside. No careful attention has been given to it. We have dealt lightly with these questions which underlie the real prosperity of the State. Here is our chance. I hope that either this measure will prevail or that we may commit ourselves to the principle which this measure covers. As far as the phraseology is concerned, let that be taken care of as an incidental matter. I myself believe that in the phraseology if we left out the words "social and legal," so that it read "the economic changes which have been already wrought in our domestic and foreign relations," that would be sufficient. I presume that any wording of the resolution would be acceptable to the gentleman from Quincy provided sufficient is left so that we obtain a committee before whom all can come and in quiet and orderly fashion present such views as they may have as would appear to be for the advantage of the Commonwealth as a whole in dealing with the policies that affect her industrial affairs.

Mr. MAHONEY of Boston: I do not think there is any necessity of this order at the present time, because this whole matter at the present time is before the committee on State Administration and the committee on the Executive, sitting jointly. As to an extension of time, I think we would better wait and see what they have got to say further. I hope that this whole matter will wait over until they make their report. The gentleman who has just taken his seat is a member of that committee, and also the gentleman who introduced the order; the member who has spoken is a member of the committee on State Administration. This whole matter is before them now, and I do not think we should take any action until that whole committee has made a report.

Mr. GLAZIER of Hudson: I trust that this motion to refer this matter to the committee will prevail, and I say here that I am opposed to any selective recess committee for this Convention. I believe what the Convention needs to do should be done by the Convention or in the Committee of the Whole. We already have referred a previous order to this committee, to recommend rules, and I believe that we likewise can refer this present order, that the committee may consider both, and that they may see fit to report to this Convention some procedure by which the Committee of the Whole may be reduced in number for a quorum; so that if these matters are to be referred to any committee they may be referred to the Committee of the Whole, whereby any member of this Convention may be a member of that

committee, and may not be disbarred from following or considering it if a selective committee is appointed.

Mr. Herbert A. Kenny of Boston: I trust that this motion of Mr. Adams will prevail. It seems to me that this is the sort of a recess committee that this Convention should have, and I have faith in the presiding officer to have upon that committee all shades of opinion of this Convention. If we adjourn, if this Convention adjourns, November 23, our minds will be off entirely from the questions now under discussion. This committee, if appointed, will bring to us its report and save us considerable time. It is not a matter for the committee on Rules, it is a matter for this Convention, and it is a statesmanlike act to offer the suggestion. The labor men of this Convention are strongly in favor of having this committee appointed. I think the time has arrived for the first time perhaps in 65 years of the life of Massachusetts for such a committee to be appointed to take account of stock, and report at the next meeting of this Convention.

Mr. Brown of Brockton: I hope this Convention will act on this resolution at the present time. I think it is very much better that we should take the English as it is. As I understand this, — and I have not conferred with the gentleman from Quincy, — this resolution would lay before this Convention something which we have not got now. If we are to act on food conservation why should we not know how many men were engaged in raising food cattle in this Commonwealth fifty years ago and how many are engaged in it now? How much of our food was produced originally in our borders by our people and how much is produced now outside of it? How many of our people were engaged in agriculture once and are engaged now in trades? How many people were their own employers and how many now are being employed? How much food is coming into this Commonwealth, and how is that food controlled?

I am willing to say here that, while I am voting for a good many things, I have told my labor friends that it is not the Constitution, it is not in the principles that are in it, for they are the grandest principles that ever were laid down, but it is in the application of those principles [applause], and it is in the administration of government under those principles. The legal profession are taking those principles and applying them according to rules of procedure; while labor people demand that they should be applied according to the conditions of to-day. Therefore, I say, in the administration of government there is a danger. If you become too conservative you will force wage-workers and farmers to come together in this Commonwealth, regardless of party, as they have done in North Dakota, and they will take possession and run this government. If they do, then they will interpret this Constitution to be as socialistic as anybody can want; you would see what it could be made to cover. This Convention can do much to bring labor and capital, as it is called, to a better understanding. I hope the order will be adopted.

The motion to commit the order to the committee on Rules and Procedure was rejected, by a rising vote of 70 in the affirmative, 93 in the negative.

Mr. Pillsbury of Wellesley: I could not move to amend the resolution while the motion to commit was pending. I do not understand that my friend from Quincy (Mr. Adams) has accepted or asked leave

to accept the amendment which I suggested. In view of the serious objections which I think exist to putting the Convention on record, if this resolution is to be adopted, upon the proposition in paragraph 3, and as I am satisfied that there is no practical necessity for it —

Mr. ADAMS of Quincy: I will accept it.

Mr. PILLSBURY: My friend from Quincy says to me, *sotto voce*, that he will accept the amendment.

The PRESIDENT: Mr. Adams of Quincy asks unanimous consent to accept the amendment suggested by Mr. Pillsbury of Wellesley, which is to strike out paragraph 3 at the end of the order. Is there any objection?

Mr. O'CONNELL of Boston: The only reason I rose was this —

The PRESIDENT: Does the member object?

Mr. O'CONNELL: I object for the moment, and reserving my right to object, I wish to call the Convention's attention to the fact that in this part of the Convention hall it is very difficult indeed to understand the colloquies between the gentleman from Wellesley (Mr. Pillsbury) and the gentleman from Quincy (Mr. Adams). Now, undoubtedly they are doing their best, but we in these rear rows want to hear and understand what they have to say. It is very difficult under ordinary circumstances to hear anybody debating down there in front of the President's platform. When the gentleman from Wellesley talks in his conversational style in this Convention he cannot be heard by the members around and about me. I want to serve notice that hereafter any of those colloquies that go on down there that I cannot hear I am going to object to. [Applause.]

The PRESIDENT: The Chair understands that Mr. O'Connell of Boston objects.

Mr. PILLSBURY of Wellesley: If it is understood that my friend in the rear (Mr. O'Connell) objects to the request of my friend from Quincy (Mr. Adams) to amend his resolution by striking out the third paragraph, which was the subject of the colloquy to which my brother in the rear objects, — and it had to be in the form of a colloquy so far as I was concerned, — I move to strike out paragraph 3.

Upon a call of the yeas and nays, the order was rejected, 111 members voting in the affirmative, 131 in the negative.

On the 28th of November, 1917, another order offered by Mr. Brooks Adams of Quincy was considered as follows: —

Ordered, That this Convention appoint its President to serve during the approaching recess as chairman of a committee whose duty it shall be to consider, and to report upon to this Convention when it shall reconvene, those economic, industrial and military problems which are being evolved here and elsewhere by the present war, the same being problems which, in their judgment, directly concern the future development of this country and this Commonwealth; and be it further

Ordered, That the chairman thereof shall appoint the other members of said committee, who shall not exceed fifteen in number, and who shall serve without pay.

THE DEBATE.

Mr. ADAMS: I should not trouble the Convention at this moment if this were not, as I judge, a matter of extreme importance which seems to me to justify five minutes' or so delay, and I shall not take more time of the Convention.

The first question which presents itself is that there was a similar motion presented yesterday, and my difficulty with that is, — with letting it go at that, giving the President only power to appoint what committees he pleases. I have no objection to that, excepting that I am convinced that the President, with his accustomed modesty, would feel an embarrassment in appointing himself as chairman of one of those committees. That is exactly what I want to avoid. I want to make the President by choice of this Convention chairman of the chief of those committees. The President is, on the whole, I think we all agree, the fairest man that we have in this Convention on all these questions on which we differ. Therefore it seems to me extremely desirable that the President should be appointed as chairman of the chief of these committees.

Personally, so far as I am concerned, I have but one wish in this matter, — to obtain an impartial chairman; a man who has no prejudices one way or the other, because that I consider to be essential to us in the position which we are in. And it is for that reason that I am particularly anxious that the President should be elected by us as chairman. That is the one reason why I have wished to add to the list that already has been made out by the gentleman in the first division the designation of the chairman.

The second reason is that my friend, the late Attorney-General, in the first division (Mr. Pillsbury) is a man for whose ability I have the greatest respect. I do not agree with him always; in fact I believe he tells me that he disagrees with me more than with any other man in the Convention. But that is the precise reason why I would hear him. I do not learn from men who agree with me what I want to know; I learn from men who disagree with me, and it is because the Attorney-General disagrees with me radically that I want to get a statement of the facts which I believe he has in his mind.

There is another matter besides that which is very important from my point of view, for hearing a man like the Attorney-General. He has laid it down as a proposition that democracy is incompatible with sound administration. Now I am not clear whether democracy is incompatible or not with sound administration. At all events I am perfectly sure that the Attorney-General ought to be heard on that question; of that I am clear. And if he has anything conclusive to say to sustain the proposition in our minds that democracy is incompatible with the effective administration of our government, then we ought to hear it. If we do not hear him we of the majority are put in an, it seems to me, untenable position. This Convention was not elected on the issue of the war; it was elected on the referendum issue. That is an entirely different thing. That is a social issue and it has nothing whatever to do, necessarily, with the question of the war excepting in so far as it affects the administration of the war. We, who voted for the initiative, should know whether the gentlemen who opposed the initiative and referendum have, as they say they have, justifiable cause for believing the Attorney-General. They showed what they thought by their applause the other day, — that democracy is incompatible with efficient administration. Is that fact so, gentlemen? And if it is so, are we not bound to find it out, and more for the good of democracy than for any other interest? They have the burden on them to show that gentlemen like the Attorney-General are right in their conclusion. That is our duty, as it seems to me.

My friend the Attorney-General made a very able speech, — a very able speech indeed and a speech which impressed me as very remarkable, — and I want to hear him elaborate that speech. I want to hear him give us the reasons which constrained him to make that speech. I think that is our duty during the recess and there is an enormous amount of testimony attainable on that subject. I am not at all aware whether you gentlemen have looked into the amount of testimony which there is on that subject, before we can be fit to pass on any of these administration questions. The Attorney-General the other day when I happened to be sitting by him pointed out to me an article in the last "Atlantic" which is an extremely able article, one of the ablest articles that has been presented to this public within the period of this war, and it is by a Frenchman who really knows what he is talking about. I looked over that article, — I had not seen it before, — and I looked it over on the recommendation of the Attorney-General, and I agreed with him that it was an extremely able article. It made all sorts of suggestions which we as representatives of the people here, after passing the referendum, ought to understand. [Here Mr. Pillsbury took a seat directly in front of Mr. Adams.]

Am I inarticulate to you, my dear sir? Well, I am extremely glad that the Attorney-General has come to hear me anyhow, because I am convinced that anything that he has to say will be valuable to me; whether it will be to the rest of you gentlemen or not I do not know. I shall go to him to get my information even if you gentlemen do not grant me the privilege to hear it from him in this House or a similar House, as I hope you will, — after we have adjourned.

That is all I have to say. I am not going to keep you gentlemen one single moment longer than I consider necessary for you to hear my request. There is one man in this Convention who ought to be the chairman of this committee, and I think that is our President. He ought to be, because he is the man who will give us the fairest interpretation of the evidence without prejudice, without having extraneous matter brought in, — simply the truth as to what is going on in other countries and what is the probable result of such a system of administration as we probably shall have to deal with in this country, and how we have got to take up those questions of administration if we are to survive. That is what it comes to, — if we are to survive as a Nation. There is nothing else we have got to consider during this long recess. We have to consider those questions not in a partizan way, not because we believe, let us say, for example, in a capitalistic view alone. Nothing of that kind. It is because we want to know what is going on. We do not want to live in a fool's paradise. If, as Chéradame says in this article in the "Atlantic," the Germans are making more money out of the war than the war has cost them, we want to know it. If, for instance, they have raised the size of their army, as Chéradame says they have, from twelve million to thirty million men, we want to know it. We want to know it now, we want to find out the truth, and we shall not find it out in any such effective way as if we have our President to preside over the meetings of the committee and have a committee chosen which has the time and the energy to support these investigations. [Applause.]

Mr. Edwin U. Curtis of Boston: Yesterday the Convention passed the following order: —

Ordered, That the President of the Convention be authorized to appoint, during the recess of the Convention, any special committee or committees which he may deem proper.

You all realize that our President is an able, discreet and fair man. [Long continued applause, all rising.]

Mr. UNDERHILL of Somerville: Three cheers for John L.! One, two, three! [Cheers, followed by "Tiger!"]

Mr. EDWIN U. CURTIS: Under these conditions, gentlemen, why tie his hands to appoint a committee to consider certain things? During the next six or seven months anything may come up. Cannot we rely on him to appoint such committees as he sees fit under the authority he now has, without passing this particular order to tie him down to one particular thing which he must do anyway?

Mr. ADAMS of Quincy: I do not wish to tie him down to anything. I wish to explain to the gentleman who sat down that I do not wish to tie him down to anything. All that I want to do is to suggest to him that the Convention desires him to be chairman. That is the only thing. I do not wish to put any other constraints on him whatever, except that one thing, — to be chairman of that one committee.

On a rising vote, 58 voting in the affirmative, 122 in the negative, the order was rejected.

Later, on the same day, Mr. Brackett of Arlington offered the following order: —

Ordered, That the President of the Convention serve as a member and chairman of all committees appointed during the recess.

THE DEBATE.

Mr. BRACKETT of Arlington: In the controversies of the Convention my views and votes have been different generally from those of the gentleman from Quincy (Mr. Adams), but on his order which was voted upon this morning I was in accord with him and accordingly voted for it. Now, I was impressed by his remark as to the desirability of the President serving as chairman of the committee which he proposed, and if that committee should be appointed during the recess under this order the President would be chairman. It would make him chairman of any other recess committee, also. I do not anticipate that there will be many such committees. It is, of course, imposing a good deal upon the President to ask him to serve as chairman of all committees, but in order to cover the order of the gentleman from Quincy (Mr. Adams), should such a committee be appointed I think it would be wise to pass this order.

Mr. SULLIVAN of Salem: I hope that order will be rejected. I do not see any need for that order. As Mr. Edwin U. Curtis, the gentleman from Boston, has pointed out very thoroughly, the order we passed yesterday covers the situation entirely. I think we can leave it to the President. If he thinks he ought to be chairman of a recess committee there is no reason why he cannot appoint himself.

The order was adopted.

SUBMISSION OF AMENDMENTS.

On the 11th of June, 1917, Mr. E. Gerry Brown of Brockton offered the following order: —

Ordered, That each amendment to the Constitution adopted by this Convention be submitted separately from each other amendment, though at the same time with others, to the people for their action thereon.

On the following day Mr. Josiah Quincy of Boston offered the following as a substitute: —

Ordered, That all separate proposals to amend the Constitution be framed and adopted in form for separate submission to the people, except so far as any of the same may be necessarily dependent on each other.

Mr. Albert H. Washburn of Middleborough offered the following as a substitute: —

Ordered, That the revision, alterations, or amendments made by this Convention, shall be proposed in distinct articles, each article to consist, as far as may be, of one independent proposition; and the whole to be so arranged that, upon the adoption or rejection of any one or more of them, the other parts of the Constitution may remain complete, and consistent with each other. And if any two or more propositions shall appear to be so connected together that the adoption of one and the rejection of another of them would produce a repugnance between different parts of the Constitution, or would introduce an alteration therein not intended to be proposed by this Convention, such two or more propositions shall be combined in one article. And each of the said articles shall be considered as a distinct provision, to be adopted in the whole, or rejected in the whole, as the people shall think proper.

So much of the debate as bore on the main issue was as follows: —

THE DEBATE.

Mr. Brown of Brockton, speaking in support of his order said: The questions are separate and distinct each from the other, and I hold now is the time for you to decide, now is the time for your publicity to go out to the people as to where you stand. Now is the time when you will tell the people that they may vote on each amendment or that you covertly and underhandedly put them all together and destroy the value of the whole because of the weakness that you inflict by putting in some amendments which some think ought not to be here.

Mr. Bennett of Saugus: Every member of this Convention knows that if a Constitution is submitted to the people as a whole it would be voted down. You cannot carry a Constitution that way, because there are some matters that would be so objectionable to some of us that we could not vote for the things we were in favor of because we had to vote for the Constitution as a whole. I maintain that the proposition of the gentleman from Brockton is so fundamental, it relates to the whole work of this Convention, that it almost seems to me, — perhaps this is not quite a fair statement, — but it almost

seems to me that anybody who would vote against that proposition is voting to kill the work of the Convention. It seems to me that is the practical result.

Mr. Underhill of Somerville moved that the matter be referred to the Committee on Amendment and Codification of the Constitution.

Mr. HAINES of Medford: Ignorant as I am of the intention of the leaders, so called, of this Convention, I ask for some reason why this measure should be sent to a committee. Every man here knows whether he wants to vote on these questions or whether he wants the people to vote on these questions out in the open singly, or whether he wants them all wrapped up in confusion, so that the whole Convention's work will be lost when they are submitted to the people. Why send it to any committee? We do not know who the committee are. We do not care who they are. We are now a Committee of the Whole and we know these questions from start to finish, and we know whether this is an attempt to defeat everything we may do or whether it is a fair question on the level sent to a committee for their consideration. There is not a man here who does not know what this means. It means the absolute defeat of this measure if it goes to a committee and is held up there until all these different questions of prohibition, the sectarian amendment, the initiative and referendum, are brought in, and then all our work will be for naught and we shall be the laughing-stock of this Commonwealth. We have it in our hands now to decide whether we want to be on the level or whether the people who have said that this Convention was packed are right. I say, let us decide now that everything that we do shall go to the people for their consideration in an open debate, on an open ballot, so that they can decide each measure on its merits and vote on some questions one way and on some questions another, and not defeat them all and vote "No" on the whole Constitution because there is one measure that they do not like. I think it is the time now to decide this and get it over with and go on with our Convention on the several matters as we approach them.

Mr. BAUER of Lynn: It seems to me, that this whole matter is fundamentally so simple, it is fundamentally so important to the proper work of this Convention, that there should be no division or no discussion or no debate on it at all. It simply means that if this is decided in a Committee of the Whole this morning, whatever our work is to be will be really a people's pact for the people of this Commonwealth to vote on as they like or dislike. It seems to me that any reference to a committee at this time, or any other disposition of this matter at this time, is merely a subterfuge advanced by those men who do not want the work of this Convention to be passed on article by article by the people of this Commonwealth, who do not believe that the people of this Commonwealth are competent to pass on their own laws that govern them. The issue is clearly drawn here, to my mind. There is no half-way station on the line at all. It is simply between those people who believe in extending to the citizens of this State greater liberties and those people who believe that the citizens of this State should have fewer liberties. And the time is now. It should not be referred or deferred, and any man who advocates referring it or deferring it, down in his own heart sincerely does not be-

lieve in it, in my judgment. The people of this State want to know whether this Convention is going to be worked out for their interest or not, and whether they are going to have the privilege of passing on the amendments to their own Constitution as a people's pact. There is no other disposition of it possible. If those men assembled here who believe in fair play to the citizens believe that they are competent and intelligent enough to pass on those laws that govern them, they will vote on this question at once and settle it.

Mr. Quincy of Boston: I understand that the gentleman from Brockton (Mr. Brown) has no objection to the substitution of the order proposed by me for the order proposed by him and printed upon the calendar, and upon that assumption I should like to say a very few words. The form proposed by me as a substitute is intended to narrow the general issue to the greatest possible extent and to raise no unnecessary questions at this time. I believe that one reason for bringing this matter forward thus early in the business of the Convention is that we may give a general instruction to our committees as to the object in view. If proposals to amend the Constitution which may be introduced are to be dealt with by committees upon the theory of incorporating them into one revised instrument to be submitted to the people, that involves one method of procedure. If, upon the other hand, it is the sense of this Convention that separate proposals to amend the Constitution shall be framed and adopted in form adapted for separate submission, except so far as such proposals are found to be necessarily dependent upon each other, that is a different object and involves a different form of proceeding in committees and in the Convention. Now, it has seemed to me that if this issue could be raised and reduced to the ultimate point of simplicity without bringing in any questions unnecessary to determine at this time, it might be acted upon very profitably by the Convention for the information of its committees and as a general declaration of the sense of the Convention itself at this time. I do not know that I would have any objection to the phraseology of the amendment to the amendment as proposed, except that it seems to me to go into the matter in more detail than is now necessary or desirable, and to raise questions of detail which need not be raised at this time on the bare proposition of whether or not we desire to have amendments, proposals to amend the Constitution, so framed and so adopted that they will be adapted for separate submission to the people.

Mr. Knotts of Somerville: I simply should like to state what to me is a paramount reason why this amendment (offered by Mr. Washburn) to the amendment should not prevail. Whatever other reasons there may be against it, this one to me is supreme: That the amendment to the amendment is so lengthy that a body of men like this I believe cannot, — at least I cannot, — vote intelligently on it, until they see it in print before them. Therefore I am opposed to the amendment to the amendment.

Mr. Washburn of Middleborough: May I say, in explanation of the amendment to the amendment, that it follows very closely in phraseology the resolution adopted by the Convention of 1820, modified of course to meet the enabling statute of 1916.

Mr. William S. Kinney of Boston: What is the main proposition? That we submit such amendments as we shall finally frame to the

people separately. But as we do not know now, as no one knows, what amendments we finally may propound to the people, of course it is impossible to tell now in what form we shall submit them. And what do the amendments mean? That if certain proposals shall come out of the Convention finally which shall be more or less dependent upon certain other parts of the Constitution, — which they necessarily must be, — then, in that event, a certain, definite proposition shall be made in one sentence with a semicolon, or a comma, or a period, or some other kind of a punctuation mark, so that it may be separated from some other portion of the sentence which is not quite as applicable to the main Constitution as the primary proposition submitted.

Every man in this Convention, who may or may not be in favor of submitting propositions to the people independently, will have an opportunity to vote on that question. If he feels that question is one on which he wants his name sent to his constituents or put in the newspapers on the front page, the time will arrive when that opportunity will be given to every such individual. But now is not the time for consideration of that question.

The amendment to the amendment (offered by Mr. Washburn of Middleborough) was rejected, and the amendment (offered by Mr. Quincy of Boston) was adopted.

On the 18th of September, 1917, Mr. Frederick L. Anderson of Newton offered the following motion: —

That the committee on Rules and Procedure be requested to report to the Convention by Wednesday, September 26, either favorably or unfavorably, the following order: —

Ordered, That in the event of the deliberations of the Convention not having been concluded on or before the date wherein the ballot for the State election for the year 1917 must be prepared for printing, the committee on Rules and Procedure consider the expediency of the Convention submitting to the people at the coming State election such alterations or amendments of the Constitution as shall be duly authorized and engrossed.

Mr. Anderson of Newton: This motion is conceived in entire respect to the committee on Rules and Procedure; there is not even an implied criticism of that committee in this order. It is quite proper that the committee should not have reported on it up to this time. It seems, though, that perhaps the Convention itself might adopt such an order as this, in order that at a certain time we might be able surely to have this matter before us. It seems to me that it is high time that the Convention considered carefully this matter of what amendments, if any, should go on the ballot at the coming State election.

Does the Convention know that October first, or at least October second or third, is the last day according to the best authority on which we can get these amendments on the ballot this fall? Does the committee realize that two weeks from to-day is the second day of October? Does the committee realize that there are four amendments which come within the purview of this matter? One of them is the anti-aid amendment, already passed. One of them is the initiative and referendum, which we are considering in the Committee of the Whole. Another is the amendment for absentee voting, which in-

cludes the voting of our absentee soldiers. And another is the amendment concerning cities and towns dealing in the necessaries of life.

Now, these last two amendments were advanced on the calendar on the report of the committee on Rules and Procedure for no other purpose that I can imagine except perhaps that we might reach them in time to place them on the ballot in November.

We have been accustomed to think that there are three different lines open to us: That we might place amendments on the ballot in November, that we might place amendments on the ballot at a special election held some time before November 1918, or that we might place amendments on the ballot in 1918. There is a great repugnance in the minds of most of the members of the Convention, I am sure, against having a special election. The reasons are two: First, the large expense of a special election, costing as some experts say, $500,000; and also the corporal's guard which would attend the election in each precinct if it were held on some special day. There is only one man in the Convention with whom I have talked who even half-heartedly wanted a special election.

Now I want to say to you that if all of these four amendments are treated together, November 1918 is excluded, and that our alternative is November 1917 or a special election. And the reason is this: If we are to give our absentee soldiers the right to vote in November 1918, they must be given that right some time before that election; consequently, November 1918 is excluded; and if you do not put the absentee voting amendment upon the ballot in this coming November, you are forced to a special election, or else to fly in the face of all the public sentiment, — and the righteous public sentiment, — that demands that our soldiers in France in the trenches and in our camps should have the right to vote for the officers of the Commonwealth of Massachusetts.

But it seems to me that we must think a little further still, and we must see that we are practically shut up, — if we consider all these four amendments together, — that we are practically shut up to November 1917 for these amendments. Because we have here the amendment concerning cities and towns selling the necessaries of life. When ought the people to vote on that, supposing that the Convention puts it to them? There is no other time for them to vote on that, with any real effectiveness, except November 1917, in the beginning of the winter. What is the use of a special election for an amendment of that kind? Why, if the cities and towns need, — in the coal famine, which is being predicted in the papers, — if they need to sell coal to the poor people to keep them alive through the winter, why should we put it over till March or April or June? The only time for that last amendment is November 1917, — the only really effective time. And I assure you that this Convention faces an extremely important public question right there; that the needs of the poor of Massachusetts, of large portions of our population, are involved in this question as to when we are going to put these amendments on the ballot.

Mr. George of Haverhill: I want to tell the gentleman from Newton that there is no difficulty in getting coal to the poor at any time in this Commonwealth, because the cities and towns furnish it freely and without cost. So it is not necessary to have a constitutional pro-

vision to empower cities and towns to do the thing that they have the right to do now.

Mr. HARRIMAN of New Bedford: I should like to ask the gentleman who is speaking if he considers that the working people of this State in a famine should be the objects of charity.

Mr. ANDERSON of Newton: I do not know whether that question was asked of me or of the gentleman from Haverhill. [Laughter.] I suppose it was asked of the gentleman from Haverhill, because I have nothing to say on the subject of charity; my concern relates to the cities and towns selling coal to the poor.

I want to say that I have heard a good deal about rushing things along in this Convention. God save the mark! [Laughter.] Rushing things along! Men who talk that way are unconscious humorists. I have not seen any rushing in this Convention, — not the slightest hurry. And when those great volumes are at last produced, containing the debates of this Convention, — those great volumes which the gentleman from Waltham persuaded us to order [laughter], — then, after some patient reader has perused five hundred pages of debate on the initiative and referendum he will come across the speech of some conservative brother who will say: "Why do we rush things along without due deliberation?" We have had all the deliberation we need on this initiative and referendum, except such as we now are giving to these amendments one by one. And I believe the whole State believes just exactly that thing. I speak at this time simply because I think I see some signs of trying to delay this Convention, — of trying to delay the Convention until certain measures will not be ready for the ballot in November 1917. And I want to have the Convention thoroughly understand that if that delay is successful it means, — either it certainly means a special election, or it means that this measure concerning cities and towns selling the necessaries of life shall be postponed beyond the time when it will be effective for the coming winter.

The motion prevailed.

On the 26th of September Mr. Josiah Quincy of Boston offered the following order: —

Ordered, That, in order to enable the Convention to provide for mailing seasonably to the voters of the Commonwealth, if it should decide to do so, copies of any proposed amendments to the Constitution which the Convention may vote to submit to the people at the coming State election, or information in relation thereto, the Secretary of the Convention be instructed to procure as soon as possible, either directly or through the Secretary of the Commonwealth, the latest printed lists of registered voters in all of the cities and towns of the Commonwealth, and also to report to the Convention the shortest period within which it would be possible to secure the printing of 650,000 copies of a document containing about 2,500 words and the mailing of the same to all registered voters, together with an estimate of the probable cost of such printing and mailing.

The order was adopted.

In compliance therewith the Secretary reported as follows: —

In compliance with the provisions of the order adopted September 26, directing the Secretary of the Convention to procure as soon as possible the latest printed lists of registered voters in all of the cities and towns of the Commonwealth, and also to report to the Convention the shortest period within which it would be possible

to secure the printing of 650,000 copies of a document containing about twenty-five hundred words, the mailing of the same to all registered voters, and an estimate of the probable cost of such printing and mailing, — the following report is submitted: —

A request has been sent to the clerk of each city and town of the Commonwealth for copies of its latest voting list. The State printers report that the probable expense of printing and mailing 650,000 copies of a document of 2,500 words (8 pages) is as follows: —

Printing of document,	$3,000
Envelopes, addressing and mailing,	3,500
Postage,	6,500
Total,	$13,000

The time required for the making and delivery of envelopes and the printing of the pamphlet is approximately eighteen days. I am informed that the capacity of a responsible mailing company in the work of addressing is 30,000 to 40,000 daily, possibly 100,000 daily with extra help and overtime work, and that the minimum time for addressing and mailing 650,000 pamphlets, with extra help, working nights and on Sunday, is one week.

With all these operations in process at the same time, and allowing the mailing company at least three days to complete the addressing and mailing, a total of twenty-one days would be required.

On motion of Mr. Washburn of Worcester, the communication was referred to the committee on Rules and Procedure.

On the 26th of September, Mr. Luce of Waltham, for the committee on Rules and Procedure, to whom was referred the order providing that, in the event of the deliberations of the Convention not having been concluded on or before the date wherein the ballot for the State election for the year 1917 must be prepared for printing, the committee on Rules and Procedure consider the expediency of the Convention submitting to the people at the coming State election such alterations or amendments of the Constitution as should be duly authorized and engrossed, reported, recommending the same be adopted in a new draft, as follows: —

Ordered, That only resolutions that have been passed for submission to the people on or before October 1st next be submitted to the voters at the coming State election.

[Messrs. Whipple of Brookline, Walker of Brookline, Boynton of Everett and Quincy of Boston dissent and recommend an amendment striking out the words "October first", and inserting in place thereof the words "October eighteenth".]

Mr. Walsh of Fitchburg asked that his dissent also might be recorded, and there was no objection. Subsequently, the order was recommitted.

On the 5th of October, Mr. Frederick L. Anderson of Newton moved that the Secretary of the Convention be instructed to transmit to the Secretary of the Commonwealth the engrossed Resolution relative to the support of certain institutions from public funds (document No. 348), and that the Secretary of the Commonwealth be instructed to place upon the ballot at the next ensuing State election the question of the adoption of the amendment to the Constitution embodied in said resolution, the form of the question to be determined by the committees on Rules and Procedure and on Amendment and Codification of the Constitution, as already voted.

Mr. ANDERSON of Newton: The Convention has voted unanimously to place the amendment which gives the privilege of absentee voting upon the ballot in November, and it seems almost a natural thing, a matter of course, that the anti-aid amendment which was passed by the Convention in its final stage on the 30th of August, also should go upon the ballot in November, especially when the committee in charge of the measure wish this to be done and the proponents of the measure think it is the thing to do. I think we ought to act as early

as possible, — and this is the earliest possible moment, — so that the people of the State may know whether this is to be proposed to them in November or not. I believe that the people of this State are sufficiently informed on this subject. It has been before them for a great many years in most of its phases, and in all of its phases since 1915. The question which I think the Convention ought to consider is this: Whether it is not for the good of the Convention, whether it is not for the good of all the propositions which we shall submit to the people from now on to the very end of this Convention, that we should show now to the people of Massachusetts that, having been in session for four months, we really have done something and have something to propose for their consideration. One of the most conservative newspapers in this State, discussing this question the other day, had as its principal heading the words "An Impotent End", with a question mark. That is, it would be an impotent end in the mind of this man who represents, it seems to me, the sentiment of the State pretty well, — an impotent end if we should adjourn in a a few weeks and place upon the ballot only the absentee voting amendment and possibly the food amendment. Let us put on the ballot also the anti-aid amendment and show that we have been doing something here in spite of our long session.

Mr. Edwin U. Curtis of Boston: I move that it be referred to the committees on Rules and Procedure and Amendment and Codification, sitting jointly. I make this motion because those committees already have the other subject.

Mr. Anderson of Newton: I should like to ask the member who has just spoken whether he understands that this motion also commits the form of the question to the committee on Rules and the committee on Amendment and Codification?

Mr. Curtis of Boston: I did not so understand, but it seems to me it should go there anyway, inasmuch as they have the amendment on absentee voting and are to present the form to the Convention.

Mr. Anderson of Newton: I think that that is unnecessary entirely and merely consumes time. It seems to me we would better decide this question right here and now with a short and sharp debate if necessary and decide one way or the other whether we will have this on the ballot or not. This is no disrespect to the committee on Rules and Procedure. The committee on Rules and Procedure a week ago came in here with a resolution to put this very amendment on the ballot, to do all that we ask the Convention to do this morning. And I want to say that that was withdrawn simply on account of the complication with the initiative and referendum. I asked a very prominent member of the committee on Rules, who often represents it on this floor, as to whether it would be any disrespect to that committee, and he said no, it would not. It seems to me that if we adopt the motion of the gentleman from Boston which has just been made to refer to the committees on Rules and Procedure and Codification, we simply shall have another debate next week. It seems to me simply a waste of the time of the Convention thus to bring the matter up twice when it might just as well be settled here. I oppose the motion of the gentleman from Boston.

Mr. Curtis: I think the gentleman from Newton is in error in stating that the Convention has voted to print the absentee voting

amendment on the ballot. The committee on Rules did so report, but the matter was recommitted to the committee on Rules and the other committee, sitting jointly, so that the Convention has voted to put nothing on the ballot yet.

Mr. ANDERSON: I rise to a parliamentary inquiry. I should like to ask the Chair if the Convention has not voted to put the absentee voting amendment on the ballot in November, referring the form of the question to the committee on Rules and Procedure.

The PRESIDENT: The recollection of the Chair is that the Convention has not as yet voted to place any amendment on the ballot. The committee on Rules reported recommending that the absentee voting resolution be placed on the ballot. That order was then recommitted at the request of the gentleman from Waltham (Mr. Luce) in order that the joint committee might have the whole matter before it. The Chair is of the impression that the Convention has not as yet taken any action that definitely puts any matter on the ballot, and the Chair's recollection is confirmed by that of the Secretary.

Mr. CURTIS: I do not wish the Convention to think that I am in opposition to the gentleman from Newton as to the advisability of putting the anti-aid amendment on the ballot. I do know that those two committees, sitting jointly, are trying hard to determine some close questions of law, and it is at the request of those two committees that I make the motion, thinking that in the end we shall gain time.

Mr. UNDERHILL of Somerville: I agree with the gentleman from Newton. If we are going to take up this matter, now is a good time to take it up. I shall not give out any State secrets of what is happening in the committee on Rules by merely stating that there is a wide difference of opinion amongst the members of the committee [laughter] as to whether anything except the one resolution regarding absentee voting and possibly that relating to the sale of food-stuffs, shall be placed upon the ballot this fall. The reason for the opinion of those who hold that view is that if you are going to put the most important measures on the ballot this fall, when it comes to putting the other questions upon the ballot at a later date the public will have practically no interest in the remaining matters. There will be very little voting if you have a special election for these questions; there will be little notice taken, there will be little interest, and consequently you will not get a fair expression of public opinion on other matters of as great importance possibly as these. Now that is a very strong position for them to take, but it is going to help the committee on Rules if the Convention this morning takes up this question and decides that it wants the question to go on with the other two measures which are of particular necessity just at this time. I cannot see why we cannot settle this now and save time and consideration in the committee on Rules, and then later on have the fight out on the floor of the Convention. I think the gentleman from Newton has taken a very fair position in the matter and he wants a test vote on this one proposition, and without committing myself as to whether I am in favor of putting it on or not, I should like an expression of the views of the Convention to aid me in my deliberations in the committee on Rules.

Mr. Ross of New Bedford: May I ask the gentleman from Somerville if he is speaking to purpose or to no purpose, and if to purpose, to what purpose?

Mr. Underhill: It is very seldom that the gentleman from New Bedford is facetious in his remarks. Usually, and I have no doubt that a good many of the members of the Convention think it the case at the present time, his remarks are to the point. But I am as sincere as any one in this Convention to have this particular matter decided at this time. I am saying nothing about anything else. But my heart is wrapped up in this just at the present moment.

Mr. Creamer of Lynn: I move the previous question.

Mr. Bryant of Milton: As I understand the ruling of the Chair, that the main question be now put, we vote upon this question of putting a very important amendment on the ballot without having discussed the question at all. [Laughter.] We have heard from the gentleman from Newton, who thinks that it should go on the ballot, but there are other gentlemen who wish to express their opinions here in regard to that question, and I think they should have an opportunity to do so. I think that it is very questionable whether this present amendment should go on the ballot unaccompanied by the amendment which went to its second or third reading yesterday; I mean the educational amendment. Is it necessary for me to say that those two amendments are very closely connected in the minds of a great many people, a great many delegates in this Convention? Is it necessary for me to say that a good many delegates would vote against the anti-aid amendment unless they thought the educational amendment was going to be tacked on to the end practically so as to save the rights of the Legislature to exempt educational institutions? Do we not know that those two amendments are tied up together and that they should go on at the same time, and if the educational amendment does not go on at the same election at which the anti-aid amendment goes on, will not the anti-aid be subject to all the objections in argument to which it was subjected yesterday on the ground that it does take away this exemption? Are we not making it very much less likely that it will pass if it is not safeguarded by the amendment which is not yet ready to go on the ballot? I think in all seriousness that this Convention should not sacrifice every other matter to the one next on the calendar [Resolution to provide for establishing the initiative and referendum]. I think that whether this amendment is going on the ballot is an important matter and does deserve discussion, although gentlemen more interested in other matters would like to shelve this one in order to get on to what they prefer to discuss.

Mr. Pelletier of Boston: May I ask the Chair what the time limit is for placing questions on the ballot in November, first, as far as the Secretary of the Commonwealth is concerned; second, whether this Convention has adopted any rule?

The President: The Chair understands the Convention has adopted no rule. The only information the Chair has is that which comes from the State printer, who says that the middle of the month, or possibly the 17th, is the last day on which matters can be printed.

Mr. Luce of Waltham: I trust that the previous question will not be ordered, and if the previous question is not ordered I will renew the motion to commit the matter to the committees on Rules and Procedure and Amendment and Codification, sitting jointly, and couple with it the expression of hope that there will be no further debate. Last night, when the gentleman from Newton in the third division

consulted me in this matter, I was of the opinion that it might be well to find the sense of the Convention at once upon it. But this morning the committees of which I have spoken, working as hard as they could to solve the difficult questions connected with this matter were confronted by still another phase of it which made it impossible for us to reach a decision in matters of form to report to the Convention this morning. Another meeting, in fact I think two meetings, will be held before next Tuesday morning, when we hope to have come to a wise conclusion. Therefore, if it is the pleasure of the Convention to get out of this parliamentary dilemma by rejecting the previous question and then immediately moving reference to the committees on Rules and Procedure and Amendment and Codification, I am very certain we shall save time.

Mr. McANARNEY of Quincy: I rise merely to state that I sincerely hope that the previous question will not be ordered at this time.

Mr. JAMES H. BRENNAN of Boston: I trust that this Convention will order the previous question and will vote forthwith on the motion of the gentleman from Newton. I believe that this Convention very thoroughly understands all the questions that are being talked on here now. I believe that the four months' discussion that this Convention has indulged in has enlightened every one on every question before this Convention, and by decisive votes all of the measures proposed to be submitted on the ballot by the motion of the gentleman from Newton have been adopted by this Convention.

I want to say that although the opponents of this motion say they are sincere, I believe that it is nothing but a filibuster, and why should we delay to submit these questions to the people and to place them on the ballot? We have voted here to adopt them and why not submit them to the people? I believe that we are getting into a condition here of helplessness and are we going back to our people after four months in this assembly and say to them: "After four months' deliberation we failed to submit to you any matter of importance for your approval or disapproval on the ballot"? Therefore, I trust that those members of the Convention who want progress and who want action and not words will vote for the previous question and will then vote for the motion of the gentleman from Newton. [Applause.]

Mr. HERBERT A. KENNY of Boston: I trust that the previous question will not prevail at this time. The gentleman from Newton is a shrewd parliamentarian and he argued yesterday on an amendment which is not germane to the original educational amendment, and I think that the committees on Rules and Codification need to study the amendment of the gentleman from Newton quite thoroughly; otherwise we are going to get into a serious mix-up in putting these matters on the ballot. I cannot understand why the gentleman from Boston (Mr. James H. Brennan) talks about helplessness. Why, this is the most serious matter before this Convention. I trust the I. and R. men, with whom I am an ardent advocate of the I. and R., will be a little patient with us and let us watch this distinguished gentleman from Newton in his parliamentary antics and let the committee on Rules examine it. We do not want too many gold bricks passed upon the Democrats here. Therefore I trust that the previous question will not be ordered and that this motion will be referred to the committees on Rules and Codification.

Mr. Creed of Boston: All I desire to say is that I have been a strong advocate of the principle of the initiative and referendum; I voted against every amendment to it; but now I am against ordering this previous question.

Mr. Walker of Brookline: It seems to me that the suggestion made by the chairman of the committee on Rules is eminently fair. There is no need of ordering the previous question. If he suggests to the Convention, and the Convention generally acquiesce in the suggestion, that we do not order the previous question but allow the motion to be put and then on general understanding that the debate cease, I think that is a reasonable proposition and it would be much better than ordering the previous question.

On the pending question, 31 voted in the affirmative, 128 in the negative, and the motion for the previous question was rejected. The question then came on committing the matter to the joint committees.

Mr. Anderson of Newton: The gentleman from Waltham told me last night that there would be no disrespect, as I understood him, to the committee on Rules if I should offer this motion this morning. He now informs me that there would be some serious difficulty in the matter, and of course as a reasonable man I must withdraw my opposition to the motion of the gentleman from Boston (Mr. Edwin U. Curtis) to commit this matter to the committees on Rules and Procedure and on Amendment and Codification, sitting jointly; and I am very glad to withdraw my opposition and say that I will vote for the reference.

The motion prevailed and the matter was so referred.

Thereupon Mr. Lowe of Fitchburg offered the following order, which at the request of Mr. Creamer of Lynn was laid over, and was debated October 9:[1] —

Ordered, That the Secretary of the Convention be instructed to notify the Secretary of the Commonwealth that the only resolutions to be put upon the ballot at the coming State election will be the Resolution to provide for absentee voting (doc. No. 357), and the Resolution to authorize the enactment of laws governing the acquirement, sale and distribution of the necessities of life (doc. No. 361).

Mr. Lowe of Fitchburg: This order was introduced for the purpose of clearing the atmosphere in this Convention. There was no intention whatever that the order should postpone any of the resolutions. It was introduced with the intention and the hope that it would advance the work of the Convention. We see at every turn the friction which exists in the Convention in reference to these important resolutions, the anti-aid resolution and the I. and R. resolution; and it seems to me if the Convention were to put itself on record in favor of putting before the voters only the two emergency resolutions, we could proceed at once in a business-like way. We could devote to these different resolutions the time that they deserve and give them full consideration.

Furthermore, I am decidedly opposed to putting the work of this Convention before the people in piecemeal form. I do not think it is fair to the Convention; I do not think it is fair to the voters. These matters should go before the voters, giving them sufficient time to consider the importance of them. Why, this Convention has been in session since the sixth day of June, considering practically these two

[1] A portion of the debate on this order was included in the debate on Chapter III of Volume I of the Debates, beginning on page 325.—Editor.

great matters, and we are not wholly decided in our own minds yet as to what should be submitted to the voters. Is it possible, is it reasonable, to suppose that the voters in this State in a few days can take up these questions and vote upon them satisfactorily? It seems to me that it would be much better that the voters should have a year to consider these matters and then vote upon them intelligently than it would be to force these matters before the voters and then have the voters regret within a year the action that had been taken.

I hope that the Convention will pass this order, and I hope that the Convention then, deliberately and carefully, will consider the other matters before it, continuing in session till the work is done, putting the matters before the voters in an intelligent way. We find, as we lead up to a vote on these matters, that some other resolution interferes, annuls the action we have taken, and there is no question but the work of the Convention, in my mind, should be complete when it goes before the voters. I believe that we can save several days if this order is adopted, but I am decidedly opposed to the proposed adjournment. I think an adjournment would be an admission on the part of this Convention that we are inefficient, that we are not qualified to take up the great matters of constitutional amendments and treat them properly. I hope that the Convention will stay in session until the matters are fully completed; and I believe that this order, which is introduced with the hope that it may harmonize, will be adopted.

Mr. Pelletier of Boston moved to amend by adding the following: "And the resolution relative to the support of certain institutions from public funds, (No. 348)", so as to read: —

Ordered, That the Secretary of the Convention be instructed to notify the Secretary of the Commonwealth that the only resolutions to be put upon the ballot at the coming State election will be the Resolution to provide for absentee voting (doc. No. 357), and the Resolution to authorize the enactment of laws governing the acquirement, sale and distribution of the necessities of life (doc. No. 361), and the Resolution relating to the support of certain institutions from public funds (doc. No. 348).

Mr. Pelletier of Boston: Just a word regarding this amendment. I do not know why the gentleman from Fitchburg (Mr. Lowe) omitted from his order the resolution which first went to enactment in this Convention, that is, the anti-aid measure. Surely it has been talked of and talked about and talked around almost as much as any other, I think, although it might have to yield to the I. and R. as having produced more talk. But it seems to me everything that the gentleman from Fitchburg has said to have the absentee voting resolution, and to have the necessaries of life resolution, put on the calendar, to go on the voting list in November, is just as applicable to the anti-aid resolution. It was the first thing that went through this Convention. It was discussed thoroughly. Some attempt was made to revive it, and it has been rediscussed. The only objection to putting a matter on the ticket in November is that the people may be taken by surprise, that the people may not understand. Well, if any question has been talked up and down this State for a good many years, if any question before this Convention has had a great deal of newspaper talk and individual talk, it is the Curtis anti-aid resolution, so called. The newspapers have reported all the debates, editorially the policy has been discussed, individual men and various societies and organizations

have been discussing it. Who shall say that the people do not understand what that means? They may have a thousand questions to ask about it, yes; but how many questions are they asking about the power of the cities to go into business? How many business men will want to ask a thousand questions? So that it seems to me, if anything at all is to go on the calendar, — and I believe that everything that is ready in time ought to go on the calendar, — I want to say now that any other order, any other resolution, that is ripe to go on the calendar I pledge myself to help put on in November; and, with that promise, I ask those here who are interested in clearing the decks, interested in giving the people the result of our efforts as soon as they are done, — I ask them to vote for this amendment to Mr. Lowe's original order of last Friday. [Applause.]

Mr. Pelletier moved an additional amendment by inserting the words "and the resolution relative to universities and colleges and to the encouragement of literature" (document No. 362), so that the order should read: —

Ordered, That the Secretary of the Convention be instructed to notify the Secretary of the Commonwealth that the only resolutions to be put upon the ballot at the coming State election will be the Resolution to provide for absentee voting, the Resolution to authorize the enactment of laws governing the acquirement, sale and distribution of the necessities of life, the Resolution relative to the support of certain institutions from public funds, and the Resolution relative to universities and colleges and to the encouragement of literature.

Mr. Parker of Lancaster: My own perplexities with respect to the performance of my individual duties as a member of this Convention may not be of very great concern to my colleagues. Yet I appreciate that a brief statement of my own doubts, my own faith, my own processes of reasoning with respect to the issue raised by the pending order, may reflect in some measure the thought of my colleagues, and by such review we may be the better able to determine precisely what our duties may be in relation to the pending measure.

I have concluded, not without doubt, not readily, nor perhaps absolutely positively, but yet, I am of opinion that when the members of this Convention in the course of this deliberate, patient, searching, intelligent inquiry upon each of the important matters which it has had under review, have concluded, responsively and finally, that in the discharge of the duties imposed by the people upon it it ought to recommend formally an amendment of our Constitution, then, realizing that responsibility, the Convention ought to make provision for submission of that proposed amendment for the consideration of the people as speedily as may be.

I am of the opinion that though with mortification we may realize that our fellow-citizens are not following constantly our deliberations with that attention that at least the subject of our deliberation deserves, we are still representatives of the people themselves, and they sit with us in this Convention. They, however, have delegated to us, — they being engaged about their several engrossing occupations, — the duty to study and consider for them these problems that have been submitted to us here, and then, for them, as their representatives, in the exercise of our sober, responsible, conscientious judgment, to recommend to them the changes that we believe, if any, ought to be made in our organic law. So I believe that the people through us, through our deliberations, must be assumed to have knowledge of the

issues which we have been considering; that so we must assume that they are informed with respect to the matters to be submitted to them; at least, sir, through any recommendations that we may make to them they are advised that in our responsible opinion and judgment such changes are demanded.

I do not know whence authority may come to us as delegates to determine for the people what lapse of time must occur before we are to assume that the people themselves have acquired adequate information, are possessed of adequate instruction, to enable them to deal with their own affairs in passing upon our recommendations.

For these reasons I have been forced to the conclusion, for the guidance of my own action as a delegate here, that when a proposed amendment to the Constitution has been adopted here, deliberately, formally and finally, it should follow as a matter of course, in the proper discharge of our duties, that with our recommendation the proposed amendment to the Constitution should pass for the deliberate consideration and action, either by way of ratification or repudiation, by the people.

Mr. McANARNEY of Quincy: I should like to ask the learned delegate from Lancaster if he does not think it fairer to the voters for us to submit all our proposed amendments to them at one time, so that they can then pass upon our work as a whole and vote for those amendments they favor and against those they oppose? Does he not conceive it possible that some of the amendments may have a bearing upon each other and be so related that while they might vote for an amendment if submitted alone, but if submitted with others might vote against it? In making my inquiry, I am not referring to the so-called emergency measures; but as to the other measures, would not it be fairer to the voters for us delegates to do our business and then turn to our constituents and say to them: "Here is our work; here are the amendments we recommend, here are all the amendments we recommend. Now, vote in favor of those you want, and vote against those you do not want," rather than submit them month by month and piece by piece until the voters will not know when we are going to get through or what amendments we are going to submit to them?

Mr. PARKER: The inquiry of my learned colleague of the third division, as all his contributions to our deliberations have been, is instructive and enlightening, and I gladly make answer, as well as my intelligence enables me to, with the candor that prompts the question.

His inquiry is a disturbing one; it presents the difficulty, in my judgment, of the delegate choosing between two alternatives and a little disturbed by the choice of either. I say unhesitatingly that I believe the people would be in the best position to determine their own action with respect to the conclusions arrived at by this Convention if all our proposed amendments were to be considered by the people together, correlated, in comparison and in antithesis. But yet, I am perplexed by this question. Suppose there be a matter upon which the Convention has reached its final conclusion; it being a suggested amendment to our Constitution it is in itself a portentous, an important measure. If the Convention has reached finally the conclusion that that change should be made, ought its deliberation be delayed until, perchance, other matters, exciting a wider debate, more prolonged discussion, still await their conclusion? I am forced to the

conviction that each one of our conclusions so formally and finally arrived at should be submitted to the people. For I know of no reason that warrants our retention of that conclusion from a consideration by the people; because certainly it would be presumptuous and arrogant on our part to assume, ourselves, to determine what measure of further information the people ought to have before they act upon that which is their own affair.

Mr. McANARNEY: I addressed the question to the gentleman because I knew he would be frank and fair in his reply to me. I ask him this further question: Do you know of a single instance, either in the history of Massachusetts or of any other State in this Union, when a Constitutional Convention that was charged with the duties with which we are charged has submitted its work piecemeal to the people, to be voted upon at different elections and not all at one election?

Mr. PARKER: In reply I say to my friend that I know of no such precedent. But I am forced to add that as I have reviewed the history of former Conventions I have heard of no one which held in such long and perhaps unnecessary suspense and debate the important questions that it had before it. If we were to wait for our final conclusion I fear the people would have grown weary, exhausted, perhaps would have passed to a better world, before they had tried to pass upon them. [Laughter.]

Mr. McANARNEY: My profound respect, — and, with the gentleman's permission, I would add "affection", — for the gentleman from Lancaster is such that I do not hesitate to put a further question to him. I would ask of him: If it be, as it apparently is, the wish of this Convention that the absentee voting resolution as an emergency measure go to the people at the November election, and if that resolution be adopted by the people, and if in the coming January or spring the Legislature puts upon our books a law providing for absentee voting, do you not think it fair and right, and does it not ring true to your own sense of justice, that those men in the navy or in the army of our country who are fighting our fight, — do you not think it right that we should not disenfranchise them by reason of their sacrifice; that they should be fighting for us in this war, and at the same time disenfranchised? But do you not think it right and fair and better to hold in abeyance these other amendments, and wait until those men can avail themselves of the absentee voting, and then, as voters of this Commonwealth, say whether they favor or oppose any of these amendments?

Mr. PARKER: I dare believe that there is no one of my colleagues in this Convention who holds in graver thought our duty and the duty of all the people of this Commonwealth to see to it that those of our kinsmen who are fellow-citizens, who are absent, offering their lives for our Commonwealth, for us, and for our Constitution, should have every consideration extended to them, and every safeguard of their suffrage and citizen rights. I say unquestionably, in answer to my friend's inquiry, that no radical change in the body of our constitutional law should be acted upon by the people until these absent citizens of ours should have opportunity to express their will.

I would deplore it beyond any phrase of regret if these men who are absent, gone under the colors, under the pledge to sustain our law and Constitution, should return to find that for which they had gone forth

to fight had been changed, impaired, weakened, or altered, in their absence. I would have them return to their same Commonwealth and to her institutions as they knew them when they went.

The measures which I would urge, or believe, rather, must be submitted to the people when finally acted upon here, are those which I view either as emergency measures, such as the absentee voting resolution clearly is, or those which I view rather as dealing with administrative functions of our law as distinct from the radical, fundamental, institutional principles of our law.

If I have not attempted at least, fully and frankly, to answer my friend's inquiry, I desire that he would further interrogate me.

Mr. McANARNEY: I thank the gentleman for admitting everything that it seems to me he in fact was compelled to admit by virtue of his innate fairness, and at the same time admitting, as it seems to me, everything in favor of my position. [Applause.]

Mr. PARKER: I should be very glad if that be so, for I would subordinate every other consideration which I have urged to the sure protection of every suffrage right of our soldiers and seamen, our sons, — deserving far better of our Nation and Commonwealth than we who in our security here protect ourselves by the artillery of talk, while our friends may be dying under the projectiles of war. I yield everything to the proposition that the rights of our absentee citizens shall be preserved.

Mr. Walker of Brookline offered the following amendments: Striking out, in the second line, the word "only", and inserting in place thereof the word "following"; striking out, in the third line, the word "to", and inserting in place thereof the word "will"; and striking out, in the fourth line, the words "will be", and inserting in place thereof a colon. So as to read: —

Ordered, That the Secretary of the Convention be instructed to notify the Secretary of the Commonwealth that the following resolutions will be put upon the ballot at the coming State election: The Resolution to provide for absentee voting, and the Resolution to authorize the enactment of laws governing the acquirement, sale and distribution of the necessities of life.

Mr. WALKER: I have not asked this Convention to insert among the measures that we notify the Secretary of the Commonwealth will go on the ballot, the initiative and referendum resolution. I have asked that the word "only" be stricken out, and a few other words to make the sentence complete; in order that we may say affirmatively that such and such resolutions shall go on, without saying that they are the only ones that shall go on.

I am under no illusions in realizing that there has been a group of conservatives who have pursued dilatory tactics since last June, culminating in an out-and-out filibuster at this time to keep the initiative and referendum off the ballot this fall. I think that they probably have been successful. I believe that they can keep it off the ballot this fall, and so I am not inclined at this time to move that the initiative and referendum be added to this list of measures which we notify the Secretary will go on the ballot. But I object, as far as I am concerned, to stating at this time that these particular resolutions are the only ones that will go on the ballot. It is quite sufficient to notify the Secretary that such and such resolutions will go on, without saying that they are the only ones that will go on.

Mr. LUCE of Waltham: I feel it incumbent on me at this time to

lay before the Convention for its guidance, information that has come to me this morning. On entering the building I met the Secretary of the Commonwealth, and found him much exercised over the situation. He informs me that his experience with the delivery of ballots before the recent primaries has made it seem to him prudent to advance the delivery of ballots at the coming election. Two packages of ballots for the primaries given to the express company under an agreement that they should have the preference over all other articles were not delivered in time for use; and one of those packages, by his latest information, has not yet been found. It was necessary to reprint the ballots, and by automobile delivery at the last moment to bring them to the polls. By reason of that fact he feels that his duty to the voters and the Commonwealth will call upon him to advance the schedule as specified in the calendar by five days, taking his chance of any later withdrawals which by law he would be obliged to recognize to the extent of removing the name from the ballot. If those withdrawals come he will have to employ a staff of clerks to erase the entries from those ballots that already have been printed, and with a chisel knock off the plates the names for those that remain to be printed. This exposes him, as he thinks, to the absolute necessity, in view of the very exceptional conditions this fall, of beginning the printing of the ballots five days earlier. So, if that is done, nothing upon which we come to the final conclusion after this week can be put on the ballot.

Under these circumstances I rise, not to call the attention of the Convention to matters not approaching completion, but to call attention particularly to one referred to in the order by the gentleman from Fitchburg, — that relating to food; so that if later on difficulty arises the Convention will not feel that it was not fully acquainted with the facts.

The Convention this morning has voted not to sit on Friday; it has assigned for to-morrow morning the debate on the food proposition. So if that is to be finished, in compliance with what the Secretary feels he must do, we must finish it to-morrow and the next day, — not only adopt its amendments, but also pass it through the engrossing stage, decide upon a form of the submission, and go through the unavoidable red-tape of getting it ready.

This also affects an amendment offered by the gentleman from Boston in the second division, an amendment to the pending motion, relating to the amendment which refers to the taxation of educational and other institutions; making it very doubtful whether that amendment can be perfected and passed through all its stages before the end of the week.

I advance this purely as information, for the guidance of the Convention.

Mr. Bauer of Lynn: Regarding the motion of Mr. Walker which seems to have been objected to by way of explanation on the part of Mr. Luce of Waltham, I want to call the attention of the delegates to this Convention to the fact that last Friday when a motion was put in this chamber to close debate on the I. and R. next Wednesday at 3 P.M., those men who voted "No" on that motion, by so doing voted, as far as I can see, that the I. and R. should not go on the ballot this fall, and they are responsible to the people of this Commonwealth for

that vote. Every man in this Convention has seen that from the very beginning, — when it was decided that we should go into a Committee of the Whole for the work of this Convention, — the idea of the committee on Rules was that there should be every opportunity for filibuster and delay on the initiative and referendum, believing that if it did not go on the ballot this fall there would be an indifference to it later on and that it would be defeated by the people. But I wish to go on record with the statement that they are just deceiving themselves in that belief; that this filibuster and this refusal to let it go on the ballot this fall is going to react on them from the people whom they represent in this Convention.

It would seem from the explanation advanced by Mr. Luce of Waltham that even the Secretary of the Commonwealth has joined in this filibuster to delay everything.

Mr. Luce of Waltham: I very much regret that the gentleman from Lynn should think it necessary to entertain that notion; but I think he must have failed to recognize or to understand my statement, that I met the Secretary of the Commonwealth this morning, and that his statement to me is not a matter of weeks but of this morning's final conclusion in the matter. I wish to assure him that he does injustice to a very honorable servant of the Commonwealth in imputing to him any motive other than that of the proper performance of the duties imposed upon him by law. [Applause.]

Mr. Bauer: I am not so tender that I regard with apprehension any feeling of speaking out plainly or against telling what appears to be the absolute truth because it may perchance injure some one else's feelings. I never have been that way, and those men who know me best know that this is so.

Mr. Logan of Worcester: I hope, sir, that the gentleman in this section will withdraw the remark that he made, that it may not be a part of the record. If there is one man in this Convention who ought to appreciate the difficulties of printing the ballot for this election it is the gentleman from Lynn. He is in the stationery business and knows the conditions that always prevail in getting work through a printing office in time, and particularly such an enormous job as this for the Secretary of the Commonwealth.

Mr. Bauer: I am very glad to have Mr. Logan of Worcester qualify for me as an expert before this Convention.

The Presiding Officer (Mr. Quincy of Boston): The Chair would call the attention of the gentleman from Lynn to the fact that the rule forbids the naming of members by name; they must be referred to otherwise than by name.

Mr. Bauer: It is because I have a knowledge of the necessary time for printing and distributing that I am speaking as I do. I have been in the printing and distributing business, or closely allied to it, for some thirty years, and can qualify with any one as to the necessity for time of closing on a matter of this kind.

On this political calendar relating to the State primaries and annual State election for 1917, signed by Albert P. Langtry, he states:

> Oct. 22, 5 P.M., last day and hour for filling vacancies caused by withdrawals. Certificates of nomination, nomination papers, public policy applications, objections and withdrawals are all to be filed with the Secretary of the Commonwealth.

Now, it seems to me that this sudden awakening to the fact that it would be dangerous to hold the ballot open until October 22d, as they have laid it out to-day, after the testimony was furnished to some members of this Convention by the printer himself, — that if a space were left open on the ballot it could be gotten in there all right, if he received it not later than the eighteenth, I do not think the objection, or the explanation, rather, of the delegate from Waltham has very much weight on this matter at all.

Mr. ANDERSON of Newton: I rise to support the motion of the gentleman from Boston in the third division, — the amendment which he has made to the motion of the gentleman from Fitchburg. Before I go far I want to ask when the Convention ever has admitted the principle that only emergency measures are to go on the ballot this fall. I had not heard of any such motion being passed by this Convention. As far as the anti-aid amendment is concerned, I trust that the Convention thoroughly understands the situation, — that it has been engrossed and that the Convention has voted to submit it to the people. The Convention is behind that amendment. The Convention has approved that amendment. The Convention has recommended favorably that amendment to the people of the Commonwealth of Massachusetts.

Now, I understand from the general discussion here that the absentee voting amendment is to go upon the ballot this fall. And if it does go on the ballot this fall, then all the legal objections to putting any amendment on the ballot this fall certainly are set aside. I believe, too, that it is the intention of this Convention that some form of the food amendment, which is most agreeable to the majority of this Convention, should go upon the ballot this fall, — I, at least, would feel that it was criminal indeed to do anything which would keep us from allowing the people to put something of that kind into the Constitution in November. I feel that if I should take any hostile attitude, that, in a certain sense, I would be responsible for the freezing to death, perhaps, and perhaps the starvation, of a lot of poor women and children in this Commonwealth. And I trust that whatever we do with the anti-aid amendment or the I. and R., or anything else, that we most certainly will put that food amendment on the ballot this fall.

As these other amendments are to go on the ballot this fall, it seems to me to be only the most natural thing in the world, a thing of course, that this other amendment should go on the ballot also, since it has long been passed to be submitted to the people and recommended to the people by this Convention. And I know of no real good reason why it should not be. The people expect, it seems to me, that we will show to them what we have done in this Convention during the past four or five months. We have been sitting here, — we have not been working very fast, — we have been spending nearly $500,000 of the people's money, I understand, and they will expect at least to see on the ballot all the work that we have done.

I do not know whether some of you gentlemen care for public opinion or not, but I myself care a good deal as to what the good, common-sense people of this Commonwealth, think of this Convention, and when I see in one of the most conservative newspapers in this State an article discussing this whole matter, and having as its

heading "An Impotent End?" I wonder if that is what they are thinking about us.

It was objected the other day by the gentleman from Somerville, sitting in the fourth division (Mr. Underhill), that if we put this amendment on the ballot in November there would not be enough interest in the further work of the Convention to cause the people to pay enough attention to it so that a large vote would be brought out on the other matters. Now that he sees very clearly, as we all must see this morning, that the initiative and referendum is not going on the ballot this fall, I am sure that a good part of his argument is lost, for the initiative and referendum is certainly the thing concerning which the people of this State have talked the most and in which they are the most interested. Consequently, I think we ought to shift the argument in another way and say this: It has been an argument against the initiative and referendum that we would have so many amendments on the ballot at the same time that we ought to limit the number of amendments to three, four or five a year, so that the people would not be confused in voting for so many amendments, and I have been in favor of limiting the amendments if it was possible to find a way to do it. In fact, I worked about a week to make an amendment of that kind which would be satisfactory, and I failed in doing it. But I believe still in the desirability of having only three, four or five amendments at the very most on the ballot every year. Now we have the opportunity to divide our work and put three or four amendments this year on the ballot and subtract them from the large number which necessarily must go on the ballot in 1918.

Mr. Underhill of Somerville: The gentleman from Lynn (Mr. Bauer) made two statements. I do not believe this Convention will take him seriously, for in years past he has made several just as sensational statements which received big, black headlines in the papers, and in a few days or a few weeks later he has had to deny that he ever said such a thing or intended to say such a thing. So I suppose similar action will follow these two statements. But regarding the filibuster which he stated "originally started in the committee on Rules, in order that we might do away with the initiative and referendum," I wish to tell the gentleman that as an opponent of the initiative and referendum from start to finish I was the only man in that committee who fought the idea of a Committee of the Whole, and I fought it just as strongly as I could, and voted against it in its last form when it came before that committee.

Mr. Edwin U. Curtis of Boston: Do I understand the gentleman to say that he was the only man who voted against the Committee of the Whole?

Mr. Underhill: I may be mistaken in the final vote. I think the gentleman from Boston who is opposed to the initiative and referendum finally voted with me on the question of the Committee of the Whole.

Mr. Bauer: I am very glad to have the gentleman from Somerville state that he made a mistake and has to change it.

Mr. Underhill: Then, further, there were a few men in this Convention who did not wish to have a verbatim report of the proceedings of this Convention, and I do not remember that the gentleman or other initiative and referendum men offered any objection to that ver-

batim report, which probably has extended our sessions some three or four months, as I prophesied earlier in the session. But I do feel that at the present time, — not wait until the papers get after him, — but at the present time, he should withdraw his remarks regarding the Secretary of the Commonwealth.

Mr. Brown of Brockton: Just to keep the record straight. I helped the gentleman in his humane effort to save the State, and I suppose I shall vote for the I. and R., so that the I. and R. is saved in that particular matter.

Mr. Underhill: The gentleman was one of the very few, — and in fact I previously stated that he was the only one in the Convention to come to my aid. That is on record, and the gentlemen need not take up any more space in the record for his vindication.

Mr. Brown: I want to have it straight. I did not know then how the gentleman stood on the I. and R.; I do not know whether he knew where I stood. He has just said "none of the I. and R. men" and it was to show him that one I. and R. man did come that I wanted to correct him.

Mr. Underhill: I think the gentleman is justified in taking the position that he has.

Mr. Bauer of Lynn: I again should like to call the attention of the delegates to the fact that the gentleman from Somerville has revised a previous statement.

Mr. Underhill: To continue my reasons for opposing any proposition going on the ballot except the two which the gentleman from Fitchburg has suggested, — these two emergency propositions. I think I have been consistent through this whole Convention session, and I believe if we are going to put anything on the ballot that all should go on together, and then the people may become interested, they may be informed, we may have discussion throughout the length and breadth of the Commonwealth, for when we have any matters on the ballot they all are there and we know how to vote on them. But if we are going to put this resolution on the ballot this fall you will find at least fifty per cent of the people of the Commonwealth will have no interest in other questions which may be referred to them in the spring or at a later time.

Mr. Walcott of Cambridge: I should like to ask the gentleman from Somerville why he considers the municipal trading resolution an emergency measure. The gentleman from Worcester read, a couple of weeks ago, as I remember it, the provisions of chapter 342 of the Acts of 1917, which, — though limited mainly to war time, — seems to be a very much broader bill than anything contained in this municipal trading resolution; and if that is so, I should like to ask the gentleman from Somerville why he considers the municipal trading resolution an *emergency* measure, necessary for our security in the *present emergency*.

Mr. Underhill: I am willing to accept an amendment by the gentleman from Cambridge striking out the municipal trading resolution. I am quoting other members of the Convention who designate the municipal trading resolution as an emergency measure. I do not think it is an emergency measure; personally I do not think that in the present form it amounts to that (snapping fingers) other than as a political measure. It might well go on the ballot, or it might as well

be left off the ballot so far as its utility is concerned, so I am willing to accept an amendment from the gentleman from Cambridge striking that resolution from the order of the gentleman from Fitchburg.

If the Convention will vote against putting anything else on the ballot, then the business of this Convention can be carried on in a systematic manner, — it may be carried on without filibuster on either side, — and I claim that no one side has had a monopoly of the filibuster. We can attend to business and get out of this Convention with some credit to ourselves and perhaps to the Convention and the State, before Christmas.

On the amendments offered by Mr. Walker of Brookline, 91 voted in the affirmative, 106 in the negative, and the amendments were rejected.

Of the amendments offered by Mr. Pelletier the second, treated as an amendment to the first, was adopted, by a vote of 130 in the affirmative, 60 in the negative.

The amendment as amended was then adopted, by a vote of 131 in the affirmative, 71 in the negative.

The question then came on the adoption of the order as amended, as follows:

Ordered, That the Secretary of the Convention be instructed to notify the Secretary of the Commonwealth that the only resolutions to be put upon the ballot at the coming State election will be the Resolution to provide for absentee voting (doc. No. 357), the Resolution to authorize the enactment of laws governing the acquirement, sale and distribution of the necessities of life (doc. No. 361), the Resolution relating to the support of certain institutions from public funds (doc. No. 348), and the Resolution relative to universities and colleges and to the encouragement of literature (doc. No. 362).

The order, as amended, was adopted.

On the 11th of October, 1917, Mr. John Q. A. Brackett of Arlington offered the following order: —

Ordered, That all proposals to amend the Constitution which the Convention has voted or may hereafter, prior to January 1, 1918, vote to submit to the people be submitted at a special election to be held in April, 1918.

THE DEBATE.

Mr. Brackett: Permit me to say, in order to obviate the necessity of any gentleman asking to have this order laid over, that I do not ask for any action on it to-day but propose myself to move its reference to the committee on Rules and Procedure. But before making that motion I should like to explain briefly my object in offering this order. I am fully aware of the objection to holding special elections. First, there is the expense; then there is the danger of there being a small vote. But it seems to me that the objections to submitting these propositions at the coming election outweigh those. That election will take place in less than four weeks. Now how can you expect the people of the Commonwealth to prepare themselves for acting intelligently upon propositions upon which we have been engaged in acting, making it our special work, for over four months? No time will be lost if this order should be adopted, because the Legislature undoubtedly will be in session in April and in May of next year; therefore any bill which any one might wish to offer in the Legislature under any one of the amendments which might be adopted can be introduced before that time, take its several readings and be passed to

be engrossed, and then the question of enacting it can be postponed until after the special election in April, so that when it is enacted, if the amendment to the Constitution under which it is passed is adopted, it then will be constitutional. If the amendment should not be ratified by the people the bill could be dropped. During the winter the people can have an opportunity to consider these amendments; they can be discussed in the press, at public meetings or meetings of clubs, and elsewhere, and it will be an educational campaign. It seems to me that altogether this is the best thing to do. Instead of hurrying through, hurrying the people to act upon the amendments, with no time to consider them, it is better to have whatever amendments we submit referred to the people at a special election to be held next April, which will give them three or four months to consider them. I move that the order be referred to the committee on Rules and Procedure.

The motion prevailed and, accordingly, the order was so referred.

On the same day the following report was read: —

The committee on Amendment and Codification of the Constitution, who were directed, by an order offered by Mr. Garland and adopted on June 20, to consider the advisability of causing to be prepared, printed and mailed to the voters of the Commonwealth before the State election information relative to proposed amendments to, and codification of, the Constitution, report, in part, that it is inexpedient to take any such action with respect to the amendments which are to be placed on the ballot for the State election in the present year.

FRANCIS P. GARLAND, *for the Committee.*

Mr. GARLAND of Somerville: When the order which appears at the bottom of page 14 of the calendar under my name was offered, it was believed that the work of the Convention would be completed in time for submission to the vote of the people in November, 1917; and while the committee feel unanimously that if the work of the Convention were completed such a pamphlet ought to be prepared, printed and mailed to the voters, the committee consider it inexpedient at the present time to attempt to prepare such a pamphlet. Perhaps one reason alone will be sufficient to justify the action of the committee, and that is simply that there is not time between now and November 6, 1917, to prepare and print such a pamphlet. I think, therefore, the committee's report ought to be accepted.

The report was accepted.

On the 11th of October, 1917, the following order was considered: —

Ordered, That the following Article of Amendment of the Constitution of the Commonwealth, which has been made and adopted by this Convention, and which shall be numbered two, shall be submitted to the people for their ratification and adoption, by printing the same upon the official ballots, to be prepared and transmitted by the Secretary of the Commonwealth to all polling places established by law within the Commonwealth for the State election to be held on the sixth day of November next, at which said places all persons qualified to vote for State officers may give in their vote by ballot for or against said Article of Amendment in the following form, to wit: —

To vote on the following, mark a Cross X in the square at the right of Yes or No: —

In place of Article 18 of the Articles of Amendment of the Constitution, shall the following Article of Amendment relative to appropriations for educational and benevolent purposes, submitted by the Constitutional Convention, be approved and ratified?

YES.	
NO.	

[Here follows the text of the anti-sectarian amendment]: —

And ordered further, That the method prescribed by the provisions of Chapter eight hundred and thirty-five, Acts, 1913, as amended by Chapter one hundred and nine, General Acts, 1917, for the transmission, examination and tabulation of the returns of votes cast on any question submitted by statute, shall apply to the transmission, examination and tabulation of the returns of votes cast for and against such Article of Amendment. If such Article of Amendment shall appear to be approved by a majority of the qualified voters voting thereon, according to the votes returned, examined and tabulated, as herein provided, it shall be deemed and taken to be ratified and adopted by the people, and the same shall be enrolled on parchment and deposited in the Secretary's office, and shall become part of the Constitution of this Commonwealth.

And ordered further, That His Excellency the Governor shall thereupon cause public proclamation to be made, announcing that such Article of Amendment has been duly ratified and adopted by the people of the Commonwealth.

Mr. Anderson of Newton moved that, unless a vote be sooner reached, debate be closed at 12.45 o'clock, and that speeches be limited to five minutes each. This motion was adopted, by a vote of 138 to 33.

THE DEBATE.

Mr. Washburn of Middleborough: Not much needs to be said about the framework of the order now before the Convention. The matter which is to go on the ballot, — I do not refer to the amendment itself but to what rather may be termed the scaffolding surrounding the amendment, — follows the precedent adopted by the General Court in submitting constitutional amendments. In a word, the order follows closely a form adopted yesterday by the Convention in relation to absentee voting. I might say as to the point raised by the gentleman from Brockton (Mr. Brown) that the amendment which is repeated here follows literally, word for word, the engrossed copy of the resolution. Therefore there can be no question about its accuracy. The controversy, if there be any, — and there probably will be, — over the adoption of this order will turn upon the caption which is found at the top of page 6. As to that I can only say that it was reported to the joint committee by a subcommittee of which I was not a member, and I should prefer to leave the discussion of that phase of the matter to some member of the subcommittee. Suffice it to say that it was the form of words which appealed most strongly to the overwhelming majority of the committee. They recognized the difficulties attaching to any form of words which might be suggested. I hope, therefore, that the order will be adopted by this Convention as reported.

Mr. Washburn of Worcester: I am in no way opposed to putting this amendment on the ballot in November. I have just voted for the motion of the gentleman in the second division (Mr. Pelletier) to give this matter the right of way. But in placing this matter on the ballot I think it should be placed there so as to make it perfectly clear to the voters what they are voting upon. We have just heard that there will be no time to submit to the voters any pamphlet upon this subject, and for that reason I think that the preamble which appears upon the ballot should be perfectly clear. The amendment which I propose makes a very slight change in the preamble. The preamble as proposed on page 6 reads: —

In place of Article 18 of the Articles of Amendment of the Constitution, shall the following Article of Amendment relative to appropriations for educational and benevolent purposes, submitted by the Constitutional Convention, be approved and ratified?

That preamble is not suggestive of the fact that there are two propositions involved here; one is that there shall be no appropriation made for denominational institutions, and the other that there shall be no appropriation for any institutions not exclusively under public control. It is for that reason, and in order that the casual voter may know what he is voting on, that I move the substitute on page 7, which reads as follows: —

In place of Article 18 of the Articles of Amendment of the Constitution shall the following Article of Amendment forbidding appropriations for denominational and other educational and benevolent purposes, submitted by the Constitutional Convention, be approved and ratified?

That brings sharply to the attention of the voter the fact that those two propositions are contained in the amendment which follows.

I do not know whether this would affect the vote one way or the other, and if so, how, but I submit that in a matter of such importance the Convention should take scrupulous care that it exercises every possible precaution to make this clear so that every voter may understand it.

Mr. Clapp of Lexington: I am not surprised that the delegate from Worcester has proposed an amendment in the title, for it seems to me that the preamble suggested by the committee is singularly lacking in anything that suggests the real nature and substance of the proposal. I do think, however, that the language suggested by the delegate from Worcester can be improved still further. We all know that the keynote of this whole proposition is that there shall be no appropriations of public moneys for privately controlled institutions. That is the language that we use when debating it in the Convention or when speaking of the matter to our friends outside. Now, there is not a suggestion in either of the preambles proposed that the prohibition is aimed against privately controlled institutions.

I therefore move that the amendment offered by the gentleman from Worcester (Mr. Washburn) be altered by striking out the words "denominational and other educational and benevolent purposes," and by substituting therefor the words "privately controlled educational and other institutions." Thus amended, the title will be: —

In place of Article 18 of the Articles of Amendment of the Constitution, shall the following Article of Amendment forbidding appropriations for privately controlled educational and other institutions, submitted by the Constitutional Convention, be approved and ratified?

Mr. Bartlett of Newburyport: I move to amend by inserting after the word "Convention", in the fourth line of the second paragraph, the words "being the so-called anti-aid and anti-sectarian amendment."

It seems to me that the insertion of those words there will make it clear to every voter very quickly that that is what he is looking on the ballot for, — the anti-aid and anti-sectarian amendment; and that will clear up the matter very well of having the preamble, as it is called, state what the amendment is.

Mr. Hart of Cambridge: As one of the subcommittee which re-

ported this phrase, I shall be very glad, in case there are other amendments to be offered, that they may be offered now, before I explain the motives of the committee.

Mr. Costello of Boston moved to amend the report in regard to placing on the ballot an Article of Amendment in place of Article 18, by transposing the printed squares containing the words "Yes" and "No" and places for crosses, from the place where they appeared in the report, to a place at the bottom of and at the end of section 5 of said Article of Amendment.

Mr. Costello: The reason I offer that amendment seems to me to be quite manifest upon reading section 1 of the Article of Amendment. To my mind, that does not really state either of the propositions upon which the voters are to pass. It says: "No law shall be passed prohibiting the free exercise of religion." And right next to that you have the squares for voting "Yes" or "No." To my mind, that is entirely misleading, and will catch a great many voters who have not the time to go into the question, and who have to vote hurriedly. For instance, in my own district there is a heavy six o'clock vote in the morning, men who have to get their trains early. They hurry in, and they vote as quickly as possible. Now, if you put that there it is really a trick that does not state the question accurately at all. The first impression a voter would get on going in, — "No law shall be passed prohibiting the free exercise of religion," — everybody in this Commonwealth will vote Yes upon that question; and that is not the real issue involved in this amendment. The real issue involved is the appropriating of money to institutions which otherwise, in the absence of this provision, receive that aid.

It is only in the interest that we may get a fair vote upon this question, that the voter may read the amendment before he votes upon it, — that is the only reason, in the interest of fair play, that I offer this amendment. [Applause.]

Mr. Pelletier of Boston: Some one said a few days ago that there would be all sorts of discussion over the heading of this measure. I may be wrong, but it seems to me I find these illuminating suggestions coming from enemies of the measure, commencing with the gentleman from Worcester.

Mr. Washburn of Worcester: The gentleman in the second division has seen fit to make a personal allusion to me, and I should like to state for the information of the Convention that I voted for this measure. I was guilty of suggesting one or two amendments, but that is the only offence I have committed. I have not stood in the way of the progress of the consideration of this measure, and I voted this morning to advance it, voting in favor of the motion which my distinguished friend himself made. [Applause.]

Mr. Pelletier: I hope I have not done the gentleman any injustice. Of course his record here is open, but away in the back of my head I have considered him an enemy of the measure; and when I read his amendment here to-day I said: "That is for the purpose of defeating this measure at the hands of the people."

Mr. Washburn of Worcester: If conveying the truth to the voters of the Commonwealth will defeat the measure, it ought to be defeated. [Applause.]

Mr. Pelletier: That is absolutely true, and when the gentleman

would mark the measure as one relating almost exclusively to denominational matters, he is not telling the truth. It affects many institutions, including his own pet in Worcester, — which he claims is not denominational. It affects the Massachusetts Institute of Technology, and a lot of others. And if there are any other enemies of this measure and you want to defeat it at the hands of the people, put in the word "sectarian," put in the word "denominational"; make it a religious issue and you will have a fine row over it, and nobody knows where it will end. The resolution does not read that way. It is broader than that, and provides, as the gentleman from Lexington (Mr. Clapp) says: "No public moneys for any private affair, denominational or otherwise." In my opinion, honestly expressed, the insertion of that word "denominational" means a failure for the measure at the hands of the people.

Mr. HART of Cambridge: The responsibility for the phrase as it is brought before the Convention is the responsibility of the committee on Rules and Procedure and the committee on Amendment and Codification, sitting jointly, after due discussion, in which the proposition of the gentleman from Worcester (Mr. Washburn) and other forms of words were duly considered, and the joint committee voted to prefer and to report the form that you have before you. What were the reasons which presumably animated the committee, as they might be gathered from their discussions? Why, simply that the object of the caption is to identify the measure. The voter is entitled to know where an amendment upon a particular subject is to be found, to know where he may place his vote. And let me say at this point that the criticism of the gentleman in the first division (Mr. Costello) is perfectly valid, except that the ballot will not be in precisely the form which appears on this printed page, that the "Yes" and "No" would not appear opposite "Article XVIII, Section 1" but opposite the caption, as I understand it, and the title of the whole article. There is of course a very great advantage, and such an advantage that no other way is possible, in putting the "Yes" and "No" at the head of the article instead of at the end.

Mr. CREED of Boston: I am looking for information to the gentleman who is on the subcommittee. I was not present at the joint committee meeting when it was reported. Does the gentleman now say that if we vote the manner and form of putting it upon the ballot, the Secretary of the Commonwealth's office is going to put that square somewhere else?

Mr. HART: The sample ballot which was presented to the committee is in the hands of Mr. Washburn (of Middleborough), and in due time he will explain that point. I will confine myself in the rest of my remarks to the main question of the words used.

Mr. COSTELLO of Boston: I understand that the idea is to give the voter as much information as we possibly can, so that when he votes upon a question or amendments at the polling-booth he may get as much information as is possible; and we are putting that upon the ballot in such a position where we shall have done all that we can to make the voter read the amendment before he votes upon it. Does not the gentleman think in the campaign of education that will be necessary, that if the voter does not want to read about it outside, upon the ballot itself, he should be obliged to read the amendment, so

that he may vote intelligently upon the proposition, rather than vote merely upon the caption?

Mr. HART: Will the President kindly inform me how much time remains to me?

The PRESIDENT: According to the record kept by the Chair, the member has two minutes remaining.

Mr. HART: The gentleman will then excuse me for allowing others to answer his question.

I desire simply to say with regard to this caption that the desire was to identify an amendment, the general contents of which are better known throughout this Commonwealth than the records of the members of this Convention. There is nothing that will come before the electorate with which the voter probably will be so well apprised before he reaches the polls as this.

Therefore it is desirable to adopt a frame of words which will identify, and which will not argue. I agree absolutely with the gentleman in the rear of the room (Mr. Pelletier) in regard to the proposed form of words suggested by the gentleman from Worcester (Mr. Washburn). Of course if you are going to put a form of words which is going to be as drastic as possible, let us have that form. What we want is to present a caption which is absolutely distinguishable from any other upon the ballot. Remember that the whole text of the amendment follows. It is not necessary, therefore, to describe in two or three lines, as otherwise would be the case, the character of the amendment. What we want is a neutral form of words, in which the Convention, having submitted the amendment, shall not follow it with an argument couched in five or six words.

Mr. WILLIAMS of Brookline: I voted for this proposed amendment to the Constitution; I propose to vote for it at the polls; but I am opposed, decidedly and seriously, to its going upon the ballot this fall, for the same reason that I felt it was unwise and wrong to have the I. and R. amendment placed upon the ballot in case any was passed by the Convention, — and especially for the reason that I did not believe that the necessary information could be gotten to the voters before the day of election. I feel so now, and especially so when we are told that no pamphlet can be sent out conveying the necessary information. I find people do not know anything about what we are doing here; people who are educated men and well informed, they do not know anything about the propositions that we are considering.

It has been suggested that explanatory advertising matter be put in the newspapers; but everyone of any experience knows how little advertising matter is read. It has been suggested to me that there might be some political advantage to one party or the other. Unless this measure has sufficient weight and merit to carry itself with the people at any time, then it seems to me it ought to fall. How can any fair-minded man question the desirability of having this caption set forth, clearly and distinctly, what is contemplated? If we read the resolution, nearly half way down in section 2 it says distinctly that there shall be no appropriations, and so forth, "wherein any denominational doctrine is inculcated." Why should not that word "denominational" appear in the caption? Why should not we state the question just as it is, and have everyone know what he is voting for? I simply cannot comprehend this suggestion that the word "denominational," or any other word which explains the contents of the measure, should not be

put in the caption so that we all can understand it. It seems to me that the amendment of the gentleman from Worcester is a wise one, and I shall vote for it; and then, if possible, I shall vote against putting it upon the ballot.

Mr. LOMASNEY of Boston: Why do the members of the Convention say that the people in this State do not understand how to vote? We have a reading and writing clause as a qualification for voting, do we not? Then why should we say that they are ignorant, with our school system and with the Australian system of voting so well established? And who is so sure that they will not know how to vote? The people who have been opposing this resolution at all its stages, and who have not put a single constructive clause into it, but who always have tried to stop it!

I say that the people of this State know a great deal more about this question than some people think, and nobody can tell just how the people of the State are going to vote on this great question. When men say they are going to do this and do that, and deliver this and deliver that, I tell you this delivery business is quite a problem. The people are intelligent; the people in the country districts are intelligent, the people in the city districts are intelligent. I saw a distinguished member of the Boston board of aldermen remain in the polling-booth forty minutes one time to mark a ballot, at the first election held under the Australian ballot law. But we have been marking the ballot for years now; we know what "Yes" and "No" mean; we have proved it repeatedly.

When the whole city was organized a few years ago trying to seize, — of course legally, by having the people pass upon it, — a piece of Boston Common, and all the newspapers were quiet about it, and all kinds of committees were approving it, what did the people of Boston do with it? They sent it to the bone-yard. [Laughter.] And they were advised to vote for it by ex-mayors and by other great men; but they knew the Common, and they knew what it meant to the people, — just the same as they know of this measure.

The people are intelligent. This matter will be discussed fully before election day and no doubt every member of this Convention will be asked about it by his constituents. You need not fear. They know the difference between "Yes" and "No."

Mr. CREED of Boston: The probability is that this Convention will be going on after the sixth of November. I should like to ask the gentleman what opportunity we are going to have to tell our constituents about it.

Mr. LOMASNEY: The gentleman always has found a way to tell his constitutents anything he wanted to tell them. So have I. I am not trying to delay it. I was saying, and I say it now to the gentleman, that the people of South Boston, the most humble man there, is just as intelligent as he is, and knows where to put his mark on the ballot fully as well as he does, — although he may be a lawyer and have some education. [Laughter and applause.]

Mr. CREED: I rise to agree with the gentleman. The humblest man in South Boston is perfectly competent to mark the ballot.

Mr. LOMASNEY: Of course he is. And so is every man in Massachusetts whose name is on the voting list; because he has qualified by reading and writing before his name was placed there.

This whole amendment is going to be on the ballot. The man goes

into the booth, the amendment is on the ballot, in a separate column all three questions are there. He can read them then and there. I submit, it is amusing to see these gentlemen who are making these criticisms and are trying now to say that they favor an amendment which they tried to defeat directly, attempting now to do it indirectly. I say that is unfair, and I trust the committee's report will be sustained.

Mr. CHURCHILL of Amherst: I have listened to the debate on the subject of this caption with a good deal of interest, and, I may be allowed to say perhaps, with some amusement. We have here a most important measure. It is perfectly natural that the gentlemen who have given their time and effort to the shaping and the passage of this measure in this Convention should desire to see this measure successful when the people come to vote upon it. It is perfectly reasonable and proper that they should object to any caption which is in the slightest degree unneutral or in any way likely illegitimately, unfairly, to lead to a misunderstanding and an unintelligent, negative vote. So far I think every thinking man can go, whether he is in favor of this measure or not.

But I submit that it is unworthy of this Convention to allow any desire to see a matter passed by the people, or defeated by the people, to color in any way, shape, or fashion the form in which it is put before the people. As advocates of a matter before the people, as voters, we have a right to take an individual position; but for the Constitutional Convention to allow itself by carelessness or by intent to be criticized for the form in which it presents any one of these measures to the people is to my mind an enormous mistake. It is criticism which as a Convention we shall feel.

Now, the friends of this measure and the friends of this caption say: "Suggested captions are tending to defeat this measure." The objection on the other side is that this caption, — that is the essence of the objection, — tends to get an affirmative vote on a basis of misunderstanding. Now, as members of this Convention, what is the thing which every one of us ought to want, and which alone he can stand for as a member of this Convention? A caption which is truly neutral, but which tells the truth about this amendment; which entitles it with words that show what this amendment is. If it cannot be passed with these in the title, we ought to be content not to have it pass. If it needs to have an indistinctive title in order to pass, it ought not to pass.

I submit that whatever the objections may be to one title or another that has been offered, — and into these objections I do not care to go at this time, — no caption in the form of "Relative to appropriations for educational and benevolent purposes" does describe this amendment. Anybody who wants to see it passed by the people, as a member of this Convention ought to desire to have it accurately described. If the gentlemen who offered this caption were to go thus far: "Relative to restriction of appropriations for educational and benevolent purposes," they would come nearer to describing the intent of this amendment; though they would not describe all the purposes of the amendment. The title would be an improvement along that line.

Mr. THOMPSON of Haverhill: We have arrived now at the time of

the question of the anti-aid and anti-sectarian measures to go upon the ballot. It has been described in the newspapers for four or five months. There has been a great deal of space devoted to it, and nearly every one in the Commonwealth who reads the newspapers has read something about this particular amendment. I should like to ask any member of the committee on Amendment and Codification, or the committee on Rules, if there is any other name by which this amendment has been spoken of or described in the newspapers during all that time, — any other name than those three; to wit, the anti-sectarian, or anti-aid, or Curtis-Lomasney measure. Over the heading of every newspaper column one of those three names has been suggested.

Every voter when he goes to the polls knows, if he has read anything about it at all, when he sees it upon the ballot in one of those forms, that it is that measure which he has read about. And I would submit, whereas I believe that several of the amendments are good amendments, I would follow particularly that of the gentleman from Newburyport, a member of the committee on Form and Phraseology, in which he names it "the so-called anti-aid and anti-sectarian amendment."

I have in my hand a copy of a blank ballot which was printed by the State printer as this amendment probably will appear, and the printing in which the whole amendment is printed is smaller than that of a newspaper; and, as you know, it contains almost five hundred words. I believe the legal time for a man to cast his vote is about five minutes; and it is not possible for a man who is not acquainted with the text of these four amendments to read them and understand them in less than ten minutes, to say nothing of voting for the candidates on the ballot. Consequently the headings of these particular amendments in the large type are going to direct most of the voters the way that they are going to vote; and when a voter goes into the booth, knowing that this thing has been placed upon the ballot, the first thing that every voter is going to look for is some amendment with either "anti-aid" or "anti-sectarian" over the top of it, because that is what he has been taught through the newspapers all the summer. And I submit that is the proper form in which this should be placed. Those voters who are very anxious to get some sort of anti-sectarian amendment through are bound to look for those words, and those people who are against any anti-sectarian or anti-aid amendment are bound to look for it. And it does not seem to me, as the last speaker said, that we ought in any way to color up any form of caption of an amendment or deceive the voters.

Who questions the fact that this is an anti-sectarian or anti-aid amendment? Who questions the fact that these things exist in any such amendment? If any one here says that these things do not exist, then we can find another name for it. If the same feeling is not aroused at the polls that is aroused here, then the people are bound to be deceived, because we are bound to expect that the same feelings and arguments will be aroused at the polls as are aroused here; otherwise the voters will not look upon the amendment in the way that they should look upon it.

I submit that this amendment would better be described by the caption suggested by the gentleman from Newburyport (Mr. Bartlett).

Mr. Luce of Waltham: As the other member of the subcommittee that drew this caption, I desire to corroborate the statement of the

gentleman from Cambridge (Mr. Hart) with whom I served upon that committee, to the effect that our intention was to draw a caption that should be simply identifying. For my own part, and I think he agreed with me, inasmuch as the amendment is on the ballot in full, the caption ought neither to be argumentative nor descriptive. The caption merely identifies the question which it is assumed every voter either will have adjudged already before entering the booth or which he will adjudge on reading the measure as it appears upon the ballot. And in the attempt to secure the briefest possible phrase, — for the ballot at best will be crowded, — which will enable the voter to locate the question, not in an attempt to argue it, or to describe it, but only to locate it, we chose these words.

Should it be the pleasure of the Convention to include argument in the caption, it has the opportunity by adopting some of these amendments. If it thinks it can describe without arousing controversy, it can adopt an amendment to that end. But if it agrees with us that the caption should simply identify, then these words will suffice.

Mr. Sanford Bates of Boston: I think I am just as anxious to see this measure adopted by the people as the gentleman from ward 5, or possibly the gentleman in the second division from Boston (Mr. Pelletier).

I think, however, it is a particularly unfortunate caption which this committee has reported, because it does not identify this measure. It confuses this measure with the other measure which later may go on the ballot also, which affects solely educational and benevolent institutions. As the gentleman from Haverhill says "anti-aid" amendment is a characterization which does identify this measure. I do not think the words "anti-sectarian amendment," however, do identify it, because this is not now, I am happy to say, an anti-sectarian measure, and we do not want to label it as such.

I am going to move, therefore, an amendment to the amendment offered by the gentleman from Newburyport (Mr. Bartlett), that the words "and anti-sectarian" be taken out of his amendment. Then we shall have a popular identification of this measure on the ballot; the question will be: Do you want to vote for the measure which you have seen discussed in the papers for the last three or four months, — the anti-aid amendment?

What possible objection is there to having an additional identification which is not argumentative in any sense of the word, but which does describe and identify this amendment? What possible objection can be made either by the friends of the amendment, or by the opponents?

Therefore I move that the words "and anti-sectarian" be taken out of Mr. Bartlett's amendment.

Mr. Callahan of Boston: I have refrained for several months from speaking on this proposition, although I am a member of the Bill of Rights Committee. There is one thing now that I should like particularly to call to the attention of the Convention, and that is that although this proposition came into this body as an anti-sectarian proposition, in the committee, and later in this assembly was completely changed, it is no longer an anti-sectarian amendment.

This is now a proposition which provides, as everybody here knows, that no public money shall be spent for any private purpose. Under

the present Constitution there is no sectarian school, which is a real, out-and-out sectarian school, that can receive any money from the State or from any of the cities; there is no sectarian college or school of higher education which can receive money now, under the present Constitution. And so, we who are on that committee, after we had sat around the table and discussed that thing, — when the gentleman from Newton (Mr. Anderson), who was advertised to us as a very dangerous person, and the gentleman from ward 5 (Mr. Lomasney), my distinguished colleague, who perhaps was advertised to the gentleman from Newton as an equally dangerous person, — when we all sat down together, and we saw when they talked this thing over that after all they were two very amiable men, who were interested in the welfare of this Commonwealth, and men who were willing and anxious to do anything in a patriotic and high-minded way for the Commonwealth, — we there, working with them, devised this scheme, this scheme which provides that public money shall be spent for public purposes. It takes the sting out of the amendment, it takes religion out of it; it makes it possible for every one of us, no matter what religion we have, to stand shoulder to shoulder on this proposition, which means much for the welfare of this Commonwealth. That is the change. It is no longer an anti-sectarian amendment; and the caption as adopted by this committee, or rather suggested by this committee, is the one which more nearly describes the measure as it now is, and it is the one which ought to be adopted.

I have noticed that the men during the last stages of this resolution who are doing everything that they possibly can to hinder it, and possibly defeat it, are the ones who first of all opposed the thing. For them I have some respect; I have some admiration for them. But the others, — we have seen them run to cover when some one in one church or another says that they are not doing the right thing. Those latter men, whether they belong on my side or whether they belong on the other side, have no real manhood and no very high standard of Americanism. [Applause.]

Those men after voting for this proposition, after knowing absolutely what it meant, knowing what it was going to do in the Commonwealth, are running to cover now. But those of us who are on that committee, and who believed that this was the wisest piece of legislation, or wisest amendment, that possibly could be adopted, that would wipe out forever, we hope, this bitter religious discussion, and these bitter, nasty little prejudices that exist among some of our people, — those men who have been working with us and now are running to cover, are men who ought to be condemned, and condemned very severely. And those of us on that committee who voted for that proposition are going to vote for it and work for it at the polls.

I believe that I should rather stand behind the gentleman from ward 5 and the gentleman who is district-attorney in my city, — stand behind their stalwart patriotism, — than be cowed into doing something by anybody, whether he is a politician or whether he be a high churchman. [Applause.]

Mr. Edwin U. Curtis of Boston: The last thing the committee on Bill of Rights wants to do is to ask for anything that would deceive the voter at the polls.

I therefore move to amend the amendment of Mr. Costello by

placing the "Yes" and "No" opposite the caption, instead of opposite the last section of the measure.

The committees on Rules and on Amendment and Codification of the Constitution have reported that caption. I had nothing to do with it. I did not make a suggestion. The two committees appointed the gentleman from Waltham (Mr. Luce) and the gentleman from Cambridge (Mr. Hart) a subcommittee to bring in a caption, and they brought that caption in. I submit that there are probably three hundred men in this Convention who are capable of drawing that caption; and if each one of us insisted on his own idea, why, we never should have a caption.

I want to say that throughout all the meetings of our committee there were two things we tried to do, — namely, not to have this measure labeled "sectarian" or "ecclesiastical" or "denominational." And the reason we did not want that was because we found it offended a great many people in this Commonwealth. Having striven to write a resolution, to get a resolution, that would satisfy everybody in this Convention, — practically everybody, because nearly everybody voted for it, — we left those words out of the caption; and now it is asked to put them in again. I submit, that it is not fair at this very last minute, before its final action, to ask the Convention to do that.

I want to say a word about my friend from Roxbury (Mr. Costello) who spoke about an amendment to put the "Yes" and "No" away down at the end of the resolution. Did any gentleman in this Convention ever see the mark placed in that position? Is it different from any other amendment or any other question that ever was voted upon? Why put it at the end? Why try to deceive the voter by putting it there? Put it up opposite the caption and it does not favor anybody. If it favors anybody it favors the gentlemen who want "No" to be voted. That we are willing to concede.

I want to say to the gentleman from Roxbury (Mr. Costello) that I was born in Roxbury, where he comes from; that my family have lived there nearly three hundred years, and I know the intelligence of the people in Roxbury as well as he does. I was city clerk of this city when the Australian ballot was first approved, and I heard people say: "Oh, this will fool the poor people. The people down in the Back Bay can vote that ballot, but the others cannot." What was the result? The poorer wards voted right; the Back Bay wards voted badly. Now I say that the people of Roxbury to-day are intelligent. I know them; I meet them daily. I say: Let them go to the people and they will know how to vote; they will know whether they are voting "Yes" or "No." They do not want any gentleman of this Convention from that district to stand up and say they do not understand how to vote.

I hope the caption will be adopted the way it is put here.

Mr. Mancovitz of Boston: I should like to ask the last speaker (Mr. Edwin U. Curtis of Boston) a question. I should like to ask the chairman of the committee on Bill of Rights: Does the cross appear opposite the office, or the individual running for office? Is it not true that the caption here is only for direction, but it is the amendment itself that we are voting for?

Mr. Washburn of Middleborough: This matter of placing the vote

on the ballot is now a matter of mechanics. The State printer, taking account of the available space this fall, very carefully planned where he could place these various amendments which the Convention had indicated that it was likely to adopt. He has followed the form, as I said a moment ago, which the General Court always follows in submitting constitutional amendments. If the "Yes" and "No" were placed at the bottom, as suggested by the gentleman from Boston in the first division (Mr. Costello) there would not be room enough on the ballot for all these amendments which we propose to put on there. So much for that.

I can see no objection to the suggestion made by the gentleman from Boston in charge of this measure (Mr. Edwin U. Curtis) to move the "Yes" and "No" up opposite the caption. The indentation there will enable that to be done.

Something has been said about the form of the caption adopted by the joint committee. Of course the joint committee bore in mind that the amendment as a whole would appear on the ballot for the information of the voters. Furthermore, I want to direct the attention of the Convention to the form of caption as it appears on No. 248, — the form of caption under which this Convention considered this resolution from the start. I read it: "Relative to the support of certain institutions from public funds." That does not differ very materially from the report as made by the committee.

I ask unanimous consent to correct a printer's error. Page 5 of to-day's Calendar, under "89," fourth line, reads as follows, — let me read the entire order as far as line 4: —

That the following Article of Amendment of the Constitution of the Commonwealth, which has been made and adopted by this Convention, and which shall be numbered one,

That is as it appears in our printed report here. It should be "numbered two"; that was the way it went to the printer. I hold the original resolution in my hand. It is purely a printer's error. I ask consent that this may be done, so as to avoid making an amendment to that effect.

The PRESIDENT: According to the official records it appears as No. 2, and that will be the way in which it will go upon the ballot.

Mr. ANDERSON of Newton: I wish to offer an amendment of this sort: To amend the caption so as to read:

Shall the following Article of Amendment, preventing the use of public funds for any but publicly controlled schools and institutions, submitted by the Constitutional Convention, be approved and ratified?

I am opposed to anything like "anti-aid."

The amendment offered by Mr. Sanford Bates of Boston to the amendment offered by Mr. Bartlett of Newburyport prevailed, and then the amendment of Mr. Bartlett was rejected.

The amendment offered by Mr. Clapp of Lexington to the amendment of Mr. Washburn of Worcester was rejected, by a vote of 70 in the affirmative and 104 in the negative; and then the amendment of Mr. Washburn of Worcester was rejected, by a vote of 53 in the affirmative, 156 in the negative.

The amendment of Mr. Anderson of Newton was rejected, by a vote of 67 in the affirmative, 114 in the negative.

The amendment to the amendment of Mr. Costello of Boston was adopted, and then the amendment as amended was adopted.

The order as amended was adopted.

At the session in the afternoon of the same day discussion of the subject was renewed, as follows: —

Mr. MANSFIELD of Boston: I wish to give notice that on Tuesday next I shall move to reconsider the vote whereby this Convention this forenoon adopted the report of the committees on Rules and Codification and Amendment of the Constitution, sitting jointly, being the matter numbered 89 on the calendar.

The PRESIDING OFFICER (Mr. Luce of Waltham): Mr. Mansfield of Boston gives notice that on Tuesday he shall move to reconsider the adoption of the order numbered 89 on the calendar.

Mr. ANDERSON of Newton: I move to substitute for this motion a motion for immediate consideration.

Mr. MANSFIELD: I rise to a point of order.

The PRESIDING OFFICER: The gentleman will state his point of order.

Mr. MANSFIELD: I did not state a motion; I merely gave notice, as I was entitled to do under the rules governing this Convention, that on Tuesday next I then shall move to reconsider the action taken.

The PRESIDING OFFICER: The point of order is well taken. At least, the statement is accurate, that the member has a right to make that motion, and he now gives notice thereof.

Mr. MANCOVITZ of Boston: I move now to reconsider the vote whereby we adopted No. 89 this forenoon.

The PRESIDING OFFICER: Mr. Mancovitz of Boston moves that we reconsider the vote whereby the order numbered 89 on the calendar, relating to the submission of the so-called anti-aid amendment to the voters, was adopted, hoping the same will not prevail. The motion will be placed in the Orders of the Day for Tuesday.

Mr. MANCOVITZ: I move that the rules be suspended, and that the motion be considered right now.

The PRESIDING OFFICER: Mr. Mancovitz moves that the rules be suspended, so that the matter may be acted upon at the present time. Is there objection to the consideration of this motion at the present time?

(Cries of "object.")

The PRESIDING OFFICER: Objection being raised, according to the rule the matter will go over until Tuesday next.

Mr. ANDERSON of Newton: I rise to a parliamentary inquiry.

Under these circumstances, under the circumstances that are alleged, that if the final action is not taken to-day the matter will not go on the ballot, — under these extraordinary circumstances, I ask the Chair whether this motion would be in order: That the Secretary of the Convention be instructed to report to-day the matter with reference to No. 89, to the Secretary of the Commonwealth, and that the Convention direct him, the Secretary of the Commonwealth, to print this amendment on the ballot as if no motion to reconsider had been made, and that if such reconsideration be carried at a subsequent session and the action taken on No. 89 be at that time reversed the Convention hereby binds itself to direct the Secretary of the Commonwealth to delete the amendment and the question of its ratification from the ballot. I ask whether that would be in order.

The PRESIDING OFFICER: The motion cannot be accepted at the present time.

Mr. Pelletier of Boston: Would a motion be in order that when we adjourn we adjourn until Saturday, the day after to-morrow?

The Presiding Officer: Such a motion would be in order.

Mr. Pelletier: I so move.

Mr. Creed of Boston: I rise to a point of order. As I understand it, the Convention already has voted that when we adjourn to-day at four o'clock we adjourn until next Tuesday at ten-thirty. Therefore I raise the point of order that the motion of the learned district-attorney is not in order.

The Presiding Officer: The Chair rules that the motion to which the gentleman refers may be superseded by another order at the present time.

Mr. Edwin U. Curtis of Boston: I offer the following amendment to the motion of the gentleman from Boston: That if the Convention is in session at 4 P.M. the Chair declare an adjournment till 4.15 P.M., and at that time the Convention meet as a new legislative day.

Mr. Creed of Boston: The fact that any gentleman in this Convention cries out "question" will not prevent my saying a few words against this motion. I read long ago the words of the martyred President, Abraham Lincoln, in the great debate with Stephen Douglas, when he said, quoting Tacitus: "Danger lies in the absence, never in the possession of courage." The gentleman here, the chairman of the committee on Bill of Rights, is presenting what will be one of the most pleasant reminiscences of the Convention years from now if we live, looking back at it, the gentleman whipping the lash and chastising and criticizing the members of the Convention as school-boys because they exercise their wisdom when the merits appeal to them of changing their vote. This unusual, unprecedented innovation of the gentleman from Boston in this division, if passed, will come back to plague this Convention. With one-third of our work in this Convention done, if you are going to introduce this gag rule of having another legislative day when there is no need of it, when the very amendment says that it cannot go into operation until October 1, defying the rules that we deliberately, after hours of debate, formulated and declared to be the rules to govern this Convention, I say again if you make another legislative day to-day, there will be other measures that shall have legislative days, two or three, before this Convention is over. I therefore hope that the radical innovation of the gentleman from Boston will not prevail.

Mr. Anderson of Newton: A crisis has come not only in the course of the anti-aid amendment but a crisis has come in the history of this Convention, a crisis in the history of the fair fame of the Commonwealth of Massachusetts. What are the facts here? The facts are that on last Tuesday, after having debated the anti-aid amendment seven times, this Convention voted by a vote of almost 2 to 1 to place it upon the ballot in November. At the close of that session I met the President as he left the platform, — the President of this Convention, who is one of the fairest, kindliest, manliest men I know, — and I said to him: "What further motion is necessary to place this amendment on the ballot?" And he said: "None. It is placed on the ballot by that motion unless that motion is reconsidered or rescinded to-day or to-morrow." We waited through Tuesday and Wednesday, and no motion for reconsidering or rescinding was made.

The committee on Rules and the committee on Codification and Amendment, on account of the difficulty of their work and the hurry in which they had to do it, were unable to come in yesterday morning before the Orders of the Day, and consequently had to come in after a long debate on the educational amendment. They had a little time before the Convention, when a motion to adjourn was made and they were cut off, because the food amendment had been given the right of way at two o'clock. This morning there was a full and fair debate on the report of the committee on Rules and the committee on Codification. Everybody was satisfied with it. The opponents could not get enough votes for a roll-call.

Now men come in here and bring in motions to reconsider that vote. They know that those motions cannot carry in view of all the votes that have been had in this assembly. It is merely a legislative legerdemain by which they may defeat the placing of the anti-aid amendment upon the ballot. I appeal to the honor, to the justice, to the good sense of this Convention, to adopt the extraordinary motion which the gentleman from Boston has put in to meet this most extraordinary emergency. The question is whether this Convention shall have its way or not. The Convention said on Tuesday morning that this measure should go upon the ballot in November, and the question is whether the members of this Convention will stultify themselves now and allow a small minority to dictate to the Convention and to the people of Massachusetts what shall be done in this particular case.

Mr. Edwin U. Curtis of Boston: I simply want to explain my motion. I did not think of it myself, it was handed to me by a gentleman, a friend who tried to help this Convention out of the position it was put in by the gentleman from Roxbury who has opposed the anti-aid amendment from the start. It simply means, gentlemen, that when four o'clock comes we take a recess till 4.15, and then we take up the question of reconsideration. I ask the Convention in all fairness to do that for us. And I move the previous question.

Mr. Brown of Brockton: I rise to a point of order.

The Presiding Officer: Mr. Brown of Brockton rises to a point of order. The gentleman will state his point of order.

Mr. Brown: The gentleman has introduced a resolution. It says: "Resolved." I therefore raise the point, sir, that under Rule 37, if any member of the Convention shall so request, any order or resolution which shall be proposed for adoption shall be postponed until the next session, and without question. I raise the point of order against that resolution.

The Presiding Officer: The Chair rules that Mr. Curtis of Boston moved.

Mr. Edwin U. Curtis: I move the previous question.

Mr. Brown: I would ask for a reading of that as he introduced it.

The Presiding Officer: Mr. Brown of Brockton asks for a reading of the matter introduced by Mr. Curtis of Boston.

Mr. Curtis: I have not my glasses on. Read it yourself.

Mr. Brown: I will trust my ears. They are better than my eyes.

The Secretary: Mr. Curtis moves that if the Convention is in session at 4 o'clock P.M. to-day the President shall declare an adjourn-

ment until 4.15 P.M., and that such subsequent session be considered a legislative day.

The PRESIDING OFFICER: Mr. Curtis of Boston moves that the previous question be now put.

Mr. MANSFIELD of Boston: I have sat here during the past weeks I think quite patiently, listening to the gentleman from Boston, ward 5, to the learned district attorney of Suffolk County, to the gentleman who occupies the intermediate position between them, and to the other learned gentlemen composing the committee on the Bill of Rights, and I have heard them expound to us at very great length their ideas as to what the people in this Commonwealth believe and as to what the citizens in this State want to do. I have sat quietly and patiently, undisturbed and unruffled. I am not in a condition of excitement about this matter. I do not hesitate to say that personally I care not whether this resolution be voted upon on the next election day or one year from that time or at the special election. But my patience is now exhausted. I utilize these two or three minutes given me for the purpose of stating my position. And first let me say to the gentleman from Newton (Mr. Anderson) that when he says there has been opportunity given here for a fair, free debate, then he says something that his own conscience and the minds of the gentlemen, the members of this Convention, will not support him in.

Mr. ANDERSON of Newton: I wish to say that my conscience is perfectly clear on that point, and I think that the members of the Convention think that what we did this morning was a perfectly fair thing. [Applause.]

The PRESIDING OFFICER: The Convention will refrain from expressions of approval or disapproval.

Mr. MANSFIELD: I regret that the gentleman's conscience is responsive to him in that particular way. I wish to say that I desired the right to speak this forenoon, I sought the floor three or four times and endeavored to do so, but a motion was made to limit debate just as that gentleman now has made a motion to limit debate. Let me in the time I have try to refer briefly to the origin and the course that this resolution has taken. It had its origin originally in the fertile mind of the gentleman who made this motion.

The PRESIDING OFFICER: The gentleman's time has expired.

Mr. DENNIS D. DRISCOLL of Boston: I am going to appeal to the delegates to this Convention to use some common sense and stop their submarine work, in the interest of the common people of this Commonwealth. I believe it is about time the delegates to the Convention stopped criticizing the representative government of this Commonwealth for their undertakings of the past year, when they are guilty of the same thing themselves. Now, the interest is in the people of the Commonwealth. If you have an issue to face, face it manfully. Go behind no issues, no matter what the issues may be. That is my principle in life. I am interested in the food proposition, and I believe by the work that has been going on in this Convention the delegates do not show their interest in the people of this Commonwealth. I appeal to you to adopt the motion made by the delegate in the first division, so that if we have to stay here until midnight we will face every issue manfully and we will give the people of this Commonwealth an honest opportunity to deal with that important question of

the food issue now before them. I say to the delegates here: Come out of all manipulating on the anti-sectarian or aid measure. Face the issue, and show to the people that you are with the people; do not evade the issue that we voted for a few moments ago, and we will stand with the actions of manhood in the interest of this Commonwealth. I hope the amendment offered by the delegate will be adopted, and that we shall show to the people we are here to do business in their interest in the Constitution of this Commonwealth. [Applause.]

Mr. WINSLOW of Newton: I should like to call to the attention of the Convention that at the original vote on this amendment the vote stood about 11 to 1. Since that time the proportions of those who have voted for and against have been changing gradually. The longer we wait the stronger the opposition to it is. For that reason it is urgent that this should go on the ballot this fall. Those who favor the amendment ought to be very careful that more time is not allowed to the consideration of this amendment.

Mr. BRACKETT of Arlington: I rise to a point of order, that is, that the motion of the gentleman from Boston is not in order. This afternoon we have no authority to establish another legislative day to-day. It would be a palpable evasion of Rule 48, and Rule 56 says that rule cannot be suspended except by unanimous consent. Unanimous consent has been asked for and has been denied, and this would be an evasion of Rule 48 that would amount practically to a suspension of it. I think we have no authority to-day to say that another legislative day shall begin at a quarter past four. It is clear what the object of that Rule 48 is. When it says the Orders of the Day for the next day, it means the next calendar day when the Convention is in session.

The PRESIDING OFFICER: Mr. Brackett of Arlington raises the point of order that the motion made by the gentleman from Boston (Mr. Curtis) in the first division, is out of order as an evasion of rules which he has specified. The Chair rules that legislative precedents in the matter of the establishing of legislative days should prevail, and that the point of order is not well taken.

The main question was ordered.

The motion of Mr. Edwin U. Curtis of Boston was adopted and the Convention adjourned and reassembled at once.

Mr. LUCE of Waltham: I move that under a phraseology similar to that used in the case of the two other matters this question be referred to the committees on Rules and Procedure and Amendment and Codification, sitting jointly, to advise the Convention as to a form of putting this matter on the ballot.

The PRESIDENT: Mr. Luce of Waltham moves that the form of placing upon the ballot the resolution to authorize the enactment of laws governing the acquirement, sale and distribution of the necessities of life, be referred to the committees on Rules and Procedure and Amendment and Codification, sitting jointly.

Mr. DENNIS D. DRISCOLL of Boston: I rise for a question of information. That motion should have another word put in, thereby instructing that committee to see that the amendment goes on the ballot, without waiting to report to the Convention next Tuesday.

Mr. LUCE: I am informed by the Secretary that the others have been reported on a standing order, saving the necessity of a special

order in each case. Therefore with unanimous consent I will ask to withdraw the order and will substitute a different motion.

The PRESIDENT: Is there any objection? The Chair hears no objection. The first matter on the calendar for this session is an order laid over from the last session.

Mr. LUCE: I move that the order be laid upon the table, for the purpose of moving further that the rule forbidding committees to sit during the session of the Convention be suspended, so that for the sake of the convenience of the Convention these joint committees may sit at once and act upon this matter.

The rule was suspended.

Mr. LOMASNEY of Boston: I move the matter be reconsidered, hoping the motion will not prevail.

Reconsideration was refused.

The PRESIDENT: The question is on the adoption of the order laid over at the last session, which the Secretary will read.

The SECRETARY: Mr. Washburn of Middleborough offers the following order: —

Ordered, That the committee on Form and Phraseology be requested, in reporting upon proposals to amend the Constitution referred to it to report in detail any and all alterations in punctuation and phraseology which have to do only with the question of form; and, further, to report separately and in detail any and all amendments making any change in the sense of legal effect or any material change in the construction of such proposals.

Mr. WASHBURN of Middleborough: I move that the consideration of this order lie over until the next session, in order that it may be printed for the information of members.

The motion was adopted.

The first matter in the Orders of the Day was the motion to reconsider the vote whereby the order was adopted in regard to placing the anti-aid amendment on the ballot.

Reconsideration was refused.

The Resolution relative to universities and colleges and to the encouragement of literature (No. 362) was read a third time.

The committee on Form and Phraseology reported, recommending the substitution of the term "General Court" for the word "Legislature", in the last line, and the word "or" for the word "and".

The amendments were rejected and then the resolution was rejected.

The engrossed Resolution to authorize the enactment of laws governing the acquirement, sale and distribution of the necessities of life, was laid before the Convention, the question being on passing it for submission to the people.

Mr. Dresser of Worcester moved certain amendments.

The PRESIDENT: The Chair will state that Rule 53 of the Convention provides as follows: —

After a proposal to amend the Constitution has been engrossed it shall not be amended. The question shall be on submitting the same to the people.

This rule can be suspended by a two-thirds vote, but unless suspended the amendment cannot be entertained.

Mr. DRESSER: I move the suspension.

The rule was suspended.

Mr. Clapp of Lexington: I should very much like to hear a statement from the chairman of the committee on Form and Phraseology as to the desirability of the amendment.

[For debate on the amendments moved by Mr. Dresser see page 847 of Volume I of the Debates.]

Mr. Dutch of Winchester: When this matter was under consideration at the previous session the honorable delegate from Worcester who sits now in the front row of the second division (Mr. Hobbs) remarked that in taking the floor from him to move the previous question I was guilty of extreme parliamentary discourtesy to him. Seeking information from experienced legislators I was confirmed in the opinion that he was correct, and I apologized to him and desire so to state to the Convention. I regret that my zeal to get a vote on the matter and get it through, and also my inexperience in legislative matters, led to that discourtesy. I do not extend the apology to the Convention, because the Convention itself voted on the motion and by two to one ordered the previous question. I do, however, publicly announce the apology to him. [Applause.]

Mr. Hobbs of Worcester: I appreciate highly the very courteous apology that the gentleman has made, and I certainly take great pleasure in accepting it. [Applause.]

On the 25th of October, 1917, the committees on Rules and Procedure and Amendment and Codification of the Constitution, sitting jointly, reported recommending the following Address to the People (No. 366): —

The committees on Rules and Procedure and Amendment and Codification of the Constitution, sitting jointly, report recommending the following address to the people: —

To the People of Massachusetts: —

The Constitutional Convention assembled by your direction and composed of your delegates has adopted three amendments to the Constitution for submission to you at the coming State election. These amendments have received careful and deliberate consideration; we believe them to be wise and salutary, and we recommend them for your approval.

The first amendment would authorize the Legislature to provide that citizens absent from home on election day might nevertheless exercise the right of suffrage. It is estimated that 20,000 railway men, traveling men, and others now lose their votes through inability to go to the polls. Furthermore, many thousands of young men will be deprived of the ballot while in the military or naval service of their country, unless the Legislature is enabled by this amendment to provide for receiving their votes.

The second amendment guarantees the free exercise of religion; one section especially protects those who may be inmates of penal or charitable institutions. It prevents the appropriation of public money in aid of religious, charitable, benevolent, educational, or other institutions not wholly under public control, but it permits the continuance of payments from the public treasury for the support in private institutions of persons who are public charges, and also allows appropriations for the maintenance of free public libraries and of the Soldiers' Home. Neither in purpose nor in effect is it hostile to religion, education, or philanthropy. In framing this amendment we have merely carried principles that have been developing through our entire history to the point of a broad general policy, — that public money shall be used only for public purposes, for the support of public institutions and no others. We believe this policy to be sound in itself; we know that it is satisfactory to men of very diverse views. The large majority by which the Convention approved this amendment, 275 to 25, and the mutual understanding and good-will developed during its consideration, warrant our confidence that its ratification at the polls will tend to the highest good of the Commonwealth.

The third amendment is meant to remove the restrictions that have stood in the way of using the powers of State and municipality, in a time of emergency like the present, to secure to the people at reasonable cost food and other necessaries of life, or to provide shelter if required by such a calamity as a conflagration. As the new powers thus allowed to the Legislature can be used only under the exceptional conditions of urgent necessity

or serious distress, their grant to the representatives of the people threatens no permanent invasion of the field of private enterprise, but promises certain forms of temporary relief hitherto precluded.

Before our labors are ended, we undoubtedly shall submit for your approval other important proposals, now maturing; we are confident you will wish us to use all necessary time and care in perfecting them. These three amendments we submit at once, partly because of their pressing nature or other weighty considerations, partly as an earnest of our zeal in the performance of the duty you have imposed on us. We indulge the hope that your approval of these measures and of others to come from us will result in making our Commonwealth still more conspicuous as an example of prudent progress in the development of institutions to promote the safety, happiness and advancement of mankind, thus setting an example that may encourage and help the peoples now struggling to achieve the ordered liberty we have found so precious.

The Committees also recommend the adoption of the following order: —

"*Ordered*, That the Secretary of the Commonwealth be directed to publish the accompanying address to the people at the same time and in such manner as is provided by section 269 of Chapter 835 of the Acts of 1913 for publishing the question of the approval and ratification of proposed amendments to the Constitution."

ROBERT LUCE,
For the Committees.

Mr. Parkman of Boston moved that the reading of the report be dispensed with.

THE DEBATE.

Mr. BROWN of Brockton: Does the gentleman from Boston (Mr. Parkman) who objected to the reading of the report, or asked to have it laid over, presume that everybody has had a chance to read this, or are we to act on the address before we have even had a chance to read it? I would ask to have that go over until to-morrow.

Mr. LUCE of Waltham: The order calls for the publication of the address accompanying the official publication of the lists of candidates for office. That list is all ready to go out, and the Secretary of the Commonwealth desires very much that he shall be able to send it out at once, the delays, owing to the peculiar conditions at the present time, demanding that he somewhat accelerate the accustomed program. If the gentleman would be willing that this should lie over until the afternoon session, perhaps his purpose would be accomplished. Otherwise I should hope we might reconsider the motion under which we refrained from having this read and might proceed with it at once. I would ask the gentleman from Brockton if he would be willing that we should take this up at the afternoon session?

Mr. BROWN: I would not object to that; but it seems to me that, on the phrasing of that, I should like to ask if all the members of the committee on Rules have had this under their purview?

Mr. LUCE: There was a good attendance of the two committees considering the matter, fifteen or twenty members of the Convention being present. The report had been very carefully studied also by various delegates before it was submitted to the committees at all.

Mr. CREED of Boston: I hesitate very much to object to a request from the Chairman of the committee on Rules and Procedure. This, to my mind, is not a mere matter of routine and detail; this is a vital, fundamental proposition. It is a proposition that, if passed, establishes a precedent. If the woman suffrage question is submitted to the people, if the prohibition question is submitted to the people, if the question of insurance by the State is submitted to the people, if more power is given to the chief magistrate in an amendment submitted to the people, this establishes a precedent whereby an address

will be given by the majority of the Convention recommending it to the people that they approve the amendments. Do you want to put yourselves in that position? This is of fundamental and vital importance. While some delegates have been asked to look it over and read it before it went to the committee, I know gentlemen who have been interested in this proposition on one side of it who have not been asked. Some of them to-day, on account of health, probably will not be in attendance upon the Convention. Is that fair? I ask that the matter may go over.

Mr. CREAMER of Lynn: I want to express my agreement with the gentleman who has just spoken (Mr. Creed). With the address itself I am in entire accord, but I question the fairness of this Convention submitting it as an argument to the people of Massachusetts; I question the fairness to the minority of their so doing. A good deal has been said in this Convention about the desirability of protecting the rights of minorities. It seems to me the mere fact that we have submitted these questions to the people of Massachusetts is sufficient evidence that we believe in them. We believe that they are questions which the people should pass upon; we affirm our belief by having passed them. Is it exactly fair to also submit an argument? Is it fair to the minority? I hope this question will lie over until to-morrow.

Mr. LUCE of Waltham: In view of the statement made by the gentleman in the first division (Mr. Creed) and in the third division (Mr. Creamer), I withdraw any suggestion that it be considered this afternoon and hope it may go over until to-morrow. But while I am on my feet I should like to call the attention of the gentleman in the third division, and also the members of the Convention who may not be familiar with the fact, to the express sanction of this in the act under which we have been assembled. The Legislature saw fit in this act deliberately, we may presume, to approve the practice followed by the preceding Conventions in Massachusetts under which precisely the same thing was done. He has the authority which gives him his presence here for this procedure, and also the authority of the practice of preceding Conventions. Possibly, therefore, upon reflection he may conclude it would give us warrant for this procedure. I hope that the matter will lie over until to-morrow.

Mr. BENNETT of Saugus: In order to understand the scope of the last speaker's intentions or convictions regarding this matter, I should like to ask, if the initiative and referendum passes by a narrow majority would the gentleman be in favor of an address by the Convention urging the adoption of that upon the voters?

Mr. LUCE: This Commonwealth exists on the basis of the principle that the majority shall prevail. If this Convention by a majority vote commits itself to any proposition, I hold it to be the duty of the Convention to say so to the people of Massachusetts.

Mr. BRYANT of Milton: I must respectfully take issue with the last statement. If the Convention believes in any proposition it is of course its duty to say so to the people of the Commonwealth, and it will say so by putting it on the ballot; but I never heard that there was any principle in this Commonwealth which prevented a minority from expressing its views; and if we are to put out from this Convention documents which suit the views simply of the majority, we are going to carry to the people of the Commonwealth a very erro-

neous impression of what has been going on here and what really has been the sentiment of the Convention. They will have the sentiment of the majority, to be sure, but it ought not to be in such form that the sentiment of the majority will appear to be the unanimous sentiment of the Convention. If we are going to try to draft a document of this kind on every proposition which we put before the people we shall involve ourselves immediately in discussions of what exactly the different amendments mean. They may mean one thing to one man; they may mean another thing to another man. When they are once passed they speak for themselves. It is unnecessary, and I believe unwise, to try to describe them in a few words. And I think it is not only unwise, but unjust to the minority, to set forth as a Convention document a proposition to the people which looks as if the entire Convention was back of it, when merely a majority is back of it.

I think we are approaching a principle in this thing. I think we must look to the future, and consider what we are going to do upon other amendments as well as upon these amendments which we have before us. I notice that in the first paragraph it says: "We believe them," referring to the amendments, "to be wise and salutary;" and in the first paragraph on page 2 it appears that the majority was 275 to 25. Now, those statements are not consistent, because the statement on page 2 is that 25 of us do not believe that they are wise and salutary. I personally am not one of the 25, I was one of the 275; but it shows the inaccuracy of the statement on the first page, when it says: "We believe them to be wise and salutary," and on the second page when it says that 25 of us do not believe them to be salutary.

The motion to postpone prevailed.

On the following day the report was debated as follows, Mr. Luce of Waltham having moved to discharge it from the Orders of the Day for immediate consideration.

Mr. Luce of Waltham: It is my purpose not to advise the Convention to discharge this matter, nor to argue the main proposition, but, in the performance of the duty that the committee imposed upon me, to state the situation.

If this matter is not discharged from the Orders of the Day it will be reached when the initiative and referendum takes its next reading. Refusal to discharge this morning will delay consideration of the matter until some time next week. If the Convention sees fit to take it up this morning it will be possible to insert the address, should it be approved, in the newspapers, together with the customary publication of the lists of candidates for office. That publication already had been begun, but has been suspended awaiting the action of the Convention this morning. It must be resumed, — the detail work of it must be resumed, — this afternoon. If the Convention discusses the matter next week there still will be available such opportunities for publicity and advertising as the Convention may secure independently of the course of the Secretary of the Commonwealth. So much for the practical situation, which may govern the Convention in determining its wishes.

As to the occasion for any action whatever, I shall simply summarize the facts. The statute that led the people to vote for the

holding of this Convention says the Convention "may cause to be prepared and issued a statement briefly setting forth such arguments as the Convention may see fit relative to any revision, alteration or amendment of the Constitution adopted by it, or any part thereof."

This was a continuance of the practice instituted when the Constitution was adopted in 1780, — a practice followed by the Convention of 1820, and again by the Convention of 1853. So far as I have observed, I am warranted in saying it is the general practice of Constitutional Conventions. It has been followed in recent years by Michigan, by Ohio and by New York.

These being the facts, I desire to submit no argument and no advice, but to leave the Convention to decide for itself.

Mr. Lomasney of Boston: I hope we shall not suspend the rules and take this matter from the table. Under the law now, I am told at the office of the Secretary of the Commonwealth, these amendments are printed in 180 newspapers, in each Representative district of the Commonwealth, just the same as the ballot is. Now, if we discharge this matter from the calendar and pass it, it simply means that, in addition to the publication of these amendments, the address goes in. Is it worth what it will cost? It will take at least $5,500 to do what we are about to do. I submit we should not discharge this from the Orders of the Day. We should not pass it. If we were passing all the amendments of the Constitution, there might be some reason for an address, but as we simply are passing three amendments that the people thoroughly understand, and also because there is a feeling that the address does not present one of the questions in a satisfactory manner, I say that we should not pass it, notwithstanding that I talked with the gentleman and requested him to draw it up, feeling that he was a good deal better qualified than myself to write the words in regard to the necessaries of life amendment. But there is a good deal of objection to the way the amendment is presented in the address now before us.

While I am on my feet, let me state that nearly every lawyer who stands up here, since the day the gentleman from Quincy (Mr. McAnarney) told about the Supreme Judicial Court looking into the records to see what we meant, seems to want to put something into the record to say what he thinks we mean. This simply is putting something forward as an address. Is it to instruct the voters or to limit the operation of the amendment? If the Supreme Judicial Court would take any stock in what is in the address, which I do not think they would, it seems to me that they have to apply the law on the words of the amendment and not to everything said in relation to it. Do we believe that the necessaries of life amendment can be used only in time of "conflagration?" Of course not. The gentleman from Fall River admitted himself that emergency meant fire, famine and flood. Now we are told it simply means fire. What about epidemics? What about earthquakes? What about all the other questions we talked about here when it was under discussion, the right to protect the families of strikers, — to feed, clothe and house them? I know that the gentleman did not intend to limit it in that way. That is the trouble. It deals with big subjects in a limited way. The only way to deal with this subject is to reject the address and let the language in the act speak for itself.

Why, the necessaries of life amendment has only six lines. Who is there here who cannot understand it? It was made so that he who runs may read, and understand it. These words in the address do not help it at all. There are nine lines in the address; there are only six on the ballot. I say, we have the I. and R. before us. Let us stick to the I. and R. I know the gentleman did the best he could with the address. [Laughter.] I said that honestly about the gentleman. I meant no reflection upon the gentleman; he knows that. I say so frankly, but I say he took the wrong viewpoint. I agree and I felt that he had the right sentiment; I think now he had the sentiment; but that address does not explain the amendment in a way that the ordinary laboring man in the State can understand it. He uses the word "conflagration." Why not say "fire?" I know he meant all right. Now, I say we are not going to get any real benefit by taking that address from the table. Leave it there. We shall invite all kinds of criticism on other things, and what is the value of the address unless it is passed unanimously?

The gentleman from Milton suggested very fairly that it is an address, and the minority are not given any consideration. If you are going to have an address by the majority you ought to give the minority the same rights. Even if it is only one man in the Convention, he ought to have the right to have his say, particularly if you are using public money to distribute the document. The minority are not relieved from the expense of having it issued. The minority should have their say. I would not object if it was the entire work of the Convention that we were submitting, if all were brought together and submitted at one time so that we could have a unanimous report. Really, I think that the laboring people of the State will be aroused over this proposition, because the amendment itself on the ballot more clearly expresses the situation than the address does, and to my mind guarantees its passage a great deal better because it is clear enough to be understood by all. Do not publish this address; it is just as well not to stir it up. We are fighting on the I. and R. matter; it has the right of way. If we are going to get out of here on the day we voted to we must stick to our guns and keep the I. and R. to the front, or we will be busy when that day comes saying why we are not through yet. Then what will the people of the State outside of Boston say? They will ask: "What kind of men have we got down here?" You gentlemen of the great and noble legal profession, who are almost in a majority here, you will be charged with the delay. They will say, no doubt: "It was those lawyers who did it all."

I hope we will not discharge it, but leave it on the table where it is.

Mr. ANDERSON of Newton: I hope that this motion will not be carried. I understand very well that if the motion is not carried the address to the people probably will perish. That would give me no regret. I do not like the address to the people in the form in which it is presented. And, as a second reason why I hope that this motion will not be carried, although it seems perfectly just and fair and right to me that an address should be issued to the people, still, if there are men and minorities in this Convention who think it is not just and fair and right, I do not think that we ought to press the matter.

Mr. Winslow of Newton: I am very glad to see that the members of the Bill of Rights Committee have had a change of heart, and I wish to endorse the remarks of the last two speakers, that this work of art may be put to rest at the present time, and also that a very undesirable precedent may not be created. That a majority of this body should present a statement of this sort, such as is contained in the first paragraph on the top of page 2, seems to me absolutely unthinkable. I earnestly hope that this will not be taken from its position and brought before the House.

Mr. Washburn of Worcester: As this proposed address to the people is now dead, although not yet buried, I move the previous question.

The motion prevailed. Then the motion to discharge from the Orders of the Day was negatived.

On the 28th of November, 1917, Convention Document No. 374, being the report of the committee on Rules and Procedure and the committee on Amendment and Codification of the Constitution, sitting jointly, relative to the form of submission of the I. and R. amendment, was taken from the table.

Mr. Underhill of Somerville moved to insert after the words "Constitutional Convention", the words "as follows", and that the text of the amendment be printed after the word "ratified".[1]

The motion of Mr. Underhill was negatived.

THE DEBATE.

Mr. Hart of Cambridge: I rise to a point of order.

The President: The member will state his point of order.

Mr. Hart: That the title of the measure as it has been voted by this Convention this morning contains the phrase "popular initiative and referendum", which is therefore the official title and ought to appear upon the ballot.

The President: The Chair rules the point of order is not well taken.

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[1] Debate on this motion was printed in Volume II of the Debates, beginning on page 1058. — Editor.

IN MEMORIAM.

The Honorable Dana Malone of Greenfield, former Attorney-General, died Monday, August 13, 1917, as the result of a fall from a horse. Announcement of his death was made to the Convention, when it convened on the following day, by the Honorable Herbert Parker of Lancaster.

Mr. PARKER of Lancaster: Mr. President, the Convention assembles this morning in the shadow of a great sadness which afflicts the heart of every member. We are to take note of the lamentable death of one of our body, stricken in the midst of his beneficent activities with us in the labors of this Convention; and by your permission, sir, I beg leave to submit resolutions which by your permission I shall read and submit to the consideration of my colleagues.

May I, sir, on behalf of my associates, move further that this vote of respect be taken by the members of the Convention standing.

The resolutions were as follows: —

Whereas, The members of the Massachusetts Constitutional Convention, having learned with profound sorrow of the death, without warning, of their late associate and colleague, the Honorable Dana Malone of Greenfield; now in session assembled be it

Resolved, That the members of the Convention recognize and record their grateful appreciation of the valuable and efficient service and of the devoted public spirit of their late colleague in the admirable performance of his duties to this Convention, and to his constituents, the people of the Commonwealth;

Resolved, That the members of the Convention deplore the loss of his inspiring, helpful companionship, and his wise counsel, upon which they had relied for the further performance of their labors;

Resolved, That, in the expression of the respectful sympathy of the members of the Convention, a copy of these resolutions be transmitted to the family of their late colleague and friend;

Resolved, That the President of the Convention be respectfully requested to make such order in behalf of the Convention as may be appropriate in this solemn event which has stayed its deliberations. And as further mark of respect be it also

Resolved, That the Convention do now adjourn for the day.

The resolutions were adopted unanimously by a rising vote.

The President announced the appointment of Messrs. Parker of Lancaster, Walsh of Fitchburg, Hibbard of Pittsfield, French of Randolph, Pillsbury of Wellesley, Boynton of Everett, Luce of Waltham, Kenefick of Palmer, Cox of Boston, Hutchings of Dedham, Ferrey of Pittsfield, Clapp of Lexington, Giddings of Great Barrington, Hall of Orange, Feiker of Northampton, Kinney of Boston, Boyden of Deerfield, Gleason of Andover and McLaud of Greenfield to serve with him as a special committee of the Convention to attend the funeral of the late Honorable Dana Malone, to be held in Greenfield, Thursday, August 16.

The following communication was received from Mrs. Malone, Tuesday, August 21: —

Mrs. Dana Malone wishes to extend to the members of the Massachusetts Constitutional Convention her most grateful thanks for the beautiful flowers sent to honor the memory of her beloved husband, and her deepest appreciation to the members who were present at his funeral service.

AUGUST 19, 1917.

The Convention lost two members by death during the recess, Mr. J. Warren Bailey of Somerville having passed away February 15, 1918, and former Governor John Quincy Adams Brackett of Arlington, April 6, 1918.

On the reconvening of the Convention, Wednesday, June 12, 1918, Mr. Charles L. Underhill of Somerville offered the following resolutions: —

Whereas, J. Warren Bailey, a delegate to this Constitutional Convention from the Twenty-fourth Middlesex Representative District, passed away on February 15, 1918; and

Whereas, Of his seventy-two years of life twenty-five were spent in the service of the Commonwealth of Massachusetts, — two as a member of the General Court, twenty-two as a member and secretary of the Board of Prison Commissioners and one as a member of this Convention; and

Whereas, In all his public service he displayed an earnest devotion to the Commonwealth, a spotless character, ability and fidelity of the first order mellowed by a genial and kindly temperament, attending faithfully to all his duties as long as his health permitted; therefore, be it

Resolved, That the delegates to this Constitutional Convention do hereby express their appreciation of his stanch and splendid service and of the great loss the Convention and the people of the Commonwealth have sustained in his death; and be it further

Resolved, That these resolutions be entered upon the records of this Convention, and a copy be sent to the bereaved family.

Mr. Underhill: Mr. President, in these times which daily and hourly bring changes to each and every one of us, it is not surprising that in the interval since the Convention last met we should have had some changes in the personnel of the Convention. Those of you who were acquainted with my colleague, Mr. Bailey, — and many of you through previous service for the Commonwealth had that pleasure and privilege, — know full well and much better than I can tell of his sterling qualities, how, through his beautiful personality and his kindly spirit, he drew to him particularly the unfortunate and the weak and for many, many years guided the footsteps of those who knew no other one to whom they could turn in an hour of need or extremity or temptation. Full well he performed those duties, and until he was stricken during the session of the Convention last fall performed the duties of his office here with equal fidelity and ability. And, sir, I for one feel a great personal loss. I feel that the Commonwealth has sustained a great loss. I feel that my city of Somerville has sustained a great loss, for there is no one in my mind or recollection who held a higher ideal of civic righteousness and duty than did Mr. Bailey. In addition to the years which he gave to the Commonwealth he served his municipality in many positions of honor and trust and served equally well wherever the citizens or the public officials saw fit to place him. I feel that further recognition than any weak word which I might give to this Convention would be more befitting to the memory of our deceased member. But, sir, I offer these remarks and these resolutions that they may be spread upon the records, and in order that his family may have the consolation which comes to those who are bereaved in knowing that others have them in mind and that the virtues of their departed loved one are not forgotten. I move the adoption of the resolutions.

Mr. Knotts of Somerville: Mr. President, representing the Twenty-fourth Middlesex District, the same district the departed member represented in whose memory these resolutions are offered, and knowing him well, often coöperating with him in civic and religious affairs, it may be fitting for me to offer a word. J. Warren Bailey was a man of

superb character, trusted and loved by his fellow-men. Possessed of a winsome personality, rare poise and balance of mind, he inspired confidence in all who knew him. His ideals were born of the Christian faith, and these he endeavored to apply to the practical affairs of life and to the common tasks of men. Thus he was elected to this Convention by a people who knew him and trusted him. We cannot, we do not, believe that he is dead, but that he lives and now walks in the midst of the stars.

Mr. PARKMAN of Boston: I had not known that these resolutions were to be offered at this time, and I had not prepared anything to say on this question, but I cannot let the occasion go by without saying a few words, because of the twenty years which I served on the Massachusetts Prison Commission, many of which were served with Mr. Bailey, he being part of the time a member and part of the time secretary of the board. His experience, his judgment and his kindness of heart were invaluable on the matters which came before that commission, and I wish that I had had more time to consider and say the few words which ought to be said in justice to his memory and the services which he has rendered the Commonwealth.

The PRESIDENT: The question is on the adoption of the resolutions. All those in favor of the adoption of the resolutions will stand. [All members rose.] The resolutions are unanimously adopted.

Mr. J. Howell Crosby of Arlington offered the following resolutions:

Whereas, In the death of John Quincy Adams Brackett, which occurred on the sixth day of April last, the Constitutional Convention has lost one of its wisest and most beloved members; therefore be it

Resolved, That the members of the Convention hereby record their appreciation of the character and service of one whose long life was a benefaction, not only to his family, his friends, his neighbors, and his clients, but also to the community and the Commonwealth. As Speaker of the House of Representatives, as Lieutenant-Governor, as Governor, and as a trusted legal adviser, his talents were conspicuous and his reputation without the shadow of a stain. The kindness of his nature endeared him to all with whom he came in contact. His intellect was the servant, not the master, of his heart, and he never shrank from espousing an unpopular cause which appealed to his sense of justice or mercy.

Resolved, That an engrossed copy of these resolutions be sent to the family of the deceased.

Mr. CROSBY: Mr. President, it is not my intention to attempt any formal eulogy of Governor Brackett; but as his fellow-townsman for many years, I wish to offer just a word of tender tribute to his memory. His was a beloved personality and one familiar to the people of the Commonwealth. For a very long period of time his name has been enrolled among those of Massachusetts' distinguished sons. Fidelity to duty was literally a passion with John Quincy Adams Brackett, and the quality of that fidelity was always the same whether he occupied the high position of chief magistrate of a great State or busied himself with the humbler matters of civic life in the town of his adoption. We saw him here last summer essentially as he was, — ever constant in his attendance upon duty, in spite of torrid heat and great physical infirmity; mentally alert, with a keen and broad conception of public affairs; fearless and independent in reaching his conclusions; and, withal, of a lovable, kindly nature. Ripe in years and rich in well-deserved honors, he has gone as he himself would have chosen to go, possessing to the last a commission to public service, intrusted to him by his fellow-men.

Mr. Luce of Waltham: In the year 1808, when the British ship *Leopard* fired upon the American frigate *Chesapeake*, a great meeting of the citizens of Boston was held in that part of this edifice then constructed. It voted to invite Elbridge Gerry to preside. Gerry was just recovering from an illness almost fatal, but consented to come to the hall and was ushered unexpectedly into the presence of the multitude. Said he: "I had not expected that at my time of life there could have been a scene like the present, but I yield to the call that is made on me, for I hold it to be the duty of every citizen, though he may have but one day to live, to devote that day to the good of his country." Such was the spirit of a man who became a Governor of Massachusetts and died while a Vice-President of the United States, and such was the spirit of the man to whom we pay tribute to-day. Massachusetts has had eminent statesmen who in the prime of life, when flushed with health and the vigor of youth, have served her gloriously; but few indeed have been the statesmen of this or any other State or land who to the last days of life, when overcome by physical infirmity, have yet insisted in the spirit of Gerry that though but one day more was left to live, it should be given to the service of country. You remember how with tottering steps Governor Brackett came down the aisle, relying on some friendly arm. You remember how we marveled that from so frail and enfeebled body there could come the spirit of youth, a spirit that refused to grow old. As the years creep slowly on each one of us, like a rising tide threatening to engulf us, who can say that, unconsciously, unwittingly, he does not look back at the past with more of respect and look forward to the future with more of apprehension? It is the fate the years bring to most of us. This man was an exception. With but a few grains of the sands of life yet to run, he came here, almost our oldest member, venerable, infirm, and yet with a spirit that looked forward, that refused to turn back, that refused to think the work of life was done; and from the moment he entered these doors he devoted himself to the service of to-morrow, forgetting yesterday. He asked that he might serve on the committee which would have to do with the needs of humanity, the committee on Social Welfare. It had been his pride that he had been able through his relation to coöperative banking to make somewhat easier the lot of mankind. It had been his pride that he had shared in somewhat advancing happiness throughout the community. And is it not a singular coincidence that the two men to whom we pay this tribute of memory to-day, each of them as opportunity presented itself took especial interest in this particular service to mankind? Not one of great heroic character, not one, perhaps, that would be blazoned among the triumphs of inventive genius, but yet one that has greatly assisted thousands of our fellow-citizens to meet old age with greater serenity and to provide for the future in that spirit of thrift which at this critical moment we find to be the most vital duty facing the American people. Governor Brackett devoted himself to encouraging that spirit and making it possible for men, by accumulating the fruits of their industry, to be prepared for the emergencies of life. When he came here it was his desire to continue this effort for making men happier, and you may find his name attached to a proposal yet to come before us that will make it possible for the poor to acquire homesteads, make it possible for the State to

come to the help of the helpless. It was his conception of the function of the State that it should help the weak, that it should aid those who need the strong arm of government to protect them against those who would oppress or those who would repress or those who would take undue advantage of human weakness. So it should be our gratification that he had this opportunity in the last days of his life to continue that interest in his fellow-man which distinguishes him above many others of the statesmen of Massachusetts.

I remember the last occasion upon which I heard him give a formal address. It was upon the occasion of the presentation to my own city of Waltham of a portrait of her great Governor, Nathaniel P. Banks. Governor Brackett admired Governor Banks, because they were of the same type of mind. They both sprang from the loins of the people, they both loved the people, they honored the people; and as Banks brought credit to the State by his work for mankind, so in his turn did Brackett.

Napoleon has said that it were better a man had never lived than to leave behind him no traces of his existence. This man left traces of his existence in his work for his fellows. And may we not at this moment, while recalling his memory, gain inspiration from its lesson; may we not feel that whether or not our years have been many, our eyes should be turned toward to-morrow? May we, too, not be unafraid of change? May we not realize that each generation must work out its own destinies? The future is ours to shape. As he gave his years that the future might be happier for mankind, so may he inspire us in our opportunity to discard what has been outgrown and to work for the future that the world may be the happier and better. Therefore, sir, I second the motion in the hope that these resolutions may be adopted in the spirit of the man himself, — the spirit of courage, the spirit of hope, the spirit of confidence. [Applause.]

Mr. Benton of Belmont: As colleague of ex-Governor Brackett from the same congressional district, I desire to second the resolutions proposed by the member from Arlington. It has been my good fortune to know ex-Governor Brackett from the very early days of my coming to Massachusetts, and I recall our associations with a great deal of satisfaction, because he was a good friend to me and our friendship grew as the years advanced. As our distinguished member from Waltham has said, he always was ready to serve the Commonwealth whether in or out of office. He was a great friend of the people in our section of the State whether in a matter connected with the affairs of the town of Arlington or in a matter wherein the whole community was interested. Governor Brackett always could be depended on not only to give advice of benefit, derived from his years of experience, but also to extend his aid and sympathy, particularly to those in needy circumstances. To him more than to any one man we should give the credit for our coöperative bank system which has been of such great advantage to the people of this Commonwealth. As a member sent to this Convention from the Eighth Congressional District, I desire to second the resolutions presented by the member from Arlington.

Mr. Pillsbury of Wellesley: Governor Brackett was a modest and unpretentious man, who would not desire or approve any extravagance of eulogy; but notwithstanding my voice has already been heard here

to-day much more than I could wish, and while nothing remains wanting in the just tributes which have already been paid to his memory by his nearer colleagues, I cannot forbear to add a leaf to the chaplet of my old friend, with whom I was associated in various relations over a longer period of time, perhaps, than any other member of the Convention. I shall allude only to a single fact of his history, unknown to many of this political generation and liable to be forgotten, but which ought to be recalled and remembered in his honor.

He reached the highest distinction under the Commonwealth in the office of Governor, but I suppose it will always be remembered in connection with his occupancy of that office that he was defeated for reëlection after service but for a single term. The reason ought to be known. I thought at the time and still think that his defeat, under the circumstances which occasioned it, was the most creditable incident of his whole political career, for it was solely because of a conscientious attempt to enforce the liquor law as he understood it, probably knowing when he undertook it that he was taking his political life in his hand. In other words, he incurred defeat for what ought to have been and I think was generally regarded as the most creditable act of his administration, — an experience, Mr. President, in which he was not wholly alone. The significant thing, the thing to be remembered, is that he held his views of duty superior to political expediency or personal advantage; and I think it appropriate and a duty we owe to his memory to make this a part of his recorded history, and, so far as the records of this Convention can make it, of the recorded history of the Commonwealth.

The PRESIDENT: All those in favor of the adoption of the resolutions will stand. [All members rose.] The resolutions are unanimously adopted.

Mr. LUCE: As a further mark of respect to the memory of our deceased members, I move that the Convention do now adjourn.

The motion prevailed.

Mr. Edward A. Richardson of Ayer died January 4, 1919, and on the reassembling of the Convention, Tuesday, August 12, 1919, Mr. Frederick P. Glazier of Hudson paid the following tribute of respect: —

Mr. GLAZIER of Hudson: Since our last session we have been called upon to mourn the loss of one of our members. Mr. Edward A. Richardson of Ayer, on the 4th of January of this year, passed from this life to the great beyond. Mr. Richardson was held in high esteem in the community in which he lived. He was a man of solid worth to the town and to his State. He was a faithful member of this body, and few of the remaining members, I believe, held a better record for attendance and for attention to the duties of this Convention. Mourning his loss, and out of respect to his memory, Mr. President, I therefore move that this session be now adjourned.

The PRESIDENT: The Convention learns with deepest regret of the death of its late member, Mr. Richardson of Ayer. Mr. Glazier of Hudson moves that as a mark of respect the Convention do now adjourn. Those in favor of this motion will stand.

The members of the Convention rose.

The PRESIDENT: The motion is unanimously adopted.

RELATING TO THE WAR WITH GERMANY.

The Italian War Mission.

On the 25th of June, 1917, a reception was tendered to the Italian War Mission, the order providing therefor having been introduced by Mr. Charles G. Washburn of Worcester. His Excellency, Samuel W. McCall, Governor, His Royal Highness the Prince of Udine and his distinguished colleagues and other guests were escorted to the Convention Hall by the Sergeant-at-Arms and were received with prolonged applause.

Addresses were made by His Excellency Governor McCall, President John L. Bates, His Royal Highness the Prince of Udine and Marquis Luigi Borsorelli di Rifreddo as follows: —

Governor McCall: Mr. President and Gentlemen of the Convention, Your Royal Highness and associate members of the Italian Mission:

It was only recently that the special envoys from France to the United States were received in this Chamber by the two Houses of the Legislature in joint convention. The Legislature has since been prorogued and unfortunately it is not possible that they should perform a similar service to-day. But it is a happy circumstance that in its absence there should be in session such an assembly as this, chosen by the people for an extraordinary and important service. By your courtesy I am permitted to speak a word of welcome to the special envoys from Italy and to extend to them the greetings of the Commonwealth.

Events have so shaped themselves that America has been drawn into that gigantic maelstrom which has sucked one nation after another into its vortex and now threatens to engulf the entire world. Italy and our country are ranged side by side in the great war. [Applause.] From whatever special cause different nations may have entered it, the issues are so vast that the grounds of action of individual nations disappear and are displaced by those basic human issues forcing themselves into the foreground, which are so vital and universal that they become and will remain the cause of every allied nation. They affect profoundly not only the relations of nations to each other but the relations of each nation to its own people.

First, the threat of the very extinction of Caucasian civilization makes it indispensable that a curb shall be placed upon nations so that no one of them may so arm with those destructive agencies of modern science as to make itself a terror to the world; and, second, we agree that there is such a quickening sense of popular rights that all governments must take cognizance of them. [Applause.]

The future must have no place for the international freebooter, and it must have no place for autocracy. The political equality of nations and the political equality of men within nations are the things that are calling out to us above the din of arms.

We are bound by many ties to Italy. It was the daring of an

Italian navigator that disclosed and brought to the gaze of the world our continent. The men and women Italy has sent to us have enriched our citizenship. We cannot measure the debt which we, in common with the whole world, owe to her. She has delighted and swayed the life of mankind for centuries by a literature which is one of the imperishable glories of the race. And she enchains us not more by her literature than by her speaking marbles and the immortal tints that are spread upon the canvases of her great masters. Fountain of the Latin races, proud mother of that brilliant family of nations whose genius is as sunny as their skies, through both herself and them she has given the world the fruits of what Daudet calls the gilded imagination of a sunlit race. And so we are proud and happy to-day to salute Italy, the land of ancient Saturn, "rich in crops and rich in heroes," and to extend to the notable envoys she has sent to our country the welcome that springs spontaneously from the hearts of all the people of the Commonwealth. [Prolonged applause.]

The PRESIDENT: Your Excellency, your Royal Highness, and Gentlemen: It remains for me to add but a word of welcome in addition to the eloquent words that have been spoken by His Excellency the Governor. On behalf of the members of this Constitutional Convention I esteem it a great privilege, sir, to welcome you and all of your associates to this Convention hall. We recognize that these are representatives of a great people, that they are worthy descendants of those who centuries ago had but to announce themselves anywhere in the world as Roman citizens to receive the tributes that are due to a lofty stature of manhood. We welcome them not only as representatives of a great people, but as people who are carrying on a most heroic warfare for the principle of unity of national life. They are seeking to restore the land that was torn from them by the oppressor of a century or more ago. They are seeking to bring back that land, which still remains Italian in all its traditions, in its language, and by heredity.

I suspect that when this great world conflict is over, one of the things that will have been accomplished will be to make certain that in the future history shall record not so much of the dismemberment of nations as in the past, but that men will have grown to recognize that the barriers of nations are not the lines drawn on maps by crafty monarchs or by scheming statesmen, nor are they the broad flowing rivers, nor are they indeed the lofty mountain ranges; but the true boundaries are the boundaries of the heart, the boundaries of language and the boundaries of race. [Applause.]

Massachusetts is one of the world's oldest democracies. Here was born that great bulwark of human liberty, constitutional government. We are living under a written Constitution older than that under which any other people are living. For the third time in one hundred and thirty-seven years, we are assembled here to consider the fundamental principles of that document, to see what adaptation may be necessary to make certain that it shall continue to be the safeguard of our liberties and the promoter of our progress. But while we gather here in calm deliberation and discussion of those great principles, know you, sir, that there is heard throughout all of our streets and highways the sound of martial music. Our armories are full of men, and our tented fields can hardly contain the youth of the land who are training there

to-day in order that to-morrow, on the firing line across the sea, shoulder to shoulder with your heroes, they may maintain, establish and forward those principles which we here discuss, and make them the principles for the advancement of all mankind. [Applause.]

We welcome you then, sir, and your distinguished associates, not only because you represent a people great in the past and great in the present, not only because you represent a people who have known how to fight against the greatest obstacles, people whom no mountains have been high enough, no valleys deep enough, to keep from their enemies, people who have known how, with the genius of the ancient Roman, to construct as they have conquered, and to leave behind them, not desolation and ruin, but to leave behind them great works that shall continue to bless mankind long after this generation has passed away, but even more do we welcome you because you are comrades in arms with us, — comrades in arms and allies. When all the nations of the earth are gathered in two great opposing camps, you have drawn the sword, and we have drawn it now by your side, and we do not propose that it shall be sheathed until, sir, there shall be recognized the unity of national life, until it shall be recognized that there is a brotherhood of man as broad as mankind, until the tyrant shall be overthrown, until Belgium shall be restored [applause], and the downtrodden everywhere shall be uplifted.

Gentlemen of the Convention, it is now my great pleasure to present to you His Royal Highness, Prince of Udine. [Great applause, all rising.]

His Royal Highness the Prince of Udine: Your Excellency the Governor, Mr. President and Gentlemen of the Convention: I want to tell to you how thankful we are all, myself, every gentleman of the Italian Mission, for this kind reception we have had here, for the great honor you have done to us in receiving us among you. I want to thank especially His Excellency the Governor, and Mr. President, for the so kind words they have said now, — words that express the feeling of you gentlemen and show how much you are united now with us in these great moments. [Applause.] I am not a speaker, — I am a sailor and a soldier, and I am proud of it [loud applause], though I feel a great pleasure to be able to speak to you gentlemen, to express how really we are thankful to them, to say how we feel that really the American Nation is now united with us [applause] in this terrible war which has now upset all the world, in which we also are fighting these two years. The United States has now come in with us; and we wished that it should come in, because it is a war in which we are all fighting for the cause of liberty, for the cause of democracy. [Applause.] We are sure that the soul of the American Nation should have not possibly stopped, she should surely have come in also with us, knowing how high are the sentiments of the United States. The reception to-day has been really beautiful, the reception we have had in town has been very kind indeed, and I am glad to be able to thank you very much for your kindness. [Prolonged applause.]

The President: It is now my pleasure to present to the Convention Marquis Luigi Borsorelli di Rifreddo, Under-secretary of State, from Rome, Italy.

Marquis Luigi Borsorelli di Rifreddo: Mr. Governor, Mr. President, Gentlemen of the Convention: Truly I did not expect to

have to-day the greatest honor, to speak before you in this great and imposing hall of the Constitutional Convention, and I ask and I pray you to be to me indulgent if I shall not be able to express my own sentiments as I would and as I should before you.

I am very proud to have been chosen by His Highness, Prince of Udine, chief of our Mission, and by my colleagues and friends of the Mission, to tell you how much we are grateful to you; and we thank you with all our heart and with all our soul for the imposing and kind reception you were so good and so kind as to prepare and to offer to us.

Our King, Victor Emmanuel III, the gallant soldier, the beloved king democratic of Italy [applause], sent to the President of the United States [applause], the greatest of men, Woodrow Wilson, a message, and he charged us to declare, to tell you, how much Italy felt satisfaction when the United States decided to join their help, their strength, their moral intervention, to the Allies' cause. We in Italy could not doubt that when the war broke and the world was divided into two great parts, — fighting a part for domination, for oppression, for militarism, and the other part for freedom, for justice, for right of human kind and for democracy, — we could not doubt, in the land where were born Mazzini, Garabaldi, Cavour and Victor Emmanuel II, — we could not doubt that the United States, where were born Washington and Lincoln, was going to join its cause to ours. But when we knew that that was announced we were satisfied, because in this time of war we believed that we were sure that our cause, the Allies' cause, was a just one. [Applause.] Italy, in that great struggle, where all greatest questions of humanity, of right, of the future of nations, are being settled on the fields of battle, full of blood, the generous blood of our friends, brothers and sons, — Italy did not hesitate, but only heard the voice of her history, and she could not have a moment's hesitation what was the way to follow for her. The moment was not the best; conditions of the war were very bad in that moment, but we did not think about that, only with the highest faith in our star, our heart and our conscience, fixed in our duty, we went on the way. [Applause.] And we are going on until the end [applause], the end of the war which cannot be but the victory and the triumph of a moral and just cause in the world for the future, for our sons, for our sons of sons, and their sons. [Applause.]

And so, gentlemen, I am very satisfied to-day not only, but I am really proud to speak before you, and to find in you so great, so kind, a heart and conscience. A moment ago, when we had the greatest honor to be received by your Governor in that room where were exposed the glorious flags of your people, I thought that we felt a great satisfaction to join to those flags our own, full of glory, full of history, and that the flag of the stars and stripes of the United States was united with the flag of the three colors of Italy.

And now, gentlemen, receive again and keep again my thanks most sincere; and let me say that I shall remember always the greatest honor to have been accepted, to have been welcomed by you, and to have been able to speak in the Constitutional Convention of the Athens of the United States. [Loud applause.]

The PRESIDENT: I will ask everyone to remain in his place standing while His Excellency and our distinguished guests retire.

The members of the Convention rose as His Excellency the Governor and the Italian Mission, escorted by the Sergeant-at-Arms, retired from the hall.

The PRESIDENT: Opportunity is to be given the members of the Convention to greet personally the distinguished guests at a reception to follow immediately in Memorial Hall in this building. Mr. George of Haverhill moves that the Convention do now take a recess until 11.30 o'clock.

The motion prevailed, and a recess was declared until 11.30 A.M.

The Belgian Mission.

On the 3d of August, 1917, announcement was made that His Excellency Baron Moncheur and his distinguished colleagues of the Extraordinary Mission of the Belgian Nation were in the State House and, in pursuance to an order introduced by Mr. Powers of Newton, a committee of eleven members was appointed to wait upon the honorable visitors and request their presence before the Convention. Soon afterwards the Sergeant-at-Arms arrived at the Convention chamber escorting His Excellency Samuel W. McCall, Governor, His Honor Calvin Coolidge, Lieutenant-Governor, His Excellency Baron Moncheur and other members of the Belgium Mission, the Honorable Council, and other invited guests. The visitors were greeted with prolonged applause. Addresses were made by Governor McCall, President John L. Bates, and Baron Moncheur (see Journal of the Convention under date of August 3, 1917). A reception in Memorial Hall immediately followed the adjournment of the Convention. Subsequently, the Secretary received from His Excellency Baron Moncheur a communication "deeply appreciating the sympathetic sentiments displayed by the Constitutional Convention in voting to include my remarks in the records of the Convention."

The Russian Mission.

On the 21st of August, 1917, the Convention received the Honorable Boris A. Bakhmetieff, Ambassador to the United States, from the new Republic of Russia, and other members of the Russian Mission. The address of welcome was given by His Excellency Governor McCall, and response was made by Ambassador Bakhmetieff (see Journal of the Convention under date of August 21, 1917). A reception in Memorial Hall followed the ceremony in the Convention Chamber.

The Japanese War Mission.

On the 18th of September, 1917, the Convention received His Excellency Viscount Ishii, Ambassador from Japan, and his distinguished colleagues of the Imperial Japanese War Mission. Addresses were made by His Excellency Governor McCall, His Honor James M. Curley, Mayor of Boston, President John L. Bates and Ambassador Ishii (see Journal of the Convention under date of September 18, 1917), following which there was a reception in Memorial Hall.

The Second Liberty Loan.

On the 18th of October, 1917, the Convention received the Honorable Alfred L. Aiken, Governor of the Federal Reserve Bank, and listened to addresses by His Excellency Governor McCall, President John L. Bates and Governor Aiken with reference to the Second Liberty Loan.

Recognition of Loyalty of Citizens under Arms.

On the 28th of November, 1917, the following resolutions, presented by Mr. Charles O. Bailey of Newbury, were unanimously adopted: —

Resolved, That, as the members of the Convention now discharged of the labors here incumbent upon them are about to depart to their homes, they record their grateful recognition of the devoted and courageous loyalty of those of their fellow-citizens who are under arms in the service of their country for the defense and preservation of the institutions of human liberty upon which the Constitution of our Commonwealth is founded; and be it further

Resolved, That the members of the Convention pledge anew their unfaltering support in sacrifice or service to the just cause of humanity in which our Nation has enlisted, and for which the gallant sons of Massachusetts have offered their lives.

The Chasseurs-à-Pied, the So-called "Blue Devils" of France.

On the 13th of June, 1918, the Sergeant-at-Arms escorted into the chamber nearly one hundred of the Chasseurs-à-Pied, the so-called "Blue Devils" of France, carrying the French flag, headed by Lieutenant Le Moal, commanding officer, and accompanied by an escorting committee of citizens. They were received with prolonged applause, the members of the Convention rising.

The President delivered the following address:

Fighting men of France: The story of your heroic deeds and your desperate struggles has preceded you. "Blue Devils," — the Germans call you. Men who have received such a title, from such a source, need no other credential in Massachusetts. [Applause.] Like the Lacedæmonians of old, you have not asked "How many are the enemy?", but "Where are they?", and you have gone forth and answered your own question. [Applause.]

Admiration for your courage and gratitude for your service to humanity fill our hearts. Young in years, you are old in deeds. We welcome you, battle-scarred and tempest-riven veterans in the greatest conflict of any age. You bear proudly the honors conferred upon you by your Nation, but your greatest distinction is worn, not as a chevron on the sleeve, but is to be found in the esteem entertained for you in the hearts of every lover of liberty. [Applause.] Our tongues may not speak the same language, but our hearts do, and we understand each other. We go the same way, we face the same enemy, we make the same fight, and we are now in France by your side 700,000 strong [applause], and 700,000 more are on the way, and there shall follow seven times 700,000 if need be. [Applause.] Nor will we falter in the struggle until, in the Providence of God, the fields of the land of Lafayette shall burst again into beauteous bloom, and the vanquished Hun shall rise from his trenches and with uplifted hand cry, not "Blue Devils," but "Vive La France, Vive La France!" [Applause.] And in that glad day all the world shall join in one grand acclaim to you and your allied comrades: Hail, hail, saviors of liberty, benefactors of mankind. [Applause.]

Lieutenant Le Moal, who I understand is the commanding officer of the "Blue Devils," so called, will now say a few words to you. [Applause.]

Lieutenant Le Moal: Mr. President, ladies and gentlemen: I am not a speaker, but I want to say how much we are glad to be in Boston. We know that America loves France [applause], but I am

sure you do not love France more than France loves America. [Applause.] A hundred and fifty years ago Lafayette came over here with French soldiers to fight for your freedom and liberty, and now your boys and men, and our boys, are fighting in France again for civilization and the world.

We know that America is doing its best, but we will wait for you. Your boys are not going forth to be killed, — they are going forth to kill Germans. [Applause.] We do not care at all about the end of the war. The end of the war will happen when Germany will be on her knees, and say: "I am through, I am done." [Applause.] At that time your boys and ours will come again to their homes, and they do not expect to come home until they come home victorious. [Applause and cheers, the Convention rising.]

The PRESIDENT: Three cheers for America's fighting allies!

The three cheers were given, with a tiger.
The visitors then withdrew.

Victory of the Italian Army.

On the 25th of June, 1918, Mr. Luce of Waltham offered the following resolutions:

Whereas, We learn with keenest joy of the glorious victory achieved by the Italian army over our common foe; be it

Resolved, That we felicitate our fellow-citizens of Italian birth upon the valor of their brothers, and that we congratulate the people of Italy upon the prospect of driving the invader not only from the soil he has of late usurped but also from every inch that ought to be under Italian sway; and be it further

Resolved, That we express our profound gratitude for this omen of speedy and complete triumph for the cause that has allied the oldest and the youngest of the nations of the earth against the powers of autocracy and barbarism.

Mr. LUCE: This proceeding is wholly irregular. It violates the rule of the Convention itself, but that has been the case with all our proceedings in relation to the war. Its only justification is the fact that probably history will record this as one of the momentous days in the annals of the world. And I present this resolution, sir, in order that we may recognize our confidence and express our hope that this day shall have been the Gettysburg of the great war of our time, that the on-rushing horde of invaders now turned back will be driven to the last ditch, until at the end comes that peace which shall restore the world once more to happiness and which shall proclaim the righteousness of our cause. I present it in order that we may tell our Italian fellow-citizens of our joy in their triumph and that we may tell the State of our confidence as to what this means. I trust, sir, that these resolutions, irregular as they are, out of order as they are, but voicing a sentiment that wells from every heart in this body, may be spread upon our records. [Applause.]

The resolutions were adopted by a unanimous vote, accompanied by great applause.

On the 23d of July a communication was received from the local Consul of His Majesty the King of Italy, acknowledging receipt of a copy of the resolutions adopted by the Convention on June 25, on the occasion of the victory of the Italian Army.

Resolution on the Death of Lieutenant Quentin Roosevelt.

On the 18th of July, 1918, Mr. Charles G. Washburn of Worcester offered the following order, which was adopted:

Ordered, That the President of the Convention appoint a committee of five members to draft a resolution expressive of the sympathy of the members of the Convention with Colonel and Mrs. Theodore Roosevelt in the death of their youngest son, Lieutenant Quentin Roosevelt, who has been reported killed in an aerial battle in France.

The President appointed Messrs. Washburn of Worcester, Parker of Lancaster, Quincy of Boston, Adams of Quincy and Hart of Cambridge the committee.

Subsequently, Mr. Washburn, for the special committee, reported the following resolution: —

Whereas, Lieutenant Quentin Roosevelt, youngest son of Colonel and Mrs. Roosevelt and one of four brothers in the service, has been reported killed in an aerial battle in France, —

Resolved, That the members of the Massachusetts Constitutional Convention express to Colonel and Mrs. Roosevelt deep sympathy in their great sacrifice. The spirit of this young man, whose brilliant achievements had already brought him distinction, was typical of that which pervades the youth of America, now in such large numbers upon the battlefields of Europe. The spirit of his parents is typical of that of thousands of mothers and fathers, some of whom are now suffering from a like affliction and others of whom are prepared to meet with courageous hearts whatever sacrifice they may be called upon to make in this great cause. To these devoted parents of our American youth, the Convention respectfully extends its sympathy.

> With heart that beat a charge, he fell
> Foeward, as fits a man;
> . . . . . .
>
> Dear Land, whom triflers now make bold to scorn,
> (Thee! from whose forehead Earth awaits her morn),
> How nobler shall the sun
> Flame in thy sky, how braver breathe thy air
> That thou bred'st children who for thee could dare
> And die as thine have done.

The resolution was unanimously adopted by a rising vote and, on motion of Mr. Washburn, the resolution was ordered spread on the records of the Convention, and an engrossed copy sent to Colonel and Mrs. Roosevelt.

American Victory in France.

On the 19th of July, 1918, the Presiding Officer (while the Orders of the Day were being considered) said: Will the gentleman suspend for a moment? The Chair understands news has been received of particular interest to all the people of our land, and at this time recognizes Mr. Luce of Waltham.

Mr. Lŭce of Waltham: An hour ago I ventured upon one of the very few absences from the Convention hall in which I have indulged since the session began, and went to my desk to try to do some pressing work. In a few minutes I found it absolutely impossible. The whistles are screaming, bells are ringing, and no man can fail in this moment of triumph and exultation to desire in some way, however weak and feeble, to join in the glory of the hour. It is impossible for us in any fitting manner to show our share of jubilation. The mere words of resolutions would be idle. The impulses that impel us to shout are foreign to the atmosphere of an assemblage like this. But realizing that we ought not to refrain from some share, however inadequate, in the glory of the day, and in order that we may spread

upon our records at least a recognition of its significance, I am going to make a motion that is of course on its face absolutely unequal to the occasion, and yet inasmuch as the great part of life is symbolic we, in this feeble way, may express our rejoicing. As the sun travels from the Atlantic to the Pacific, whenever it reaches its zenith the American people, as they can, will show to-day their thankfulness to the Creator for His help, their gratitude at the triumph of brothers and sons who are risking their lives, and who it is to be feared in too many instances are making the last sacrifice, in order that those precious rights of man we are here discussing may bless all the world. So, sir, again expressing my feeling at the complete inadequacy of any such act as this, but resorting to it as the only way in which we can symbolize our share in the exultation of the American people, I move we advance the hour of our recess long enough to warrant a record of the fact that we all proudly hope the 19th day of July in the year of our Lord 1918 will have marked the beginning of the triumphant march of American arms that shall restore the world to peace, order and happiness. [Applause.]

Resolutions of Appreciation of Those in Military and Naval Service.

On the 21st of August, 1918, Mr. Quincy of Boston said:

There is one subject which I think every member of the Convention will agree should be covered by resolutions before we adjourn. I deem it a great privilege to offer resolutions which I ask the privilege of reading to the Convention:

Resolved, That, before adjourning, the members of this Constitutional Convention desire to express, and to place upon their records, their deep appreciation of the services which members of this Convention, their sons and relatives, with a great and honorable company of other citizens of this Commonwealth, are rendering in the military and naval service of our country. The presence as guests of this Convention of many distinguished representatives of other Nations fighting side by side with us to establish world civilization upon a secure basis of justice and right, has kept vividly before our minds the great crisis through which the whole world is passing, and the glorious part which it has now become the lot of America to play in securing for others the freedom based upon democracy through which she herself has so prospered.

Resolved, That we now record the deep and special sense of pride which we feel in the part which Massachusetts officers and soldiers, many of them trained in the militia of this Commonwealth, have been privileged to play during this historic summer upon the battle-fields of France. We are proud of the spirit, worthy of the great traditions of this ancient Commonwealth, in which they have met every danger and trial, advancing to face death, in the words of their commanding French General, "As if going to a feast." We offer our respectful sympathy to the families of all those patriotic men of Massachusetts who have sacrificed their lives in upholding on foreign soil the high ideals for which America stands.

Resolved, That, in this hour of thankfulness for the successful progress of the allied arms upon the western front, giving full warrant for our unshakable confidence in the full triumph of the great cause of which America has now become the strongest support, we tender to the heroic people of France, upon whose soil our sons are fighting, and to our other allies, our heartfelt congratulations that the hour of imminent peril is passing by. We express to our brothers in war and in peace our fraternal gratification that under the leadership of a great French General, Marshal Foch, and with the help in men and resources which America has so freely and gladly placed under his command, the soil of France is now in process of being set free from the foot of the ruthless invader.

[Applause.]

The resolutions were adopted by a unanimous vote.

The following members of the Convention were enrolled in either the military or naval service of the United States during the war: Charles S. Bird, Jr., of Walpole, Charles P. Curtis, Jr., of Boston, Theodore W. Ellis of Springfield, Charles P. Howard of Reading, Daniel J. Marshall of Worcester, Daniel A. Martin of Holyoke, George H. McCaffrey, Jr., of Boston, John L. Murphy of Chelsea, Augustus W. Perry of Boston, and Henry H. Wheelock of Fitchburg.

Returning Soldiers Admitted to the Floor.

On the 8th of August, 1918, admission to the floor was granted to Corporal Slater Washburn of Battery C, 101st Regiment of Field Artillery, 26th Division of the United States Army, son of Delegate Charles G. Washburn of Worcester, Corporal Washburn having recently returned from active service in France to be assigned for duty in this country.

On the 9th of August, 1918, admission to the floor was granted to Lieutenant Walter L. Bouvé, Jr., of Company C, 807th Regiment of Infantry, United States Army, son of Delegate Walter L. Bouvé of Hingham.

On the 15th of August, 1918, admission to the floor was granted to Captain Roy A. Daniels of Lawrence, of Battery C, 102nd Regiment of Field Artillery, 26th Division of the United States Army, Captain Daniels having seen active service on the Mexican border, and having recently returned from active service in France to be assigned temporarily as instructor at Camp Meade, Maryland.

ADDRESS BY NICHOLAS MURRAY BUTLER.

Upon the invitation of the President, Nicholas Murray Butler, LL.D., president of Columbia University, addressed the Convention August 23, 1917, speaking as follows: —

Mr. President, Gentlemen of the Convention: In seeking an opportunity to see this noteworthy body at work, the President has, with your permission, conferred upon me the distinguished honor of saying to you a word this morning, — perhaps a word on how what you are undertaking to do is being watched and studied by those of us who live in other Commonwealths.

Surely this is an inspiring moment, gentlemen, in the history of democracy! When those principles upon which this ancient Commonwealth was founded and upon which our Nation has risen to its place in the world, are struggling for their very existence on the field of battle, you are here engaged in restudying and perhaps in remodeling some of their foundations. To a lover of democracy, and to one who is optimistic enough to believe that whatever be the immediate signs of the moment, its permanent triumph and extension are secure, there can be nothing more striking than the task upon which you are engaged. You have been summoned by the citizens of Massachusetts to restudy not the superstructure, not the ornamentation, not the minor details, but to restudy the very foundation of her form of government; to see how far ancient principles still maintain themselves, how far men of an open mind may suggest their readjustment to meet new needs and new conditions; and to take account of the changing social and economic order that confronts us all around the world. For, gentlemen, nothing is more certain than that in this very war democracy is experiencing a new birth. It is coming to have a new and clearer understanding of what its principles are and of how those principles are to be applied, and it is going to spread its beneficent opportunity over millions and tens of millions of human beings who have never known it before.

We all know the history of our Federal Constitutional Convention. We know the history of the Convention and the National Assembly of France. We have seen the making and the remaking of Constitutions in more than two score of our sister States, and we have watched Constitutions made not by, but for, the peoples of several European nations. May it not be said, gentlemen, that those of us who are convinced democrats and believers in constitutional government have come to a substantial agreement upon three great points, and that these three points will shortly be included almost beyond peradventure in the document which is to issue from the forthcoming Constitutional Convention of the new democracy of Russia?

In the first place, it is the essence of a sound Constitution that the method for its amendment shall be such as to put within the reach of

the people opportunity, after adequate consideration and discussion, to readjust it from time to time to new needs and for the solution of new problems. We are sometimes apt to overlook the formula for constitutional amendment, but I think on reflection we should all agree that it goes to the very essence of a Constitution that is to be a document of advance and of progress and of life, and not merely a fixed formula for a given year and a given generation.

And then, second, are we not agreed that there must be in the Constitution, if it is to last and if the people are to be really free, an adequate organization of liberty which is based on our familiar Bill of Rights, and which marks off the sphere in which the individual, either alone or in company with his fellows, may freely undertake those various activities which give him opportunity for development, for self-expression, for gaining an honest competence, and for its enjoyment free from the interference or arbitrary act of government? And do we not know that in that organization of liberty and sphere of free action has been the great contribution of our American Nation to the world? It is because we marked off a field of liberty which may not be invaded either by executive or by Legislature, and put it under the protection of an independent judiciary, that we have been able to build up the Nation that confronts and surrounds us. That organization of liberty, sufficiently definite to meet the needs of the people, sufficiently elastic to keep its limits from solidifying into harmful boundaries, — that organization of liberty is the essence surely of a sound Constitution, whether it be for Nation or for Commonwealth.

And then there is the organization of government itself. Curious enough, this is the only aspect of Constitution-making that has attracted the attention of certain of the European nations. If I am not mistaken, the Constitution of France and the Constitution of Italy, at this moment, are simply organizations of government and nothing more. They set up a frame of government, but they do not set it up as over against a field of liberty, nor do they attempt to protect the one from the other. Therefore they leave the individual citizen in his undertaking, in his employment, in his activity, at the mercy of a passing phase of opinion or a temporary majority, or perhaps even of a prejudice that will pass away. There is no great Constitution but our own and that of the German Empire in which any reference is made to the organization of liberty — no written Constitution; and in the Constitution of the German Empire, left as it is without judicial protection and under the mercy of an autocratic form of government, this counts for little more than a mere formula or recital of words.

You are concerned at this moment, I take it, very largely with studying the organization and framework of government. It is mere everyday knowledge to say that the framework of our government has come down to us over a hundred and forty or fifty years, that it has done reasonably well, but that here and there it has shown defects of working which men everywhere are sincerely trying to improve by this device or by that. I suppose that, taking the nations of the world at large, the political experience of modern man would tell us that one of our greatest mistakes has been the too sharp separation of the executive and the legislative branches of the government. We are constantly trying, now by following a device familiar in this country, now by following a device familiar in another, now by throwing out some

new idea of our own, — to overcome such practical difficulties as the history of the last century has developed in that regard. We are aiming to bring about a relationship between executive and Legislature, now by the suggestion of an executive budget, now by giving cabinet ministers seats in the legislative Houses, now by this device and now by that, through which one of the weak points, — or one of the weaker points, shall I say? — that history has disclosed in the framework of our government may be overcome.

It is fortunate, Mr. President and gentlemen, that about all this there is no suspicion of partisanship or party advantage or party feeling. I know from the printed records of this Convention that you are here as loyal, patriotic, high-minded citizens of an ancient Commonwealth, determined on studying and solving the problems of the moment in the light of patriotic duty, the wisdom of experience, and the needs of to-day and to-morrow. That the outcome of your deliberations and your suggestions will be fortunate to Massachusetts, of advantage to the Nation, and useful to democracy everywhere, I am perfectly certain.

Gentlemen, I congratulate you upon your opportunity and your responsibility, and I thank you most sincerely for the distinguished honor of watching your body at work, and standing in your presence for a few moments this morning. [Applause, the members of the Convention rising.]

FELICITATIONS AND RESPONSES.

Judge Morton's Birthday Anniversary.

In Convention, September 5, 1917: —

The President: Mr. Luce of Waltham moves that the Convention resolve itself into a Committee of the Whole for the consideration of matters pending on the docket.

The motion was adopted.

The President: You will pardon my taking your time for just a minute.

On this date four score years ago began the making, if you please, of this Constitutional Convention, for that was the birthday of the first-born of all our members. I will not call him eighty years old, for the years sit so lightly upon him that none of us think of him as old, therefore I may use that better phrase, that he is this day eighty years young.

For a long period he was a member of the Supreme Judicial Court of this Commonwealth, as able a Court as sits in all America. He served the State with a fidelity and ability seldom equaled.

As a member of this Convention his sound judgment and weighty counsel have been of profit to us, while his serene kindliness has won our hearts.

We honor him for his many well-lived years. We extend to him our felicitations and our best wishes for many happy returns of this day, to the end that his life may continue to be the examplar of rugged virtue, of high character, of lofty ideal.

And here I must pause, for while I obtained his reluctant permission to mention the fact that this was his natal day, he strictly enjoined upon me that nothing else was to be said or done about it. I therefore make an end of speaking at this the very beginning of the things which I should like to say of him, but that his modesty may not prevent you from having the opportunity of extending to him your greeting, I ask him to act to-day as chairman of the Committee of the Whole. [Prolonged applause, a messenger placing a handsome basket of flowers on the desk of the Chairman of the Committee of the Whole.]

Mr. Morton of Fall River: I thank you, Mr. President, for your very kind and very gracious words, and I thank you, gentlemen of the Convention, for your very friendly and very cordial greeting. I am reminded of a story which Capt. Jack Adams is said to have told when he was elected Commander of the Grand Army. He said that he was reminded of an inscription upon a gravestone: "I expected this, but not so soon." [Laughter.]

I wish, Mr. President, that I could thank you and the gentlemen of the Convention as I would like to, but it would need a vocabulary

larger and richer than I possess. "Poor that I am, I am beggar even in thanks", and I can only thank you again, Mr. President and gentlemen of the Convention, for the signal honor that you have done me. [Prolonged applause, everyone rising.]

Tributes to President Bates.

In Convention, November 28, 1917: —

Mr. Nesbit G. Gleason of Andover advanced to the President's desk carrying a large and handsome bouquet of yellow chrysanthemums, the delegates applauding.

Mr. Gleason: Mr. President, I rise to a point of personal privilege.

The President: The member will state his question of privilege.

Mr. Gleason: Mr. President, I have used the word "privilege," and I have taken this "privilege" in going ahead, in the few short moments which I have had. There are very many good and pleasant things that could be said of you, but it would take a long time and I would not know where to leave off, but I am going to say it in a few words. As a conservative I want to say, Mr. President, you have been mighty liberal; and in this small token, through the courtesy of the few members with whom I could get in touch in a few moments, we are showing our liberality to you, and I take pleasure in presenting to you these few flowers.

Mr. Gleason presented the chrysanthemums to President Bates, the members of the Convention rising, applauding and cheering.

The President: Permit me to say that the member from Andover was entirely out of order, and yet I judge that if I should call him to order I would not have the support of the Convention [laughter], and having had the support of the Convention so unanimously for several months, I did not wish any instance to occur where I might not consider that I had it.

This comes as a surprise to me, but I very much appreciate the kind words which have been spoken and I very much appreciate the expression of the Convention as it has been indicated. I feel at this moment, — recognizing also that I am out of order, but nevertheless by your grace, — almost overwhelmed by a feeling of gratitude and of gratification. My gratitude is to you for the unvarying loyal support that you have given to your presiding officer during the entire Convention. Should I live long I certainly never shall be able to live long enough to forget the pleasant associations of this session of this Constitutional Convention. They will remain with me always, as among the most precious memories which I have been able to garner in my lifetime.

The feeling of gratification is that the work of this Convention has been so carefully, so deliberately, so ably done; that, after all the smoke of battle has cleared away, you all can look back to this Convention as one of the most important and most enjoyable works of your lives.

I trust we are leaving for only a few months, that we all are to

be permitted to come back again to finish the remaining problems with the same spirit and endeavor to serve the Commonwealth as have been manifested during the months that have passed, that we may come together with peace restored to our troubled land, and be able to devote our entire attention to the important matters specially intrusted to us by the people of this Commonwealth.

Again I thank you. [Applause, the delegates rising.]

On the last day of the session of 1918 Mr. David I. Walsh of Fitchburg offered the following resolution:—

Resolved, That the Constitutional Convention of Massachusetts of nineteen hundred seventeen and nineteen hundred eighteen hereby tenders to the Honorable John L. Bates the assurance of its appreciation of the distinguished services which he has given to the Commonwealth of Massachusetts in the office of President of this Convention; and, further, the delegates of this Convention desire to publicly record their recognition of the ability, dignity and efficiency with which he has discharged the duties imposed upon him, and to thank him for the impartiality of his rulings and the uniform courtesy he has shown in his official and personal relations with all the members of this Convention.

[Applause.]

Mr. WALSH: However we may have differed upon measures, however we may differ as to the outcome of the proceedings of this Convention, one thing and one fact we all are agreed upon, and that is that we have had in John L. Bates as dignified, as able, as capable a presiding officer as ever presided over a deliberative body in Massachusetts. [Applause.] I have risen, therefore, to perform an exceedingly pleasant task, namely, that of offering these resolutions and asking your adoption of them.

It is not a time for words. John L. Bates needs no words of praise, he does not want them, but all of us feel that we should not allow these deliberations to end without publicly recording our appreciation of his public service. We are proud of him, proud because he always has been dignified, uniformly courteous, and at all times impartial. [Applause.] I can speak the sentiments of your hearts in no better way than by saying he has been just to every man, he has been fair to every measure. [Applause.] But words are empty. When a man knows, as he must know, that the language of the heart is brief, and because he has won the hearts of all of us, he knows that in our heart of hearts we are most appreciative of his public service, therefore it is needless and unnecessary to prolong my speech or to continue to speak words of praise in his behalf. Because he had occupied the high office of Chief Executive of this State, when he assumed these additional burdens and duties, with the contending forces that were certain to be in this Convention, he took, as it were, his public reputation in his hands. He retires to-day from this task with new honors, and with the people of Massachusetts further indebted to him for his splendid public service. [Applause.] Indeed, he has exalted the high office which he previously held by his splendid service here in this Convention. [Applause.]

I do not know a better way to conclude what I have been trying to say, because there is so much to say that after all it is what we

feel that men appreciate rather than the words that we utter, than by expressing the wish which a little couplet expresses very effectively. President Bates,

> As we have been so let us be still,
> Friends whom no partisan spirit can chill.

[Applause.]

Mr. PARKER of Lancaster: I gladly avail myself of this opportunity generously extended to me, to support this resolution, an opportunity, sir, that every delegate in this Convention would most eagerly seek for himself, to the end that by his voice, in his own words, he might record his own respect, admiration and ardent affection which this Convention unanimously entertains for its President, sentiments which have grown in strength from the moment when first by our choice he was inducted into his office until this hour, when in happy conclusion of our duties, he is about to dismiss us. He and we are thrice blest by this mutual affection, by our grateful appreciation of his service, extending beyond the gates of this chamber and shared by all the people of the Commonwealth who again recognize in him that zealous devotion to the public service which with unfaltering courage and distinguished ability he has given upon every occasion when the Commonwealth has called for the devoted service of her honored son. [Applause.]

The words of the resolution commend themselves to our deliberate judgment. Temperate, reserved, refraining from that eager adulation in which our affection would seek expression, it in no wise offends the stern, grave dignity and majesty of character which he has displayed throughout his distinguished service here. There have been times when some of us, constituent members of this assembly, have thought that by reason of the anxious care that sat at the gates of our deliberations, by reason of the stress of mighty events which have embroiled the world, it would have been better for us to suspend our deliberations, to the end that we might answer other calls of duty seemingly more insistent. I was myself of that company, but I have been enlightened by the wiser judgment of my colleagues and I have come to know that we were engaged here in no secluded academic discussion of abstract theories of government, I have come to know that our deliberations here and the earnestness which constantly has attended them has had a stabilizing effect upon our thought, and we have come to know through a more scrutinizing observation of the institutions of our government, the vital theory of responsible democracy now so essential to the safety of the world, we have become better patriots through this contemplation. But, oh, my colleagues, do we not know that we should have failed in the full fruition of this stimulus and this inspiration but for the most eloquent voice of our presiding officer, who upon every occasion and in every episode of our service here has lent new significance to the splendid traditions, new fidelity and uttered a new and more impressive call to service for the ideals of the Commonwealth? Thus again he has proved what he always has been since he first undertook the beginning of his eminent public service, — prophet, patriot and statesman.

Remember the incidents that have attended our service here, now features of the international history of Massachusetts. It has been

for him to voice in praise beyond our imagining the grateful pride, the pledge of our allegiance to the gallant soldiers of France who have honored this assemblage by their presence, our pledge again to afflicted Belgium with our assurance that she shall be restored to her proud place among the nations. From that rostrum in friendly and fraternal advice to the despairing inchoate republic of Russia he has taught or spoken the fundamentals of our faith in popular government. God grant that his words may find full realization when this distracted people may come to their own. But his words have taught beyond any example of history what are the ideals, what must be the purposes, of a self-governing, self-controlling republic such as the Commonwealth of Massachusetts.

Great service has made illustrious his pathway. From one labor to another he has gone on, chosen citizen of the Commonwealth. It were presumptuous, it were too soon for us to attempt to forecast what shall be the judgment even of our own generation upon the work that we have done here. Far less may we prophesy how the generations that are to come shall make comment upon our service. But certain it is, oh, my colleagues of this Convention, that the service that our presiding officer has lent to our labors, the inspiration of his thought, his sound learning, his wise optimism, wrought into the very fiber of the text of our resolution, shall make it certain that the children of the generations that are to come shall rise in their day, as we in ours, to pronounce his name blessed among those honored by the Commonwealth of Massachusetts. He has ruled over us by the dominion not of his will, but of ours. He has added to the supremest mastery of the science of parliamentary law qualities of character, of generosity of judgment, of fairness, of courtesy, that have made our obedience the obedience of willing citizens. True, we have sat at his feet, but he has withdrawn himself into no Olympian obscurity of high authority, but has been accessible, always giving the benefits of his full learning to the most modest or the most inconspicuous of our members. Honors have come to his name. A great and added service he has laid upon the knees of his loved Commonwealth. Fortunate for us that it has been vouchsafed that we might labor with him.

I rejoice that I am permitted to speak in support of this most becoming resolution and to participate in the enthusiastic, unanimous adoption of the measure itself. [Applause.]

Mr. WALKER of Brookline: I am very glad of this opportunity to join in the appreciation of our presiding officer, a man who has proved himself entirely worthy to preside over a Massachusetts Constitutional Convention. I can but reëcho the thought that lies in the mind of every one of us at this time, and which has been expressed so well already. I wish to pay tribute to our presiding officer as a parliamentarian, prompt in decision, firm, impartial, at all times eminently fair. Such ability as he has shown makes it possible for full and adequate debate on all the great questions which have come before us. For that we owe him a debt of gratitude. I wish also to express my admiration for the knowledge of men and for the fairness which he has shown in the appointment of the committees of this Convention. Contentious subjects have been committed to these various committees, and yet when we came to meet

we found that those committees were balanced so nicely that the thought of any prejudice in favor of or against a measure on the part of the presiding officer was absent from the mind of everyone. That in itself is a great service for a presiding officer to render to a deliberative body. And then, Mr. President, how we admire the man himself, his poise, his good judgment, his patience, his ability to rise quickly to an occasion, to grasp a parliamentary situation and dominate it, to decide the matter correctly. We have admired that. Of course we all know of his long career of public service. It is such men that we need in this old Commonwealth of ours, when we are facing the great problems that are sure to come before us. He is indeed an example set before the people of Massachusetts which it is well for us to follow.

> Statesman, yet friend of truth, of soul sincere,
> In action faithful and in honor clear.

Such men we need at this time. I am impelled in closing to quote the prayer of the poet:

> God give us men! A time like this demands
> Strong minds, great hearts, true faith, and willing hands;
> Men whom the lust of office does not kill;
> Men whom the spoils of office cannot buy;
> Men who possess opinions and a will;
> Men who have honor, — men who will not lie;
> Men who can stand before a demagogue,
> And face his treacherous flatteries without winking!
> Tall men, sun-crowned, who live above the fog
> In public duty, and in private thinking.

[Applause.]

Mr. Luce of Waltham: On the opening day of the Convention it was my fortune to give this body certain assurances which I take pride in believing to have been justified by the result of your choice of a presiding officer. I would not attempt to improve upon the felicitations of the other speakers, but would dwell for a moment upon one phase of the service rendered to us that ordinarily does not get attention.

We have been, from youth, so accustomed to the influences and effects of parliamentary law, it has been so natural a part of all the organized gatherings we have attended, that we almost always neglect to recognize the great part it has played in securing Anglo-Saxon liberty. The observance of this law, conducing to the orderly conduct of business and securing to minorities the satisfaction of at least having had a fair hearing, has given to Anglo-Saxon parliamentary bodies a prestige and success not equaled anywhere else in the world. If you would read the record of what has happened when the importance of respect for parliamentary law has not been understood, you need but go to the story of the terrible days of the National Assembly in France, when, contemporaneous observers tell us, disaster was speeded by ignorance of proper parliamentary procedure. It is our own good fortune that we have become so accustomed and wedded to parliamentary law that its observance passes almost without recognition. In applying its principles during these many months we here may take no credit, because we have but practiced the Massachusetts custom. Yet it is worth while to

make record of the fact that we have followed also Massachusetts precedent by having for our deliberations a leader and guide embodying to high degree the spirit and purpose of parliamentary institutions. A prime object of parliamentary law is the protection of minorities, the preservation of their rights. This our presiding officer has secured in completeness, and in this he has held up to the traditions of Massachusetts.

These are days when everything tempts us to think only of the Nation. Let us for an instant recall that we are also citizens of a Commonwealth, and recall that in this Convention it has been our proud opportunity to follow those who led the way in making Massachusetts a great State. Her greatness has been marked by the men who have been eminent in her councils, and conspicuous among them have been those who have presided over her legislative assemblies. We recall with pride that men like Joseph Story, Robert C. Winthrop, Nathaniel P. Banks, have guided Massachusetts deliberations with credit to themselves and honor to their State, and that they have carried our fame throughout the country and helped us lead in the destinies of the Nation. It is hard for us to appraise correctly men of our own day and generation, impossible for us to estimate with accuracy what each means to the State, but I believe some day, if not to the circle surrounding this hall yet to some like circle in some great hall of Massachusetts, to the names of Story and Winthrop and Banks and all the other men who have lived nobly for Massachusetts shall be added a name not less in worth, that of John L. Bates. [Great applause.]

Mr. Cummings of Fall River: It is a great privilege to second the resolution before the Convention, and I thank you for the opportunity that is given to me to express my appreciation and admiration for the splendid service that has been given to this Convention by its illustrious chairman. I am reluctant, even in my admiration, to add one more word of praise to the words that have been so freely and so affectionately spoken, lest the other drop might cause the measure to overflow. How near and dear he is to the hearts of his colleagues! As it is a source of pride to us to recognize his fairness, his justice, his impartiality, his high intelligence, his dignity, that lend a new charm to that great office, so it must be a proud as well as pleasant thing for him to hear his good report now borne along upon the honest breath of public praise.

May I ask the Convention to turn for a moment to consider the office that our President has filled? Constitutional Conventions are extraordinary assemblies. Beginning with the adoption of our Constitution, and coming down to 1917 and including it, we have had four Conventions. We met in 1780, when the flames of the Revolution were threatening all that men held dear, when the land was plunged in war. In 1917, when the world's greatest war is encircling us again, we meet silently, calmly, soberly, deliberately, confidently, perhaps even with greater confidence than our illustrious fathers who laid the foundation of the Constitution in 1780, — to reëxamine the foundations, to see if they still rest upon the bed-rock of truth and justice, to extend them, to repair them if it is needed, so that democracy, so dear to us, shall be preserved to the people. Twice we held Conventions in times of peace, in 1820 and again in 1853, al-

though the shadow of the great war was cast before us, was visible in the Convention of 1853. I do not recall, Mr. President, whether the journal of the Convention of 1780 has any reference to the President's office even temporarily being occupied by a soldier; I am not prepared to say that it was not so, but I do not recall that it is written in the journal of that Convention. In this Convention we have seen the soldier in his uniform, the sailor in his uniform, the aviator in his uniform, come here and take their places in the seat of the presiding officer, without the sound of arms, without the clanking of the sword. The arms of the soldier, of the sailor, were silent in the presence of order and law, the supreme power of this Convention. It is something to remember that in this time, perhaps for the first time in the history of the Commonwealth, men not armed but bearing insignia of arms have held this office. And yet from day to day the deliberations never in the slightest degree were affected by the presence of soldier or sailor or aviator, but the steady current of our thought flowed on uninterruptedly, until to-day we believe we have given, as far as it is in us, full measure of our service for the benefit of our people.

Mr. President, when a Constitutional Convention is summoned it is as if the State called upon her electors, upon her people, to bring their complaints, their fears, their aspirations and their hopes, so that we may know what is the real state of our people, and we have heard them. We have heard the complaints and heeded them. We have listened to the fears, and we think we have dispelled them. We cherish the hopes that have been expressed, believing that they will be realized. And it is a comforting thought at this time to remember that in all the complaints that have been made there was not one that reflected upon the integrity, upon the justice and upon the truth of the government that had preceded us. There has been no claim for wrong-doing. There has been no aspiration to confiscation. Massachusetts to-day can say, after examining her conscience, after hearing all that was to be said for what she had done and what she had failed to do, that in the main she has stood for all that was noble, for all that was promised for her from the beginning. It is a distinction, Mr. President, to preside over such a Convention, but to preside over it with such marked fairness, such marked justice, with such shining impartiality, so that hereafter when those things are spoken of John L. Bates' name will come immediately to the tongue of men, is a great distinction. [Great applause.]

The Presiding Officer: The question, gentlemen, is upon the adoption of the resolutions. So many as are in favor of the adoption of the resolutions will please rise.

Every one rose.

The Presiding Officer: It is a unanimous vote. The Chair would request that Mr. Dutch and Mr. Montague escort the President to the rostrum.

Messrs. Charles Frederick Dutch of Winchester and David T. Montague of Boston escorted the President to the chair, all the delegates standing and applauding vigorously.

The Presiding Officer (Mr. Lowe of Fitchburg): Mr. President, it is a great pleasure to me to pass this token to you, representing the admiration, the good will and the best wishes of the members of the Convention. [Handing a gold watch and chain to the President.] With it goes the hope that you will long derive a great deal of pleasure from it, and that it will remind you often of a pleasant experience in a life full of great public service and usefulness. [Great applause, the delegates rising.]

Response of President Bates.

Gentlemen of the Convention: For once I have not felt like calling you to order. [Laughter.] Rather have I been desirous of taking advantage of your disorder, to the end that I might collect my thoughts and see if I could find a word that would express appropriately the deep feeling which I entertain at this hour. I had prepared some remarks that do not fit this occasion [laughter], and with your permission I am going to inflict them upon you just before we adjourn to-day rather than now.

It was on the sixth of June, 1917, if memory serves me correctly, that you called me to the discharge of the most pleasant duties that ever a man was called upon to perform. The days have passed most quickly. From the hour that you elected me as your presiding officer I have received nothing but unbounded courtesy and constant kindness from every member of this Convention, and oh, how my good friends have talked about it here to-day. I have not been able to recognize the picture, and I am quite certain that those who are most intimate with me will have to have an explanation go with it. You have been so generous in the words that have been uttered, and in the applause with which you have received them, you have been so willing to magnify such modest merit as I have had, and through blindness of vision to overlook all those things that might have been criticized.

If there has been any success that has attended my efforts as your presiding officer it has been due not so much to myself as to you and to those who have labored with me. You have been willing to accept every decision, right or wrong. [Laughter and applause.] You have acquiesced in every petty tyranny in which the Chair has indulged. And then I have had such loyal support from the Secretary of the Convention and his assistants [great applause, the delegates rising], — you cannot have the floor now, sir, your time may come later, — and such support also from the Sergeant-at-Arms [great applause, the delegates rising], these doorkeepers [applause], these modest messengers and the pages [applause], all of whom have been eager to render every assistance that was within their power to make these Convention proceedings pass off successfully.

How many memories come to me as I look into your faces! I never shall look into the face of this beautiful gift but what I shall see a multitude of features that are dear to me. The atmosphere seems to have changed in this Convention hall. I hardly would recognize it as the place where so many battles had been fought, where there had been so much of strife and of tumult. Gone are the days when we indulged here in trench fire, when we indulged in all those keen bayonet thrusts of wisdom and of satire against those

who did not agree with us. Gone are the days when men seemed, like oratorical aviators, to wing their way and to drop the bombs that, exploding as depth bombs, seemed to endanger us all, and yet left us all perfectly safe. [Laughter.] And pardon the metaphor, there is nothing sinister in it, but gone too are the days when the tanks have ambled down the aisles and unlimbered and fired the shots that, if not heard round the world, at least were heard by all within a respectable distance of this capitol building. To-day there is naught here but the atmosphere of good will, and there is a tugging at the heartstrings as we break up the associations that have been so long and that we now recognize were so dear to us. I fain would turn back the hands of this beautiful gift that we might pass many of these hours over again, but such cannot be.

I thank you for the gift. It always will be treasured by me. I thank you for the loyal support, for the kind words that have been uttered. I thank you for the honor of this high position that you conferred upon me. But most of all at this hour do I value the friendships that have been formed here and that I have stored away in the treasure-house of memory, and there shall I enjoy them as this beautiful watch ticks off the hours of the to-morrows, even until there shall be no more of the to-morrows and the sunset fires shall have ceased to burn. [Great applause, the delegates rising.]

Resolutions of Appreciation of the Secretary.

Mr. McAnarney of Quincy: Coming from the four corners of Massachusetts, for the most part meeting as strangers, representing all shades of political belief, filled with a determination to study carefully the merits of any resolution which might be presented to us, and inspired with the single purpose of doing our full duty by the Commonwealth, the delegates to this Convention convened on the sixth day of June, 1917. Several hundred resolutions were presented to us for our consideration. The task before us was one easy to state but difficult to accomplish. However much we may differ as to the wisdom this Convention displayed in its final action on each and every one of those resolutions, there is no division in this Convention as to the soundness of its judgment or as to the wisdom that guided it in selecting the officials of the Convention. We have just given public testimony to the esteem in which we hold our beloved President. Now, it becomes my especial and pleasant duty, without eloquence, but in plain words, and briefly, to express a small portion of the esteem in which the Convention holds another of its officials, who has rendered it service well and faithfully. Ever holding himself and all his assistants at the service of every delegate to this Convention, free in his advice and assistance, seemingly an inexhaustible mine of information, James W. Kimball [applause] has performed the duties of Secretary of this Convention with an ability, fidelity and efficiency that has won for him the esteem and the affection of the delegates. Public service of the character he has rendered, meeting with the approval his services have met with, deserves that the approval they receive should be put in some permanent form. To that end, Mr. President, I now move you the adoption of the resolutions I have forwarded to your desk, and in

behalf of the Convention I request after the passage of the resolutions that you tender to our honored Secretary, for himself and his assistants, the contents of the envelope accompanying the resolutions, not by any means as the measure of our appreciation for his and their services, but merely as a kindly expression of the good will and the esteem in which we hold them. [Applause.]

The resolutions were as follows: —

Resolved, That the delegates to the Massachusetts Constitutional Convention assembled at Boston, on this twenty-first day of August, 1918, do hereby tender to James W. Kimball, Esq., their sincere and grateful appreciation of the ability, fidelity and uniform courtesy with which he has so efficiently discharged the duties of Secretary of the Convention; and be it further

Resolved, That these resolutions be entered upon the record of the Convention and an engrossed copy thereof be presented to him.

Mr. Quincy of Boston: I appreciate the privilege of seconding these resolutions. In doing so I shall have to disclose the fact that I first became acquainted with Mr. Kimball just thirty years ago, when in the old Chamber of the House of Representatives he performed, with the same efficiency which he has exhibited continuously ever since, the duties of Assistant Clerk of the House. I am glad to see upon the platform before us to-day at the right hand of the President the efficient Clerk (Mr. Edward A. McLaughlin), now an officer in the administrative service of this Commonwealth, under whom Mr. Kimball then was serving. [Applause, the delegates rising.] Mr. Kimball was trained by a good preceptor, and he has improved through all these years upon his training; ripe experience has made him only the more proficient in the performance of the very responsible duties which regularly have devolved upon him these many years as Clerk of the House of Representatives, and which during these two summers have fallen upon him as the Secretary of this Constitutional Convention. When we came to the selection of officers of this Convention our task so far as the Secretary was concerned was a very easy and an entirely non-contentious one. All of the members of this Convention, and they are many, who had served as members of the House of Representatives could think of but one man who was fully qualified by experience, by temperament, by faithfulness, by courtesy in the performance of every duty, to perform the responsible task of acting as Secretary of this Convention. We all of us have recognized through two heated summers the devotion of our Secretary. Many temporary occupants of the Chair have leaned gladly upon his ripe knowledge of parliamentary law; and we all of us now, I am sure, in these closing moments of the Convention desire to express to him our appreciation of the faithful, able and devoted service which he constantly has rendered in the responsible position which he has held here, and our best personal wishes for his future health and prosperity. [Applause.]

The resolutions were adopted unanimously, amid prolonged applause.

Response of Secretary James W. Kimball.

In responding, Mr. Kimball said: —

Mr. President, Members of the Convention: The General Court of 1911 prorogued on the 28th day of July. At that time, speaking to

a resolution similar to the one before you, I said to the members: "This House comes the nearest to being an August body of any that ever sat in this chamber." [Laughter.] I simply state this fact because I am reminded that this is the eighth month of this year, August.

It certainly is an honor to serve as an officer of a body of men of this kind. It has been a source of great pride and pleasure to me, particularly so that I have been placed by the side of your President. [Applause.] It recalls to my mind the House of 1897, which elected him his first year as Speaker and also elected me for my first term as Clerk. I am not going to make any speech, but I want to say that the success of an office like mine depends a good deal upon the members themselves. I have met with nothing but courtesy and thankfulness all through this session, and I have appreciated it. I simply want to thank you for your kind words to-day and for your kindness throughout this session. [Applause.]

Resolutions of Appreciation of the Sergeant-at-Arms.

Mr. Charles O. Bailey of Newbury offered the following resolutions:—

Resolved, That the Massachusetts Constitutional Convention as it is about to conclude its labors records its appreciation of the thoroughly efficient manner in which Thomas F. Pedrick, aided by his assistants, has discharged his duties as Sergeant-at-Arms of this Convention. By his genial and manly character and sterling worth he has gained the sincere and warm friendship of all the members of the Convention.

Resolved, That this resolution be spread on the records of the Convention and that the Secretary of the Convention be directed to transmit a copy to Mr. Pedrick.

Mr. Bailey of Newbury: On the sixth day of June last year, it being the occasion of the convening and organizing of this Convention, it was my privilege and honor to move the election of Mr. Thomas F. Pedrick to the important position of Sergeant-at-Arms. In doing so I was happy to express the conviction that his record in that capacity in the General Court, covering a period of many years, fairly entitled him to the favorable consideration of this honorable body. He was elected, and, sir, he failed not the expectations of those who have known him these many years. During both sessions of this Convention he and his valued assistants have given unsparingly of their faculties and energies in the performance of all those things which were intended to add to the comfort and convenience of the delegates, that their duties might be more efficiently and expeditiously performed. These resolutions, sir, are offered at this time that there may be placed upon the records of the Convention the fact that its members were not indifferent or unappreciative of duties well and faithfully discharged. And, sir, as a further recognition of the high personal regard felt for him I desire through you to present to him this gift, carrying with it the assurance that so long as he shall be permitted to live there will linger in the heart of each and every delegate a strong and enduring friendship for him. Mr. President, I am confident that I voice the feeling of every man here assembled when I express the hope that the old Commonwealth may be fortunate enough to retain the services of so worthy a servant for many years to come, and as his days go on, their shadows lengthening as they approach nearer that evening which soon deepens into the night of life, may those days, sir, be made happier by the memo-

ries of his association with the members of the Constitutional Convention of 1917 and 1918.

Sir, I move the adoption of the resolutions. [Applause.]

Mr. Aylward of Cambridge: I rise to second the resolutions and to testify my appreciation of the ability and courtesy with which the Sergeant-at-Arms has discharged the duties of his office. It was my pleasure, in common with many others in this body, to meet the present Sergeant-at-Arms many years ago in the Legislature, and from that time to this every succeeding body has been unanimous in its appreciation of his services. I believe that there is no official who holds a warmer place in the hearts of the various members of the Legislature or of this body. I know I voice the sentiments of the delegates to this Convention when I voice the wish that he may be spared many years in the present office that he holds, and in the twilight-life as he gazes at the many mementoes of appreciation given him by the various Legislatures that not the least in his affectionate remembrance will be the resolutions adopted by this body. [Applause.]

The resolutions were adopted unanimously.

The President: The pages of the Convention, with their usual willingness to serve, have handed to the officers the tokens of your regard, and not left that for the presiding officer to do.

The Sergeant-at-Arms is the one man who always has the privilege of the floor but never speaks. Perhaps upon this occasion, — in fact I think on this occasion, — we ought to extend to him an invitation to say a word to us.

Response of Sergeant-at-Arms Pedrick.

Mr. Pedrick responded as follows: —

Mr. President, Gentlemen of the Convention: I never made a speech in my life, and do not know how. That is not my business.

When I was elected Sergeant-at-Arms of this body I made up my mind to do the best that there was in me, and to try and be faithful to you, so that I should bring no reproach upon any member of this Convention or any other with which I might be connected. I appreciate the honor you have put upon me. I have tried to do my duty and give you the best there was in me. But no Sergeant-at-Arms ever can perform faithfully the duties of his office without the faithfulness of the men whom he appoints to work with him, and in these men I have the utmost confidence and I think they have in me. I am greatly obliged and much appreciate what you have done for me, and I shall go on and try to serve the next Legislature as well as I have served this Convention. [Applause.]

Mr. Walker of Brookline and Mr. Churchill.

In Convention, November 28, 1917: —

Mr. Luce of Waltham: In rising to make the last motion for the first part of the session, — the last if it meets the approval of the Convention, — I pray permission to say just one word in regard to the long and honorable contest in which we have been engaged, for

in the recognition of the men who have served the Convention we hitherto have not paid a word of respect to two gentlemen whose work I am very sure the Convention would like to have recognized. The debate on the initiative and referendum has been the longest that ever took place in the Commonwealth of Massachusetts, one of the longest that ever took place in the history of legislative bodies. In the conduct of this debate, two men have been conspicuous in rendering service to the Convention and to the Commonwealth. I refer to the minority and majority leaders of the committee on the initiative and referendum. Perhaps in the heat of conflict we have not recognized the patience, the persistence, the endurance with which they have favored us and the State, and I would not have the Convention adjourn without voicing what I believe the unanimous sentiment of the Convention, that they have put us under a debt of gratitude for the manner in which this discussion has been conducted. If at times some of us seem to have been impatient, if at times some of us in the course of controversy have said things with too much heat, I would have both those men understand that it is all gone, and that now the controversy is finished we depart to our homes with respect for them and gratitude for what they have done.

Now, sir, may I wish all the members of the Convention a happy holiday to-morrow; may I wish that during these next months they may acquire fresh strength and vigor; and that next summer we all may return here to renew our labors for the benefit of the State and for the benefit of democracy. Sir, I move that the Convention now adjourn under the terms of the order as adopted on the 23d of October. [Applause.]

The motion prevailed unanimously.

Tribute to Judge Morton of Fall River.

On the 13th of August, 1919, Mr. Albert Bushnell Hart of Cambridge said:—

Mr. Hart of Cambridge: In this Convention all members have done their duty. The committee service in the two previous sessions has been arduous and has been performed. I should think, however, I was doing less than my duty if I did not call to the attention of the members of this Convention the signal, large, laborious and important service performed for them by the chairman of the subcommittee on Rearrangement of the Constitution, the acting chairman of the committee of 19 on rearrangement, to whom, more than to any one person, the text of the Constitution which we are sending to the people in its present form is due. I will go beyond the ordinary parliamentary procedure by calling to your attention the service of Judge Morton of Fall River. [Applause and cheers, all members rising.] And I take that pleasure to myself because probably no one has known more intimately the amount of labor which he has bestowed upon this work. Not one single line of the rearrangement is without the touch of Judge Morton's hand. He has given his time, he has given his great judicial experience and learning, he has given his character to that work. [Renewed applause.] Judge Morton is

a conservative. Not all of those associated with him were conservative, but all were agreed, and every man who has been thus closely associated feels, I know, as I do, a feeling of personal pride and proprietorship in the labors of Judge Morton, the Father of the Constitutional Convention. [Prolonged applause and cheers, the members again rising.]

Judge Morton was escorted to the platform.

The PRESIDENT: It gives me great pleasure to present our esteemed fellow-member, Mr. Justice Morton of Fall River. [Applause.]

Mr. MORTON: Mr. President, and Gentlemen of the Convention: I am so taken by surprise and so overwhelmed by the very eulogistic words which my friend from Cambridge has just spoken to you that I am quite at a loss what to say in acknowledgment, especially when they have been received with such apparent and real heartiness by the members of the Convention. I wish, Mr. President and gentlemen, that I could express to you how much and how deeply I appreciate what has been said and the manner in which it has been received by you.

One or two things I should like to say concerning the gentlemen with whom I have had the honor to be associated. As you all know, the committee was appointed originally by the President, and at the first meeting of the main committee the President appointed a subcommittee, and the subcommittee went forward and did the work. That subcommittee consisted of five gentlemen; and I want to say, Mr. President and gentlemen of the Convention, that I doubt if any similar committee ever worked together more zealously and harmoniously for the accomplishment of the end to which they had been appointed than that subcommittee did. [Applause.]

For myself, I had the leisure and the time to give to the work, but the other gentlemen of the committee were members engrossed in the demands of large and active business. The time they took was taken from constant and insistent demands made upon their time and their energies. But from beginning to end they devoted themselves zealously, uncomplainingly, with the ability that they possessed, to the work which had been deputed to them to do. And largely, it seems to me, the result which has been placed before you is due to the constant, unselfish, unremitting labors of the gentlemen who composed that committee. It would be invidious in me to attempt to make any distinction between the members of that committee. One and all, they did all and more than all that they could be expected to do. And then, Mr. President and gentlemen, when the matter came before the main committee, the main committee in its turn did its part of the work that had been submitted to it by the Convention. For three solid days on one occasion they devoted their time and their energies to a revision and consideration of the work which the subcommittee had submitted to them. On other occasions they devoted themselves to an examination, a careful examination, of what had been done by the subcommittee.

I want you to understand as fully as I am able to state it to you that these gentlemen who were appointed on these committees did their work faithfully, unhesitatingly, constantly, — whatever the labor

required of them was or whatever the sacrifice of their own personal business requirements.

In conclusion, Mr. President and gentlemen, I can only thank the Convention for the very great honor which they have done me, and which I appreciate more than it is within my power to express. This is my first, my only, experience in a legislative body, and I shall go from this Convention with a feeling of pride in the character of the gentlemen who compose it. [Applause.]

PUBLICATION OF DEBATES OF THE CONVENTION.

On the last day of the session of 1918, the following order was considered: —

Ordered, That the ranking member of the committee on Rules and Procedure, Mr. Luce of Waltham, be requested and empowered to supervise and direct the further preparation, publication, distribution and sale of the records of the Convention, and be authorized to approve vouchers for the expense thereof;

Ordered, That he be further empowered, with the approval of the President of the Convention, to make such modifications of the order adopted June 21, 1917, relating to the distribution and sale of the volumes containing these records, as may prove to be desirable;

Ordered, That, if for any reason the President of the Convention or the ranking member of the committee on Rules and Procedure cannot exercise the powers herein delegated, the Governor and Council be requested and authorized to exercise them.

The question being put, the order was adopted.

Mr. Williams of Brookline: I desire to ask unanimous consent of the Convention to offer a resolution which seems to be appropriate to the subject-matter that has just been voted on.

There was no objection.

Mr. Williams: I doubt if all the members of the Convention realize that the work of preparing and supervising the editing of the proceedings and debates of the Convention has been in the hands of one of our fellow-members, namely, Mr. Luce of Waltham. That work has been performed by him without any reward save that of the performance of duty, and has been done most efficiently; and in order to have the work completed it will require further time on his part and also much labor. I therefore suggest the following resolution which it seems to me appropriate to adopt, and when the question is put I ask that the vote be taken by a rising vote.

Whereas, The committee on Rules and Procedure of the Massachusetts Constitutional Convention for 1917 and 1918 was authorized to arrange for editing and preparing for publication the proceedings and debates of the Convention, and, after careful consideration and inquiry, decided that there was no man in the Commonwealth better qualified to supervise the editing thereof, as regards literary ability and knowledge of political and constitutional history, than our fellow-delegate, Robert Luce of Waltham; and

Whereas, Upon its request he undertook the work as a matter of duty without any reward save that of the satisfaction which comes from duty conscientiously and efficiently discharged, and has brought to bear in its discharge those high talents which have characterized his entire work in this Convention; therefore be it

Resolved, That the Convention hereby expresses to him its high appreciation of the generous devotion, effort and sacrifice of time in the highly important work which he has already rendered and will continue to render to the members of the Convention and which will accrue to the benefit of all who hereafter may find the reports of the debates in this Convention matters of historical interest and value, and hereby thanks him most heartily therefor.

[Applause.]

Mr. Pillsbury of Wellesley: I do not rise because I have the slightest doubt that this resolution will be adopted as it ought to be,

by a unanimous vote, but to congratulate my friend from Waltham who opposed the recess committees resolution as making men work without pay, that his self-sacrificing example speaks so much more eloquently in favor of the resolution than his precept could speak against it.

The PRESIDING OFFICER: The question comes on the adoption of the resolution. Those in favor of the adoption of the resolution will rise. [All present rose; applause.] Those opposed will rise. The ayes have it; it is a unanimous vote.

ADDRESS BY THE GOVERNOR.

On the last day of the session of 1918 His Excellency, Samuel W. McCall, Governor of the Commonwealth, and the Honorable Council, were invited to attend the Convention before its adjournment. Soon afterward His Excellency the Governor and the Honorable Council came in, escorted by the Sergeant-at-Arms. Delegates to the Convention rose as the Governor and Council entered the hall.

The PRESIDENT: Your Excellency, Gentlemen of the Convention: We began the proceedings of this Convention under the inspiring words of His Excellency the Governor, and it seems fitting that we should not close without again listening to him. It is a great pleasure to present to the members of the Convention one who has received many honors at the hands of the people of this State, and who never was held in higher honor and esteem than to-day, His Excellency Samuel W. McCall. [Prolonged applause, every delegate rising, followed by three cheers for Governor McCall at the suggestion of Mr. Brown of Brockton.]

Governor MCCALL: Mr. President and Gentlemen of the Convention: I am sure I thank you most heartily for the kind reception you have given me. I trust that it is in no part to be attributed to the fact that you recently have seen my name in the casualty list. [Laughter and applause.]

The President has told you that I was present at your opening session and made some extended remarks, and that I had been asked to come here to-day for a similar purpose. Under the law the Governor was required to be present and call you to order. There is no similar injunction of law with regard to his appearance here at this last scene. And when your committee did me the honor to invite me on your behalf before the Convention they asked me to come in and to make an address, and I said to them that I did not desire to add new tortures to death and that I should omit the address. I have no formal address to deliver to you, and so far as I am concerned you may depart peacefully and in fair hope.

The Convention of 1853 is referred to as a very notable body of men, and in some respects it was as notable a body of men, I think, as ever has been assembled in America; but we must remember that many of those men at the time of that Convention had not acquired the distinction that afterward came to them, and that we look upon them now as if they all were as famous at the time of that Convention as they appear to us now. In the same way, when we consider the members of this Convention who already have won honorable fame, and when we consider what is likely to come to other members of this Convention, I think the personnel of this Convention may compare favorably even with that of 1853. The debates of that Convention are studied to-day by lawyers, by scholars

and by men who are attempting to educate themselves upon the anatomy and structure of government, and so I doubt not that in the future what you have said here, what you have well said, will be studied, and those speeches that deserve to be read will be read in the future as are the speeches of the Convention of 1853.

I think that I can admit, and I am not sorry to admit, that I had some share of responsibility in the holding of this Convention. You have done some good things which already have become a part of the Constitution. I understand you have some twenty amendments that are still to be passed upon by the people. What is good in those amendments we may trust to the people to adopt, what is bad in them we may hope that the people will smite, but I have the opinion that as a result of your meeting the Constitution of Massachusetts is sure to be improved.

We say that the Constitution should be adapted to the constantly changing conditions of society. That is true, but at the same time the fundamental object of government it seems to me has not changed from the time of Solon and Lycurgus down to the present day. The first object of government, and the chief object of government, is protection, — protection against enemies from without, and here her power must be supreme, and protection of the individual citizen in his own country. And that does not mean simply protection from bodily violence; it means to protect him in his health, it means that his food must be inspected; it means to protect him in his labor; it means the justification of laws fairly regulating the hours and conditions of labor. There has been, there is, no sadder chapter in industrialism than what was witnessed in England a hundred years ago, when young children, I think by the thousands, were taken from the workhouses, children eight and nine years of age, and were put into the mills, and in the course of three or four years their souls were ground up into cotton cloth. So this idea of protection is constantly expanding and it covers nearly the whole field. We should be careful, however, to restrict ourselves to the carrying on of that object. Remember that man is not a creature of government, he is a creature of the Almighty, he is entitled to the liberty which he received from his Maker, except where it may injure others, and the irrepressible spirit of freedom will assert itself whether tyranny is shown by an individual despot or whether it is shown by something miscalled democracy, whose edicts so often devour liberty.

Gentlemen, I congratulate you upon the conclusion of your labors. Many of you during your sessions have been performing work for the country in helping marshal our armies and your labors have been very arduous. I want sincerely to congratulate you, to thank you for what you have done, and to express the hope that it may turn out to be for the good of the Commonwealth and may furnish a salutary example to the other States of the Union. [Applause.]

CLOSING ADDRESS BY THE PRESIDENT IN 1918.

At the close of the session of 1918 President Bates addressed the Convention as follows:—

Gentlemen of the Convention.

Before we separate it is perhaps well that I should state briefly the work which has been accomplished by the Convention. No Constitutional Convention had met in this State for a period of sixty-four years prior to our coming together. To us there were submitted more than three hundred matters, involving all the principles of democratic government and in many different phases. All have been most carefully considered. Only twenty-two have met with your approval. The rest have been rejected.

Last November we submitted to the people three proposals of amendment, namely: —

1. **Absentee voting.**
2. **Authorizing the Commonwealth and cities and towns to supply the necessaries of life in times of war and public exigency.**
3. **The so-called anti-aid amendment.**

The ratification of these three by substantial majorities, not only in the State at large but also in every county in the State, shows how well they expressed the prevailing sentiments of the voters.

The "absentee voting" amendment cured a long-standing injustice and at the same time dignified the right and duty to vote by making it no longer depend upon the incidental circumstance of presence at home on the day of an election.

The amendment enabling the government of the Commonwealth to supply necessaries of life in cases of public emergency was born of the demand of the times, and gives promise of affording relief in times of misfortune and stress.

The "anti-aid amendment" closely binds the Convention of 1917–18 with the Convention of 1853. Had that body solved the question of the relation of the State to sectarian institutions, we should have been spared the long controversy which has disturbed the General Court through so many sessions and which has arrayed various groups of the population in hostility to each other and threatened the peace of the State. Happily the way is open now to complete harmony, and every religious body may pursue its work now with the strength born of the confidence that each of them receives every privilege under the law which any of them receive, and that there are special favors for none. The opinion has been stated quite commonly in the press that if this Convention had done nothing but settle this question it would have been sufficient to have justified its existence.

In addition to these amendments already accepted by the people the Convention has passed for submission at the next election nineteen others, which will appear on the ballot in the following order, namely: —

1. Amendment to provide for Establishing the Popular Initiative and Referendum, and the Legislative Initiative of Specific Amendments of the Constitution.

One of the longest debates in American political history took place in this Convention over this measure. It may well be doubted if the principles of the measure ever before were discussed so thoroughly by any body of men. I refrain from commenting on it. The fires may smolder but they still burn, and I think it wise not to risk the stirring of the embers of twelve weeks of discussion. If adopted by the people, may its results justify the fond hopes of its advocates. If rejected, may the future history of our representative form of Government show that its adoption was not necessary for the people's protection.

2. Amendment relative to the Public Interest in Natural Resources.

This amendment makes possible the taking by right of eminent domain, and the conservation, development, utilization and control of the agricultural, mineral, forest, water and other natural resources of the State under such legislation as the General Court may enact. There has been a wide difference of opinion as to the wisdom of this resolution. Its adoption by the people is pregnant with great possibilities and may result in its recognition hereafter as by far the most important amendment submitted by this Convention to the people. They will give it most careful consideration.

3. Amendment to provide for the Regulation of Advertising in Public Places.

This amendment, adopted by a large majority in the Convention, is indicative of the change of public opinion as to the extent to which, in the interest of the general welfare, it is proper for the State to interfere with the use of private property. The adoption of this amendment will make possible the passage of laws to prevent the disfiguring of boulevards, parks and beautiful landscapes by unsightly advertising.

4. Amendment relative to the Preservation and Maintenance of Property of Historical and Antiquarian Interest.

This amendment may be of a minor character but is of much interest. Its adoption will enable the State and cities and towns through the exercise of the right of eminent domain to preserve and maintain ancient landmarks and historical property. Our respect for the noble past of Massachusetts will cause this amendment to be adopted, to the end that those things of priceless worth associated with our honored history may be preserved to tell their inspiring story to the generations that follow us.

5. Amendment relative to Adjournments of the General Court.

The present provision of the Constitution which prevents the adjournment of the General Court for more than two days at a time tends to retard its progress at the beginning of its annual session by

preventing the committees from holding continued and all-day hearings. This amendment will enable it during the first sixty days of any session to take a recess or recesses amounting to not more than thirty days so as to give committees opportunity for work. There would seem to be no valid objection to the adoption of this amendment, and its adoption will tend to expedite the business of the Legislature.

6. Amendment relative to the Selection of Officers of the Militia.
7. Amendment relative to the Powers of the Commander-in-Chief and of the General Court in Matters concerning the Militia.

The sections of the Constitution dealing with the militia were formulated before the adoption of the Federal Constitution, and the situation to which they applied no longer exists. These two amendments are intended to adapt our militia system to the relations which now obtain between the State and Federal governments. There should be no substantial opposition to them.

8. Amendment relative to Succession to the Offices of Governor and Lieutenant-Governor in Cases of Vacancies in those Offices.

This amendment provides for the order of succession in case the offices of Governor and Lieutenant-Governor should become vacant at the same time. The present provision of the Constitution, that in such a contingency the office of Governor shall devolve upon the Council, is cumbersome and unworkable. The amendment which we recommend provides that the office shall devolve upon the Secretary, Attorney-General, Treasurer and Receiver-General, and Auditor, in the order named. If the unanimity of the Convention on this matter correctly represents the views of the people, this amendment will be very nearly unanimously adopted.

9. Amendment relative to the Return by the Governor, with Recommendations for Amendment, of Bills passed by the General Court.

The Convention believes it to be wise, as provided by this resolution, to allow the Governor to return to the General Court any bill which he is unwilling to sign, with a statement of changes which would remove his objections. This in rare instances has been done by Governors, but there being no authority for such action in the Constitution, legislators sometimes have resented it as an unwarranted interference with the General Court. It seems to the Convention, however, that such communications from the Governor might facilitate legislation and that he ought to be vested with definite authority to pursue such a course.

10. Amendment providing that Women shall be eligible to Appointment as Notaries Public.

There is nothing in the duties of a notary public that cannot be discharged by women equally as well as by men. In these days when women so rapidly are assuming the duties and doing the work of men in all the varied callings of life no further explanation of this amendment is necessary. No reason has been presented to the Convention why this resolution should not be submitted to the people, and it undoubtedly will meet with their approval.

11. Amendment relative to the Retirement of Judicial Officers.

Long discussions in the Convention and in the press have failed to disclose any widespread need for a radical revision of our judiciary system. The only change that the Convention has thought it desirable to recommend is this provision, whereby the Governor and Council, after due notice and hearing, may retire any judge because of advanced age or mental or physical disability.

12. Amendment relative to the Revocation or Alteration of Grants, Franchises, Privileges or Immunities.

This amendment makes certain that the people shall retain the right to revoke or alter the privileges granted to private corporations. The bare statement of this amendment carries with it its own justification, and it will be approved by all who believe that it is unwise for the State ever to grant to private corporations privileges that cannot be revoked when the public good requires it.

13. Amendment relative to the Power of the General Court to limit Buildings according to their Use or Construction to Specified Districts of Cities and Towns.

The adoption of this amendment will make it possible to divide cities and towns into building zones, and to limit the use and construction of buildings therein, and thereby protect residential districts from invasions by manufacturing and mercantile business.

14. Amendment relative to Compulsory Voting at Elections.

This amendment empowers but does not require the General Court to pass legislation to compel voters to exercise the right of franchise.

15. Amendment relative to Lending the Credit of the Commonwealth and the Contracting of Loans.

This amendment is intended to prevent the lending of the credit of the State to private enterprises, and imposes wholesome safeguards on the contracting of loans. In view of the vast expenditure entailed by the war, it is believed that the adoption of this measure will be a timely means of protecting the public credit.

16. Amendment providing for a State Budget and the Veto by the Governor of Items or Parts of Items in Appropriation Bills.

At the last session of the General Court an excellent statute was enacted providing for a State budget system. The Convention, however, has deemed it wise to recommend a constitutional provision on the subject because certain essential features of a satisfactory budget system are not at present within the power of the General Court to provide. Such a system should require that the Executive, who is responsible for carrying on the business of the State, should ascertain the needs of the State departments, should learn what revenues are available and should recommend to the General Court a systematic plan covering both the revenue and the expenditures of the ensuing year. The budget bill enacted by the Legislature last April makes adequate provision for these features, but since the General Court after considering the recommendations of the Governor may enact a general appropriation bill widely different from that recommended by the Governor, he should be empowered to act independently upon each item of the bill, and not be compelled to accept or reject the

measure as a whole. The veto power of the Governor, as now limited in the Constitution, does not permit this and hence the Convention recommends the adoption of this amendment setting forth the outlines of a budget system and authorizing the Governor to act on each item in an appropriation bill as if it were a separate measure. This plan will commend itself to the sound business sense of the people.

17. Amendment to provide for Biennial Elections of State Officers, Councillors, and Members of the General Court.

Massachusetts long has had the lonely distinction of being the only State in the Union which thought it wise to choose its officers for a term of but a single year, and there are only two other States which elect a House of Representatives annually. The general abandonment of annual elections throughout the country and the satisfactory results thought to be obtained from longer terms of office are advanced as an argument in favor of the change which this Convention recommends. It also is urged by those who favor this amendment that elections cost the State and campaign committees a large sum annually, which might be saved in alternate years, with the added advantage of freedom of business from political turmoil and greater efficiency of public servants. It is unfortunate that in discussions of the subject it is assumed generally that biennial elections and biennial sessions of the Legislature go together. There is no necessary connection between the two, and they rest upon entirely different considerations. The Convention's resolution providing for biennial elections expressly provides that the General Court shall assemble annually.

18. Amendment relative to Appointment to Office and Service on Certain Legislative Recess Committees and Commissions.

Obviously new offices must be created from time to time, and the amendment which we submit imposes no restriction upon the judgment of the General Court as to the necessity for them, or for recess committees. By providing, however, as this amendment does, that no member of the General Court, during the term for which he was elected, shall be appointed to any office created during such term, or receive additional compensation for service upon any recess committee, except on occasion of the periodical revision of the general statutes, we remove an obvious temptation to the creation of offices or committees which are unnecessary.

19. Amendment to provide for the More Efficient Administration of the Business of the Commonwealth.

The reorganization of the executive branch of the government has received long consideration. The multitude of independent boards and commissions not directly responsible to the Governor has been criticized often as not ideal in theory and as likely to produce unsatisfactory results in practice. This amendment provides for the organization of all the executive and administrative work of the State in not more than twenty departments, within one of which every executive board, commission and officer shall be placed.

Of the nineteen resolutions thus to be submitted at the State election in November it may be said safely that the final large vote by which, after careful consideration, fifteen of them were adopted

in the Convention, justifies the belief that these at least will be accepted by the voters. The attitude of the public in regard to the remaining four, namely, the first, second, fourteenth and seventeenth, being the resolutions in regard to the initiative and referendum, natural resources, compulsory voting, and biennial elections, may not be so clear. They had not that unanimity of final approval in the Convention that would indicate their certain acceptance by the people. Nevertheless, it is just and fair for me to state that every amendment goes to the people with the recommendation of a working majority of this Convention.

If we compare the work of this Convention with that of the Conventions of 1820 and of 1853, one striking contrast is at once apparent. The Convention of 1820 submitted fourteen amendments to the people, only one of which purported to confer any additional power upon the General Court. The Convention of 1853 submitted seven amendments besides the numerous changes embodied in a revised draft of the Constitution. Not one of these propositions involved the conferring of any additional power upon the General Court. If we turn to the resolutions which this Convention has recommended it will be noticed that a number of them enlarge the power of the General Court, while only a few of them impose restrictions. The outlook upon government has changed. The Constitution of 1780 was framed upon the assumption that officials might abuse any authority with which they were vested. Therefore an elaborate series of checks and balances was arranged for the protection of the public. Experience has shown, however, that such fear of abuse of authority was not well founded, and at the same time there has been a growing conviction that the field of governmental activity should be expanded and within that field the organs of government should be allowed large freedom of action. These changes in public sentiment are reflected in the work of this Convention, which, if ratified by the people, will remove many restrictions that now attach to official action.

It has seemed to the Convention that its work could not be complete until it had submitted to the people a revised draft of the Constitution that should incorporate therein all the amendments, nearly fifty in number, adopted since the original Constitution of 1780. It is obvious that such a revision would be of slight value if it did not include also such amendments now submitted as the people may adopt at the coming election. The Convention therefore has provided for a special committee to meet after the results of the voting in November are known. This committee is to prepare a draft of a revised Constitution, incorporating therein all the amendments that shall have been adopted then, and this draft is to be submitted to the Convention next summer. It is believed that the Convention can pass upon it then without delay and provide for its submission to the people at the following election, and having so done the Convention will adjourn *sine die*, satisfied that, to the best of its ability, it has discharged faithfully and completely the great trust reposed in it.

While our labors are not therefore over, they are ended for the present, and our future assembling will be for but a brief period and for a specific object.

We have met under most unusual conditions. This Convention was

determined upon before our country was involved in the great struggle, but we did not meet until the war was upon us. There was some question as to whether a Convention could do wise work under such conditions, but as the days went by it has abundantly appeared that the conflict of nations has but served to intensify the interest of this Convention in the fundamental principles of government, for more and more it appears that the principles on which Massachusetts has founded its government for a hundred and well-nigh two score years are the principles to which the world looks for deliverance from autocracy and tyranny.

As we have toiled here in modest and quiet fashion, occasionally there have come to us vivid glimpses of the world struggle. Our soldiers have come back and told us their story. Members of this Convention have put on the uniform and gone forth proudly to do their part "over there." High commissions from France, Belgium, Italy and Japan have looked in upon us, and on this day one year ago the Russian Ambassador from the new Republic, soon to be so cruelly wronged, brought us greetings of his great people. We have heard the distant thunders and the crashing lightnings, the diapason of the open cannon's mouth, and the alarum of the drums from east to west, and from pole to pole, calling men to service amid the carnage where once grew the fair lilies of France. Pardoned may we be if occasionally our minds have followed our hearts and wandered across the seas while our bodies still kept their accustomed places in this chamber. The wandering was not for long, but back here have come the mind and heart as vassals of duty to do their work. Though all the world blazed in the glory of arms and sacrifice, it has not been for us thus to serve, but in a plain and inconspicuous manner here to endeavor to protect and advance those ideas for which our sons fight "in the heavens above, in the earth beneath and in the waters under the earth," and, when the record is finally written, may it be said of this Convention that, called to peaceful deliberation when all nations were at war, it found its duties not unimportant, but discharged them with such honesty of purpose and such clearness of vision as to receive the "Well done" of the people of Massachusetts.

Printing of the President's Address.

Mr. Walker of Brookline: I move that 700,000 copies of the address of the President, to which we have just listened, be printed and distributed to the voters of the Commonwealth with the pamphlet which contains the various amendments which the Convention has adopted. [Applause.]

The motion was adopted.

ADJOURNMENT UNTIL 1919.

Mr. Luce of Waltham: The resolution under which the Convention will come together next year postpones the occasion for spelling the word *finis* and postpones it until a time when I trust we shall have reassembled with peace once more restored to the world, prosperity and happiness to our country. I would add the hope that every man within the sound of my voice may find the circuit of the seasons kind to him and may be able to return here in full health next year, and that those who are not able to be present now, whether kept away by illness or by the service of their country, may be spared to join us in a gathering that shall round out our labors for the good of the Commonwealth. I now move that, subject to the order for convening next year, this Convention do now adjourn.

The President: The order to which the member refers provided that when the Convention closes its present session it shall adjourn subject to call by the President or Secretary to meet not later than within twenty days after the prorogation of the General Court of 1919. Mr. Luce of Waltham moves that the Convention do now adjourn subject to call under that order. [The question was put.] The ayes have it; the Chair declares the Convention adjourned.

Accordingly, at five minutes after four o'clock, the Convention adjourned, to meet, subject to the provisions of the order above referred to, for the purpose of taking action on the report of the special committee on Rearrangement of the Constitution.

POPULAR VOTES OF THE PEOPLE.

RETURNS OF VOTES UPON THE QUESTION OF HOLDING A CONSTITUTIONAL CONVENTION, SUBMITTED TO THE VOTERS AT THE ANNUAL STATE ELECTION, NOV. 7, 1916.

On the Question of the Acceptance of Chapter 98, General Acts of 1916, entitled "An Act to ascertain and carry out the Will of the People relative to the Calling and Holding of a Constitutional Convention."

COUNTIES.	Yes.	No.	COUNTIES.	Yes.	No.
Barnstable,	1,198	1,183	Nantucket,	158	104
Berkshire,	6,394	3,832	Norfolk,	13,450	7,810
Bristol,	14,681	10,543	Plymouth,	10,116	5,739
Dukes County,	181	179	Suffolk,	56,281	19,187
Essex,	26,797	18,145	Worcester,	21,734	12,962
Franklin,	2,106	1,793			
Hampden,	13,213	9,228	Totals,	217,293	120,979
Hampshire,	2,898	2,872			
Middlesex,	48,086	27,402	Majority,	96,314	-

RETURNS OF VOTES UPON QUESTIONS SUBMITTED TO THE VOTERS AT THE ANNUAL STATE ELECTION, NOV. 6, 1917.

1. On the Article of Amendment relative to Absentee Voting.

COUNTIES.	Yes.	No.	COUNTIES.	Yes.	No.
Barnstable,	1,683	265	Nantucket,	285	60
Berkshire,	7,202	2,210	Norfolk,	15,828	3,834
Bristol,	15,769	8,386	Plymouth,	10,619	2,620
Dukes County,	329	66	Suffolk,	50,113	16,473
Essex,	29,660	11,019	Worcester,	27,168	8,522
Franklin,	3,026	636			
Hampden,	13,251	4,472	Total,	231,905	76,709
Hampshire,	3,847	1,322			
Middlesex,	53,125	16,824	Majority,	155,196	-

2. On the Article of Amendment of the Constitution relative to Appropriations for Educational and Benevolent Purposes.

COUNTIES.	Yes.	No.	COUNTIES.	Yes.	No.
Barnstable,	1,721	351	Nantucket,	254	104
Berkshire,	6,907	3,065	Norfolk,	15,184	6,288
Bristol,	13,917	13,862	Plymouth,	10,252	4,405
Dukes County,	334	74	Suffolk,	38,654	33,393
Essex,	28,354	17,641	Worcester,	24,690	12,508
Franklin,	2,902	895			
Hampden,	11,665	6,675	Total,	206,329	130,357
Hampshire,	3,305	2,018			
Middlesex,	48,190	29,078	Majority,	75,972	-

3. On the Article of Amendment relative to the Taking and Distribution by the Commonwealth and its Municipalities of the Common Necessaries of Life.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	1,718	224	Nantucket,	309	42
Berkshire,	8,099	1,434	Norfolk,	17,339	2,639
Bristol,	18,896	5,835	Plymouth,	12,219	1,604
Dukes County,	359	49	Suffolk,	55,861	11,153
Essex,	35,049	7,214	Worcester,	28,930	6,102
Franklin,	3,251	417			
Hampden,	15,252	2,696	Total,	261,119	51,826
Hampshire,	4,138	998			
Middlesex,	59,699	11,419	Majority,	209,293	-

Returns of Votes upon Questions submitted to Voters at the Annual State Election, Nov. 5, 1918.

1. On the Article of Amendment relative to the Establishment of the Popular Initiative and Referendum and the Legislative Initiative of Specific Amendments of the Constitution.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	822	2,118	Plymouth,	8,198	7,148
Berkshire,	4,350	7,039	Suffolk,	44,285	18,914
Bristol,	12,061	13,603	Worcester,	18,728	21,306
Dukes County,	119	241			
Essex,	22,242	22,934		170,644	162,102
Franklin,	1,418	3,161	Absent voters,[1]	2	1
Hampden,	9,872	12,366			
Hampshire,	2,099	4,232	Total,	170,646	162,103
Middlesex,	36,142	37,025			
Nantucket,	64	190	Majority,	8,543	-
Norfolk,	10,244	11,825			

2. On the Article of Amendment relative to the Public Interest in Natural Resources.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	922	1,466	Plymouth,	8,037	4,229
Berkshire,	5,320	4,094	Suffolk,	40,410	12,570
Bristol,	11,757	9,469	Worcester,	18,997	13,703
Dukes County,	150	162			
Essex,	21,949	14,881		172,109	102,767
Franklin,	1,595	2,171	Absent voters,[1]	2	1
Hampden,	11,749	7,108			
Hampshire,	2,407	2,875	Total,	172,111	102,768
Middlesex,	37,844	22,641			
Nantucket,	58	147	Majority,	69,343	-
Norfolk,	10,914	7,251			

[1] Chapter 293, as amended by chapter 295, General Acts of 1918.

3. On the Article of Amendment to provide for the Regulation of Advertising in Public Places.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	1,158	1,247	Plymouth,	8,744	3,512
Berkshire,	5,817	3,850	Suffolk,	43,793	10,103
Bristol,	13,035	8,376	Worcester,	21,118	11,623
Dukes County,	174	143			
Essex,	23,891	13,122		193,922	84,127
Franklin,	1,893	1,902	Absent voters,[1]	3	–
Hampden,	13,147	6,189			
Hampshire,	3,052	2,349	Total,	193,925	84,127
Middlesex,	44,430	16,720			
Nantucket,	77	133	Majority,	109,798	–
Norfolk,	13,593	4,858			

4. On the Article of Amendment relative to the Preservation and Maintenance of Property of Historical and Antiquarian Interest.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	1,112	1,214	Plymouth,	8,187	3,392
Berkshire,	5,688	3,728	Suffolk,	41,770	9,869
Bristol,	12,186	8,189	Worcester,	20,007	11,190
Dukes County,	173	131			
Essex,	22,603	12,655		183,262	81,933
Franklin,	1,815	1,834	Absent voters,[1]	3	–
Hampden,	12,394	6,000			
Hampshire,	2,696	2,362	Total,	183,265	81,933
Middlesex,	41,749	16,491			
Nantucket,	71	131	Majority,	101,332	–
Norfolk,	12,811	4,747			

5. On the Article of Amendment relative to Adjournments of the General Court.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	836	1,321	Plymouth,	6,345	4,195
Berkshire,	4,382	4,244	Suffolk,	36,445	12,557
Bristol,	9,642	9,613	Worcester,	15,646	13,421
Dukes County,	117	167			
Essex,	17,454	15,353		147,101	100,552
Franklin,	1,309	2,048	Absent voters,[1]	3	–
Hampden,	9,640	7,453			
Hampshire,	2,135	2,621	Total,	147,104	100,552
Middlesex,	32,857	21,361			
Nantucket,	53	139	Majority,	46,552	–
Norfolk,	10,240	6,059			

[1] Chapter 293, as amended by chapter 295, General Acts of 1918.

6. On the Article of Amendment relative to the Manner of the Appointment and Removal of Military and Naval Officers.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	851	1,299	Plymouth,	6,817	3,744
Berkshire,	4,704	3,891	Suffolk,	37,568	11,503
Bristol,	10,306	8,829	Worcester,	16,648	12,381
Dukes County,	149	139		155,646	91,686
Essex,	18,794	13,861			
Franklin,	1,360	1,996	Absent voters,[1]	3	–
Hampden,	10,398	6,806			
Hampshire,	2,309	2,409	Total,	155,649	91,686
Middlesex,	34,999	19,192			
Nantucket,	51	133	Majority,	63,963	–
Norfolk,	10,692	5,503			

7. On the Article of Amendment relative to the Military and Naval Forces, and to the Governor as Commander-in-Chief thereof.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	884	1,228	Plymouth,	6,804	3,453
Berkshire,	4,694	3,708	Suffolk,	37,426	10,230
Bristol,	9,360	8,296	Worcester,	16,710	11,711
Dukes County,	151	131		155,111	84,822
Essex,	18,917	12,957			
Franklin,	1,389	1,881	Absent voters,[1]	3	–
Hampden,	10,417	6,376			
Hampshire,	2,359	2,309	Total,	155,114	84,822
Middlesex,	35,149	17,384			
Nantucket,	56	124	Majority,	70,292	–
Norfolk,	10,795	5,034			

8. On the Article of Amendment relative to Succession in Cases of Vacancies in the Offices of Governor and Lieutenant-Governor.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	1,041	1,144	Plymouth,	7,612	3,167
Berkshire,	5,271	3,438	Suffolk,	39,707	9,435
Bristol,	11,481	7,929	Worcester,	18,813	10,755
Dukes County,	172	117		172,122	78,245
Essex,	20,894	12,060			
Franklin,	1,649	1,745	Absent voters,[1]	3	–
Hampden,	11,652	5,774			
Hampshire,	2,663	2,110	Total,	172,125	78,245
Middlesex,	39,100	15,903			
Nantucket,	69	120	Majority,	93,880	–
Norfolk,	11,998	4,548			

[1] Chapter 293, as amended by chapter 295, General Acts of 1918.

9. On the Article of Amendment relative to the Return to the General Court of Bills and Resolves by the Governor with a Recommendation for Amendment.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	1,027	1,166	Plymouth,	7,214	3,139
Berkshire,	4,955	3,361	Suffolk,	38,874	8,964
Bristol,	10,959	7,909	Worcester,	17,544	10,793
Dukes County,	152	124			
Essex,	19,967	11,758		164,496	76,972
Franklin,	1,528	1,737	Absent voters,[1]	3	–
Hampden,	10,989	5,784			
Hampshire,	2,481	2,110	Total,	164,499	76,972
Middlesex,	37,340	15,543			
Nantucket,	64	121	Majority,	87,527	–
Norfolk,	11,402	4,463			

10. On the Article of Amendment providing that Women shall be Eligible to Appointment as Notaries Public.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	884	1,355	Plymouth,	6,846	4,398
Berkshire,	4,735	4,307	Suffolk,	35,148	15,237
Bristol,	9,985	10,045	Worcester,	16,441	14,154
Dukes County,	130	169			
Essex,	19,258	15,013		153,313	105,590
Franklin,	1,485	2,014	Absent voters,[1]	2	1
Hampden,	10,345	7,850			
Hampshire,	2,385	2,619	Total,	153,315	105,591
Middlesex,	35,215	21,681			
Nantucket,	62	134	Majority,	47,724	–
Norfolk,	10,394	6,614			

11. On the Article of Amendment relative to Retirement of Judicial Officers.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	900	1,208	Plymouth,	6,943	3,458
Berkshire,	4,606	3,774	Suffolk,	38,099	10,227
Bristol,	9,952	8,718	Worcester,	16,732	11,707
Dukes County,	144	128			
Essex,	18,727	13,362		156,794	86,022
Franklin,	1,425	1,828	Absent voters,[1]	2	1
Hampden,	10,516	6,293			
Hampshire,	2,272	2,292	Total,	156,796	86,023
Middlesex,	35,511	17,771			
Nantucket,	66	126	Majority,	70,773	–
Norfolk,	10,901	5,130			

[1] Chapter 293, as amended by chapter 295, General Acts of 1918.

12. On the Article of Amendment relative to the Revocation or Alteration of Grants, Franchises, Privileges or Immunities.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	958	1,179	Plymouth,	7,302	3,223
Berkshire,	4,801	3,549	Suffolk,	38,340	9,375
Bristol,	10,621	7,942	Worcester,	17,557	10,917
Dukes County,	130	139		161,830	79,787
Essex,	19,863	12,128			
Franklin,	1,433	1,808	Absent voters,[1]	3	–
Hampden,	10,757	5,983			
Hampshire,	2,344	2,206	Total,	161,833	79,787
Middlesex,	36,732	16,343			
Nantucket,	60	128	Majority,	82,046	–
Norfolk,	10,932	4,867			

13. On the Article of Amendment relative to Limiting Buildings according to their Use or Construction to Specified Districts of Cities and Towns.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	947	1,185	Plymouth,	7,040	3,466
Berkshire,	4,723	3,732	Suffolk,	38,082	9,994
Bristol,	10,492	8,299	Worcester,	17,253	11,436
Dukes County,	136	138		161,211	83,095
Essex,	19,849	12,584			
Franklin,	1,479	1,822	Absent voters,[1]	3	–
Hampden,	10,859	6,212			
Hampshire,	2,356	2,253	Total,	161,214	83,095
Middlesex,	36,791	16,825			
Nantucket,	57	122	Majority,	78,119	–
Norfolk,	11,147	5,027			

14. On the Article of Amendment relative to Compulsory Voting at Elections.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	739	1,534	Plymouth,	5,964	5,464
Berkshire,	3,856	5,470	Suffolk,	33,525	17,532
Bristol,	8,884	11,371	Worcester,	13,842	17,184
Dukes County,	115	174		134,136	128,402
Essex,	16,550	18,226			
Franklin,	1,111	2,453	Absent voters,[1]	2	1
Hampden,	8,766	9,562			
Hampshire,	1,828	3,173	Total,	134,138	128,403
Middlesex,	30,131	27,572			
Nantucket,	47	148	Majority,	5,735	–
Norfolk,	8,778	8,539			

[1] Chapter 293, as amended by chapter 295, General Acts of 1918.

15. On the Article of Amendment relative to Lending the Credit of the Commonwealth and to Contracting Loans.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	877	1,250	Plymouth,	6,747	3,727
Berkshire,	4,598	3,940	Suffolk,	37,040	11,169
Bristol,	10,383	8,891	Worcester,	16,445	12,139
Dukes County,	143	144			
Essex,	18,586	13,772		153,970	90,232
Franklin,	1,364	1,927	Absent voters,[1]	2	1
Hampden,	10,284	6,772			
Hampshire,	2,277	2,339	Total,	153,972	90,233
Middlesex,	34,694	18,559			
Nantucket,	49	134	Majority,	63,739	–
Norfolk,	10,483	5,469			

16. On the Article of Amendment providing for a State Budget and the Veto by the Governor of Items or Parts of Items in Appropriation Bills.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	894	1,212	Plymouth,	6,700	3,357
Berkshire,	4,571	3,748	Suffolk,	37,631	9,432
Bristol,	10,254	8,153	Worcester,	16,236	11,398
Dukes County,	143	129			
Essex,	18,805	12,465		155,736	81,301
Franklin,	1,356	1,819	Absent voters,[1]	2	1
Hampden,	10,234	6,253			
Hampshire,	2,276	2,159	Total,	155,738	81,302
Middlesex,	35,709	16,394			
Nantucket,	53	126	Majority,	74,436	–
Norfolk,	10,874	4,656			

17. On the Article of Amendment providing for Biennial Elections of State Officers, Councillors and Members of the General Court.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	879	1,319	Plymouth,	6,201	4,687
Berkshire,	4,733	4,107	Suffolk,	33,752	16,259
Bristol,	9,430	9,842	Worcester,	14,846	14,865
Dukes County,	113	164			
Essex,	16,615	15,783		142,866	108,587
Franklin,	1,473	1,979	Absent voters,[1]	2	1
Hampden,	10,207	6,961			
Hampshire,	2,454	2,370	Total,	142,868	108,588
Middlesex,	32,035	23,655			
Nantucket,	51	143	Majority,	34,280	–
Norfolk,	10,077	6,453			

[1] Chapter 293, as amended by chapter 295, General Acts of 1918.

18. On the Article of Amendment relative to Service on Certain Legislative Recess Committees and Commissions.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	864	1,224	Plymouth,	6,684	3,548
Berkshire,	4,521	3,854	Suffolk,	36,599	10,525
Bristol,	9,922	8,667	Worcester,	16,030	11,958
Dukes County,	115	152		152,798	87,008
Essex,	18,912	13,047	Absent voters,[1]	2	1
Franklin,	1,348	1,890			
Hampden,	10,065	6,586	Total,	152,800	87,009
Hampshire,	2,207	2,330			
Middlesex,	34,780	18,155	Majority,	65,791	–
Nantucket,	51	137			
Norfolk,	10,700	4,935			

19. On the Article of Amendment to provide for the More Efficient Administration of the Business of the Commonwealth.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	896	1,193	Plymouth,	7,017	3,307
Berkshire,	4,804	3,625	Suffolk,	37,706	9,423
Bristol,	10,438	8,149	Worcester,	16,800	11,425
Dukes County,	131	136		158,392	81,585
Essex,	19,249	12,363	Absent voters,[1]	2	1
Franklin,	1,425	1,823			
Hampden,	10,696	6,111	Total,	158,394	81,586
Hampshire,	2,392	2,240			
Middlesex,	35,747	16,950	Majority,	76,808	–
Nantucket,	58	130			
Norfolk,	11,033	4,710			

Returns of Votes upon the Question submitted to the Voters at the Annual State Election, Nov. 4, 1919.

On the Rearrangement of the Constitution of the Commonwealth, submitted by the Constitutional Convention.

Counties.	Yes.	No.	Counties.	Yes.	No.
Barnstable,	1,621	490	Nantucket,	183	40
Berkshire,	7,710	2,677	Norfolk,	17,646	3,549
Bristol,	19,860	5,613	Plymouth,	11,293	2,453
Dukes County,	316	73	Suffolk,	58,253	11,801
Essex,	34,242	9,283	Worcester,	28,836	7,069
Franklin,	2,968	889			
Hampden,	17,187	5,012	Total,	263,359	64,978
Hampshire,	3,995	1,747			
Middlesex,	59,249	14,282	Majority,	198,381	–

[1] Chapter 293, as amended by chapter 295, General Acts of 1918.

GENERAL INDEX

PREPARED BY

DAVID M. MATTESON

GENERAL INDEX.

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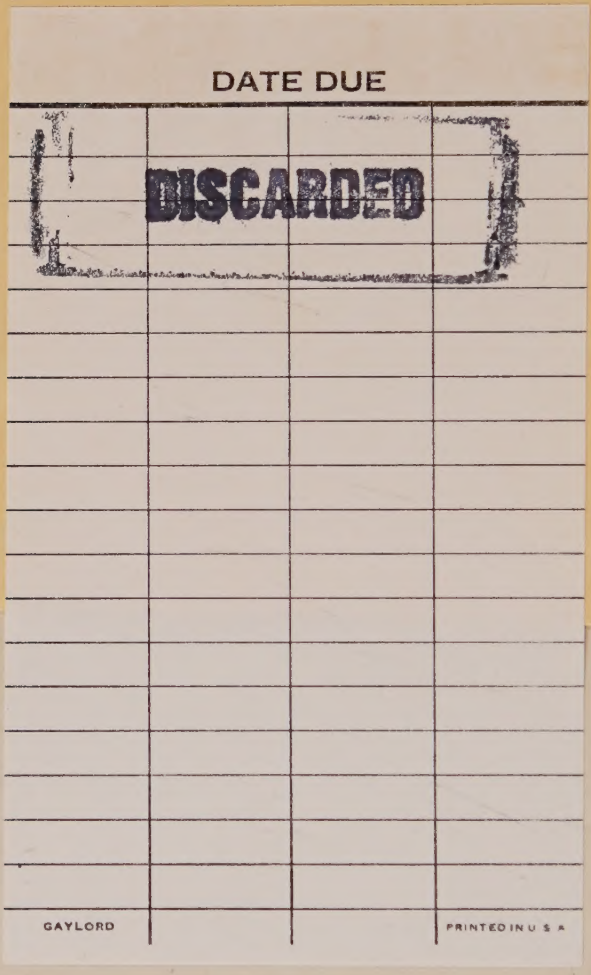
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